Ohio | Environmental Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Open Dumping/Scrap Tire Accumulation
Seneca County
Notice of Violation

May 3, 2011

Mr. Michael Berrier
1811 North Township Road 111
Tiffin, Ohio 44883

Dear Mr. Berrier:

On April 19, 2011, I, representing the Ohio Environmental Protection Agency (Ohio EPA) observed scrap tires on your property located at 418 North US Route 23 (parcel #134000547360000), Fostoria, Ohio. The scrap tire accumulation was located at the edge of the driveway by the fence. Scrap tires are considered a solid waste and must be managed in accordance with the regulations listed below.

Solid waste is defined in Ohio Administrative Code (OAC) Rule 3745-27-01(S)(23) as (in pertinent part):

> *"Solid waste" means such unwanted residual solid or semisolid material, including but not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt and debris, as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from combustion of coal, biomass fuels, and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. Solid waste does not include any material that is an infectious waste or a hazardous waste.*

Open dumping is defined in Ohio Revised Code (ORC) Section 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 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 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;...*

Northwest District Office
347 North Dunbridge Road
Bowling Green, OH 43402-9398

419 | 352 8461
419 | 352 8468 (fax)
www.epa.ohio.gov

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

> *... the deposition of solid wastes that consist of scrap tires into waters of the state, and also means 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 ...*

ORC Section 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...*

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 owner/operator of the property located at 418 North US Route 23, Fostoria, Ohio, is in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires onto the surface of the ground.

Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are common disease vectors for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile virus and Dengue Fever.

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.*

The owner/operator of the property located at 418 North US Route 23, Fostoria, Ohio, is in violation of OAC Rule 3745-27-60(C) for failure to control mosquitoes at the premises.

Should mosquitoes or mosquito larvae be discovered at the site, additional mosquito control measures will be required pursuant to OAC Rule 3745-27-60(D).

As of the date of this letter, the owner has not registered as a transporter of scrap tires. Please ensure that any scrap tires removed from the facility are removed by a registered scrap tire transporter and the paperwork from the removal is kept on file to document that the scrap tires are managed appropriately. Seneca County has occasional scrap tire collection events where County residents can take scrap tires to the various locations for free or at a reduced cost. For additional information, please contact the Ottawa, Sandusky, Seneca Solid Waste District at (419) 344-7222.

Please respond to this letter, in writing, within fourteen (14) days indicating your willingness to comply with the above cited regulations. Please forward copies of receipts documenting proper disposal to:

Ohio EPA – NWDO
Attn: Susan Hardy
347 N. Dunbridge Road
Bowling Green, Ohio 43402

This correspondence addresses specific observations only for the areas of the Facility 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 418 North US Route 23, Fostoria, Ohio, 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) 373-3043.

Sincerely,

Susan Hardy, R.S.
Environmental Specialist
Division Materials and Waste Management

/cs

pc: Seneca County Health Department
~~File: DMWM/SW, Seneca County, Tires~~

ec: Mike Reiser, DMWM, NWDO
NWDO Follow-up File