



State of Ohio Environmental Protection Agency

**Southwest District Office**

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Dayton, Ohio 45402

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

May 27, 2009

Joseph Noble  
3535 Houston Road  
Waynesville, Ohio 45068

RE: 3535 Houston Road, Greene County  
Notice of Violation for open dumping, storage and handling of scrap tires

Dear Mr. Noble:

On May 19, 2009, Beth Lackey from the Greene County Combined Health District and I from the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management conducted an inspection at the aforementioned property. This inspection was to determine compliance with Ohio's Scrap Tire regulations and to evaluate progress made in the clean-up of scrap tires still remaining on the property as ordered in the Board of Health Orders issued by Greene County Combined Health District dated August 2005.

During our visit we performed a site inspection for compliance with Ohio's Scrap Tire regulations. At the time of the site inspection, the following violations were noted:

1. Open Dumping

A large accumulation of scrap tires were observed on the ground (originally the tires were estimated at twenty thousand), including the hillside along a waterway. The presence of these scrap tires on the property constitutes open dumping. Open dumping is defined under Ohio Revised Code (ORC) Section 3734.01(I), which states in 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..."

Open dumping is also defined in Ohio Administrative Code (OAC) Rule 3745-27-01(O)(4)(b), which states in part:

"The deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under Section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of Section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code.

Therefore, the presence of scrap tires on the ground is a **violation** of ORC Section 3734.03, which states in part:

"No person shall dispose of solid wastes by open burning or open dumping..."

This is also a **violation** of OAC Rule 3745-27-05(C), which states in part:

"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".

## 2. Scrap Tire Piles

- The scrap tire pile is greater than two thousand five hundred (2,500) square feet in basal area. This is a **violation** of OAC 3745-27-60(B)(7) which states in part:

"Individual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area."

- Combustible material; including weeds, brush, leaves, and tree debris, was present in and around the scrap tires. This is a **violation** of OAC Rule 3745-27-60(B)(11) which states in part:

"Fire breaks shall be maintained free of all combustible material including but not limited to weeds, leaves and debris..."

3. Fire Breaks

During the inspections, it was determined that there were not sufficient fire breaks around the scrap tire piles. This is a **violation** of OAC Rule 3745-27-60(B)(7)(e) which states:

"Sufficient fire breaks shall be maintained to allow access of emergency vehicles at all times to, around and between the scrap tire storage piles and areas."

In addition, please be advised that OAC Rule 3745-27-60 requires that a minimum of a fifty-six (56) foot fire lane exist between scrap tire piles. Therefore the break between the scrap tire pile in which you are beginning to work on must be at least fifty-six (56) feet from the closest pile.

4. Water in Tires and Mosquito Control

During the inspection, it was determined that there were scrap tires that contained water and that the water in the tires contained mosquito larvae. This is a **violation** of OAC Rule 3745-27-60(C)(2) which states:

"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."

Since mosquito larvae were observed within the scrap tires this is your notification per OAC Rule 3745-27-60(D)(2), which states in part;

"If upon inspection and written notification, Ohio EPA or the approved Health District discover the existence of ... Mosquito larvae at the premises, the owner or operator shall apply within twenty-four hours or the next business day a larvicide which is registered for use for mosquito control by the Ohio department of agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the larvicide, the date and time of the application, and the name of the person who applied the larvicide."

Improper storage of scrap tires poses several potential problems for the local residents, environment, and the emergency crews in the area. Scrap tires provide an optimal breeding ground for mosquitos. Mosquitos identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow Fever, Dengue Fever and West Nile Virus.

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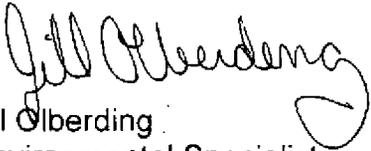
If an adulticide or larvicide is applied as a method of mosquito control, then mosquito control records must be maintained at the premises indicating the name, type, amount used per tire, and EPA registration number of the adulticide or larvicide, the date and time of the application, and the name of the person who applied the adulticide or larvicide. The records must be available for inspection during normal work hours.

Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734 or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

**Please respond in writing within fourteen (14) days of receipt of this correspondence regarding your remedy to the aforementioned violations. Your response should include time frames for compliance.**

If you have any questions, please do not hesitate to contact me at the above letterhead address or by telephone at (937) 285-6094.

Sincerely,



Jill Olberding  
Environmental Specialist  
Division of Solid and Infectious Waste Management

ec: Beth Lackey, Greene County Combined Health District

JO/mab