



State of Ohio Environmental Protection Agency

Northwest District Office

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

Re: Defiance County
Friends Express Automotive
Third Notice of Violation
DSIWM Case No. 09-39

April 30, 2010

Mr. Ed & Caludia Sowers
4728 State Route 2
Hicksville, Ohio 43526

Dear Mr. & Ms. Sowers

On April 12, 2010, I, representing the Ohio Environmental Protection Agency (Ohio EPA) completed an inspection of the former Friends Express Auto (Facility), owned and operated by you. Ms. Caludia Sowers represented Friends Express Auto during the inspection. Additionally, Jeremy Scoles with Ohio EPA was also present during the inspection.

This inspection was a follow up to a September 4, 2009, inspection that resulted in a letter dated October 7, 2009. Due to a lack of response, as requested in the October 7, 2009, letter, a February 3, 2010, letter, was sent, again requesting a timely response to the violations cited in the letter. To date, a response for either letters has not been received.

During the inspection approximately 250-300 tires were observed on the property. It did not appear that the amount of tires had been reduced since the September 4, 2009, inspection. Standing water was observed in many of the tires on the property. With the exception of the large pile of dirt that had been generated by the hole observed during the September 4, 2009, inspection, there was no additional evidence of open burning/burying of solid waste observed. During the inspection Ms. Sowers indicated that due to economic circumstances it would be very difficult to properly dispose of the tires anytime in the near future, but indicated that arrangements were being made to get the tires stored inside of a trailer in order to keep them dry.

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.

The deposition of 250-300 tires on the property is considered open dumping. Therefore, the owner/operator is in violation of OAC Rule 3745-27-05(C).

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Ohio Revised Code (ORC) Section 3734.03 states, 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 and except for burying or burning the body of a dead animal as authorized by section 941.14 of the Revised Code. No person shall dispose of treated or untreated infectious waste by open burning or open dumping.

The deposition of 250-300 tires on the property is considered open dumping. Therefore, the owner/operator is in violation of ORC Section 3734.03

OAC Rule 3745-27-60(B)(8) states in part, One or more of the following shall be done to control mosquitoes at the premises:

(a) Remove liquids from scrap tires and immediately store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.

(b) 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, at no greater than thirty-day intervals or as recommended by the manufacturer or formulator. If applying any pesticide or larvicide as a mosquito control, then mosquito control records shall be maintained 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.

Water was observed in many of the tires located on the property. No records indicating the application of a larvicide were available during the inspection. Therefore, the owner/operator is in violation of OAC Rule 3745-27-60(B)(8).

As discussed with Ms. Sowers during the inspection, arrangements can be made to allow for a reasonable drawdown of the tires in order to bring the owner/operator into compliance. **However, to date no response indicating the owner/operators willingness to work with Ohio EPA, has been received.** Additionally, Ms. Sowers suggestion to place the tires in a covered trailer is a good first step towards resolving this issue, and provided that the tires are emptied of water will minimize the concern of mosquitoes, thus resolving the violation of OAC Rule 3745-27-60(B)(8).

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Ohio EPA is again requesting that the owner/operator provide a response to the violations and indicate a reasonable timeline for the drawdown of the tires. Additionally, the owner/operator should make efforts to move the tires into a dry location or treat for mosquitoes as soon as possible, and either indicate a timeframe in which this will happen or indicate that this concern has been addressed in the above requested response.

If you have any questions, please feel free to contact me at Ohio EPA, Northwest District Office (419) 373-4114.

Sincerely,



Brent M. Goetz, S.I.T.
Environmental Specialist
Division of Solid and Infectious Waste Management

/lb

pc: ~~File Defiance County Tires~~

ec: Mike Reiser, NWDO, DSIWM