



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

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

Re: Williams County
Radabaugh Property
Scrap Tires

August 7, 2008

Mr. Allen Radabaugh
02388 4.50 Road
Edgerton, OH 43517

Dear Mr. Radabaugh:

On July 29, 2008, I represented the Ohio Environmental Protection Agency (Ohio EPA) during a drive by inspection of your property located on the west side of the road at 02388 4.50 Road, Edgerton, Ohio (property). Also present during the inspection were Mike Reiser and Sue Hardy of Ohio EPA. The inspection was conducted to document your compliance with Ohio's scrap tire regulations. A pile of approximately 200-300 scrap tires was present at the property. You were not present during the inspection.

Ohio EPA has regulations governing the storage/disposal of scrap tires. Scrap tire regulations can be found within Chapters 3745-27 and 3745-37 of the Ohio Administrative Code (OAC). However, OAC Chapters 3745-27 and 3745-37 shall not apply to the storage of **"one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard."** In order to meet this exemption you must maintain the total amount of tires below 100 tires and not cause a nuisance. Based upon the estimated number of tires present at the property, you currently do not meet this exemption.

Scrap tire's are defined in Ohio Administrative Code (OAC) Rule 3745-27-01(S)(6), in pertinent part, as, "a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use. "Scrap tire" includes all whole scrap tires and pieces of scrap tires which are readily identifiable as parts of scrap tires by visual inspection. For purposes of this definition, "unwanted" means the original scrap tire generator, original owner or manufacturer of the tire no longer wants to use, or is unable to use the tire for its original purpose, and "discarded" means the original scrap tire generator, original owner, or manufacturer of the tire has otherwise managed the tire in such a manner that disposal has occurred." Therefore, the tires present at this property are scrap tires.

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

No person shall dispose of solid waste 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...

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OAC Rule 3745-27-05(C) states:

No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.

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

... 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 consists 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 consists 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;...

Open dumping is defined in OAC Rule 3745-27-01(O)(4) as (in pertinent part):

... the following: (a) The deposition of solid wastes, other than scrap tires, into waters of the state, and also means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code.

The owner of the property located at 02388 4.50 Road, Edgerton, is in violation of ORC § 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires onto the surface of the ground.

ORC § 3734.02(C) states in part:

...no person shall establish a new solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director...

ORC § 3734.05(A) also states in part:

...no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code...

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The owner/operator of the property located at 02388 4.50 Road, Edgerton, is in violation of ORC § 3734.02(C) and § 3734.05(A) for establishing and maintaining a solid waste facility without a permit or license.

OAC Rule 3745-27-60 regulates the general storage and handling of scrap tires. OAC Rule 3745-27-60(C) specifically regulates the control of mosquitoes during the storage of scrap tires.

OAC Rule 3745-27-60(C) states: "Anyone storing scrap tires shall maintain mosquito control as follows:

(1) One or more of the following shall be done to control mosquitoes:

(a) Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires.

(b) Store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.

(c) Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio department of agriculture.

(2) Maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator.

(3) Maintain mosquito control records at the premises indicating the name, type, amount used per tire, and EPA registration number of the pesticide or larvicide, the date and time of the application, and the name of the person who applied the pesticide or larvicide. The property owner or the owner or operator of the premises shall make the mosquito control records available for inspection by the director or the health commissioner during normal operating hours. The owner or operator shall retain copies of mosquito control records for a minimum period of three years."

Please ensure scrap tires are kept free of water at all times and/or apply or arrange for the application of a pesticide or larvicide, which is registered for use for mosquito control by the Ohio Department of Agriculture.

Currently, the Facility has approximately 200-300 scrap tires present, which causes the Facility to exceed the applicable scrap tire facility exemption. Therefore, this site meets the definition of a scrap tire storage facility in accordance with OAC 3745-27-01(S)(17).

The owner/operator of the property located at 02388 4.50 Road, Edgerton, is in violation of OAC Rule 3745-27-61(B) for not obtaining a scrap tire storage registration prior to operation.

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These violations will continue until scrap tires are removed from the property by a registered scrap tire transporter and properly disposed. Enclosed with this letter is a list of registered scrap tire transporters. Please forward all receipts documenting removal of the scrap tires to my attention at:

Ohio EPA - NWDO
Attn: Jeremy Scoles
347 N. Dunbridge Road
Bowling Green, Ohio 43402

This correspondence addressed specific observations only for the areas of 02388 4.50 Road, Edgerton, that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no other violations existed at the facility at the time of inspection.

Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in the Ohio Revised Code Chapter 3734 and the rules promulgated thereunder, does not relieve the owner/operator of the property located at 02388 4.50 Road, Edgerton, from their obligations to comply with other applicable state and federal laws and regulations.

If you have any questions feel free to contact me at (419) 373-3079.

Sincerely,



Jeremy Scoles, SIT, CHMM
Environmental Specialist
Division of Solid and Infectious Waste Management

/lb

Attachment

~~pc: File: Paulding County, Tires~~

ec: Mike Reiser