



State of Ohio Environmental Protection Agency

**Northwest District Office**

347 North Dunbridge Rd.  
Bowling Green, OH 43402-9398

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

Re: Notice of Violation  
B & K Auto Service  
Sandusky County, Ohio

April 22, 2009

Ms. Linda Nichols  
B & K Auto Service  
236 South Church Street  
Clyde, Ohio 43410

Dear Ms. Nichols:

On April 15, 2009, I represented the Ohio Environmental Protection Agency (Ohio EPA) to conduct an inspection of the property located at 983 Woodland Avenue, Clyde, Ohio. This inspection was conducted to determine if the property was in compliance with Ohio's scrap tire regulations and with the Director's Final Findings and Orders (DFFO's) issued on December 4, 2008. You, as property owner, were present at the time of inspection.

Two large piles of scrap tires were observed in the rear of the property, near the eastern property line. One pile was approximately 50 feet by 40 feet in size and about 12 feet tall at its highest point. The other pile was approximately 50 feet by 20 feet in size and about nine (9) feet tall at its highest point. A lane approximately 15 feet wide separated the scrap tire piles. In addition, a large pile of solid waste was noted in the northeast corner of the property.

Ohio Revised Code (ORC) Section 3734.03 states in pertinent part:

No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection in rules adopted in accordance with division (V) of section 3734.01, section 3734.02, or sections 3734.70 to 3734.73 of the Revised Code . . .

Open dumping is defined in ORC Section 3734.01(I) as (in pertinent part):

Open dumping means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; . . . .

**The owner/operator of this site is in violation of the following rules and laws:**

1. Ohio Revised Code (ORC) § 3734.03 which states in pertinent part:  
*No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection. . .*
2. OAC Rule 3745-27-05(C) which states in pertinent part:  
*No person shall conduct, permit, or allow open dumping. . .*
3. ORC § 3734.81(A) which states in pertinent part:  
*. . . no person shall operate a scrap tire collection, storage, monocell, monofill, or recovery facility without a license . . .*
4. ORC § 3734.76(C) which states in pertinent part:  
*. . . no person shall establish a new, or modify an existing, scrap tire storage facility without first either registering with the director by submitting an application for a scrap tire storage facility registration certificate . . .*
5. OAC Rule 3745-27-61(B) which states in pertinent part:  
*An application for a registration certificate as required by section 3734.75, 3734.76, or 3734.78 of the Revised Code, shall be submitted to and approved by the director, before the establishment or modification of the scrap tire collection, class II storage, or class II scrap tire recovery facility is begun. . .*
6. ORC § 3734.05(A) which states in pertinent part:  
*. . . no person shall operate or maintain a solid waste facility without a license . . .*

7. ORC § 3734.02(C) which states in pertinent part:  
*. . . no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit . . .*

**The scrap tires on this property are a nuisance, a hazard to public health or safety, and a fire hazard and the owner/operator of the property is in violation of:**

8. OAC Rule 3745-27-60(B)(1) which requires:  
*Sufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored.*
9. OAC Rule 3745-27-60(B)(7)(b) which requires:  
*Scrap tire storage piles shall not exceed eight (8) feet in height.*
10. OAC Rule 3745-27-60(B)(7)(d) which requires:  
*Scrap tire storage piles of more than 500 scrap tires including single or multiple racks containing a total of more than 500 scrap tires shall be separated from other scrap tire storage piles and from buildings and structures by a fire break with a width equal to or greater than 56 feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code.*
11. OAC Rule 3745-27-60(B)(7)(e) which requires:  
*Sufficient fire lanes shall be maintained to allow access of emergency vehicles at all times to and around the scrap tire storage piles and areas.*

The owner/operator of the property remains in violation of ORC 3734.03 and 3734.01 (I) for open dumping scrap tires.

DFFO's Order No. 4 states in pertinent part:

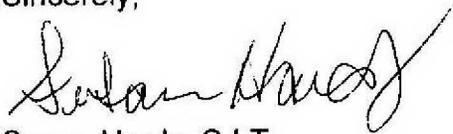
Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove or cause the removal of scrap tires from the Property including, but limited to, scrap tires dumped onto the ground and buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter...

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Since the effective date of the DFFO's was December 4, 2008, the deadline for the removal of the scrap tires has expired. Ohio EPA may seek legal or equitable relief to enforce the terms of the Director's Final Findings and Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary.

Should you have any questions, please contact me at (419) 373-3043.

Sincerely,



Susan Hardy, S.I.T.  
Environmental Specialist  
Division of Solid and Infectious Waste Management

/llr

pc: ~~DSIWM-NWDO:File:Sandusky County, Tires~~  
Brad Bald, Sandusky County Health Department  
Harry Smail, CO, Scrap Tire Unit

ec: Mike Reiser, DSIWM, NWDO  
Bruce McCoy, DSIWM, CO