



**Environmental
Protection Agency**

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

August 22, 2012

**RE: SCRAP TIRE STORAGE
NOTICE OF VIOLATION
SO FRESH USED AUTO SALES, LLC**

CERTIFIED MAIL 7011 0470 0002 3496 4758

Mr. Charlie Harris
Ms. Jacqueline Harris
So Fresh Used Auto Sales, LLC
436 Wellington Avenue
Akron, Ohio 44305

Dear Mr. and Ms. Harris:

This letter provides a notice of violations identified by Ohio Environmental Protection Agency (Ohio EPA) regarding your business at So Fresh Used Auto Sales, LLC, located at 436 Wellington Avenue, Akron (Wellington site) on July 31, 2012. Charlie Harris is the property owner. The business owner is Jacqueline C. Harris.

On July 31, 2012, Julie Brown, representing Summit County Public Health (SCPH) and I, representing Ohio EPA, inspected the Wellington Avenue site. This was a reinspection to check compliance concerns identified during an inspection on June 12, 2012 and documented in a notice of violation dated June 27, 2012. Aaron Shear and I, representing Ohio EPA, also inspected the site on July 16, 2012.

On July 31, 2012, Ohio EPA looked at the back yard and inside the semi-trailers on the Wellington site and another semi-trailer located across the street. We did not inspect the scrap tire shipping papers; shipping papers were inspected during the last inspection and you indicated that the status of tires had not changed since the last inspection.

You indicated that the Wellington site is a used car and scrap tire retailer and is a separate business from the Harris & Associates scrap tire transporter business located at 103 North Case Avenue, Akron (Case site). You also said that scrap tires are sorted at 103 Case Avenue and resalable scrap tires are brought to the Wellington site for retail sale. As such, the Wellington site will be considered a retail scrap tire business and will need to comply with Ohio Administrative Code (OAC) 3745-27-60. As we discussed, please complete a scrap shipping paper when Harris & Associates brings scrap tires to So Fresh.

VIOLATIONS

Wellington Site

1. There was a truck blocking the entrance gate to the back yard.

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Ohio Administrative Code (OAC) 3745-27-60(B)(7)(e) states in part, *"The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure . . . 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."*

The Wellington site is in violation of OAC 3745-27-60(B)(7)(e) for not maintaining a fire break through the middle of the back yard tire storage area. To achieve compliance, you must maintain a fire break area extending from the gate in the fence and back (west) to the middle of the fenced area.

2. Approximately 50 scrap tires were in stacks near the southwest corner of your building.

OAC 3745-27-60(B)(7)(c) states in part, *"The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure . . . Scrap tire storage piles of five hundred tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles."*

The Wellington site is in violation of OAC 3745-27-60(B)(7)(c) for having outdoor scrap tires within 25 feet of your building. To achieve compliance, any outdoor storage of a pile or stacks of less than 500 scrap tires must be kept at least 25 feet away from your building and all other scrap tire storage piles.

3. Scrap tires were in three semi-trailers close together near the southwest corner of the site. Mr. Harris opened these trailers for Ohio EPA inspection. Scrap tires were inside the semi-trailers. The southernmost semi-trailer was approximately 40 feet away from a building on the neighboring south property that is not part of the So Fresh Used Auto Sales, LCC business location and is not owned by you. Also, the semi-trailers were positioned so close together that the southernmost semi-trailer could not be moved without moving other the trailers.

OAC 3745-27-60(B)(4) states in part, *"Where multiple portable containers, trucks, or semi-trailers are used to store scrap tires, the portable scrap tire containers, trucks, or semi-trailers shall be separated from the following:*

- (a) *Buildings and structures that are owned or leased by the person storing the scrap tires by at least fifteen feet.*
- (b) *Other buildings or structures not owned or leased by the person storing the scrap tires by at least:*
 - (i) *Fifty-six feet of separation if semi-trailers or other portable containers that have a volume of more than fifty-one cubic yards are used for scrap tire storage. Semi-trailers shall have enclosed sides, top, and doors such that the semi-trailer is capable of keeping the contents dry. Up to a maximum of ten semi-trailers or*

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portable containers may be located adjacent to each other and the fifty-six feet of separation shall apply to all sides of the group of semi-trailers or portable containers. All semi-trailers and portable containers shall be positioned such that any semi-trailer or portable container can be moved without moving any other semi-trailer, or container.

- (ii) *Twenty-five feet of separation if roll-off containers or box vans are used as portable containers for scrap tire storage. The roll-off containers and box vans shall each contain five hundred or less scrap tires or shall have a volume of fifty-one cubic yards or less and shall be capable of keeping the contents dry. Up to a maximum of ten portable containers may be located adjacent to each other and the twenty-five feet of separation shall apply to all sides of the group of containers. All containers shall be positioned such that any container can be moved without moving any other container."*

The Wellington site is in violation of OAC 3745-27-60(B)(4)(b)(i) for having semi-trailers containing scrap tires within 56 feet of a building that is not owned or leased by the business storing the scrap tires. To achieve compliance, the semi-trailers must be relocated so that there is at least 56 feet between the semi-trailers containing scrap tires and the buildings on the adjacent properties that are not owned by So Fresh Used Auto Sales.

The Wellington site is in violation of OAC 3745-27-60(B)(4)(b)(i) for not keeping all semi-trailers and portable containers positioned such that any semi-trailer or portable container can be moved without moving any other semi-trailer, or container. To achieve compliance, you must arrange the semi-trailers, storage boxes, vehicles and scrap tire piles so that all containers are positioned such that any container can be moved without moving any other container.

Comments

1. Ohio EPA received your response letter dated July 12, 2012. The letter provided a copy of your vendor's license as evidence of qualifying as a scrap tire retailer. Regarding mosquito control, So Fresh will need to comply with OAC 3745-27-60(C) regarding any scrap tires stored outdoors. Regarding shipping papers, So Fresh will need to keep on site the shipping papers for the scrap tires received from Harris & Associates or other businesses, pursuant to OAC 3745-27-60(E).
2. Ohio EPA will reinspect So Fresh for compliance with OAC 3745-27-60 regarding the general storage of scrap tires, especially items one through three above. The inspection will be 30 days from the date of this letter. Ohio EPA will call you to schedule the inspection.
3. There is a pile of fork lift or tow motor tires in front of two semi-trailers located near the south perimeter and just west of the So Fresh building. Ohio EPA was concerned that the pile of tires block the access to easy removal of the trailers in case of a fire or other emergency. We

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discussed that OAC 3745-27-60(B)(4)(b)(i) only refers to the positioning of semi-trailers. With further consideration, Ohio EPA has determined that what applies to this situation is OAC 3745-27-60(B)(7)(e). This rule states in part,

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

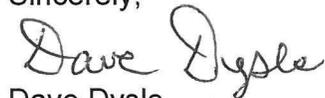
In other words, the pile of fork lift tires (or any debris or materials) are blocking the fire break and do not allow the access of emergency vehicles to the two semi-trailers (scrap tire storage areas). Please move the pile of tow motor tires to allow access to the two trailers. We discussed that it may be a good idea to put all the semi-trailers in a row to maximize the usable space in the back yard. This would be acceptable as long as there is twenty-five feet of separation from all sides of the group of trailers, pursuant to OAC 3745-27-60(B)(4)(b)(ii) quoted above, as well as the other applicable sections of OAC 3745-27-60.

Please provide a written response to Ohio EPA within 14 days of receipt of this Notice of Violations.

Nothing in this Notice of Violations shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This Notice of Violations shall not be interpreted to release So Fresh Used Auto Sales, LLC, Charlie and Jacqueline Harris and/or Harris & Associates, individually or collectively, from their responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

Should you have any questions, please call me at (330) 963-1286.

Sincerely,



Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

DD/cl

cc: Aaron Shear, DMWM, CO
Julie Brown, Summit County Public Health
Ed Jetter, Lieutenant, Akron Fire Department
File: [Sowers/TIRE/Harris & Associates/COR/77]