



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

March 20, 2013

**RE: ROSBY RESOURCE RECYCLING, INC.
CONSTRUCTION AND DEMOLITION
DEBRIS FACILITY
CLASS II COMPOST FACILITY
CUYAHOGA COUNTY
NOTICE OF VIOLATION**

Mr. William Rosby
Rosby Resource Recycling, Inc.
54 East Schaaf Rd.
Brooklyn Hts., Ohio 44131

Dear Mr. Rosby:

On February 25, 2013, Jennifer Carlin and I conducted a compliance inspection of the Construction and Demolition Debris facility and the Class II Compost Facility located at 54 East Schaaf Road, Brooklyn Heights, Cuyahoga County. Dan Bogoevski and Erm Gomes of our Division of Surface Water, and Dane Tussel and Colin Johnson of the Cuyahoga County Board of Health were present during the inspection. You and Chuck Perito, Operations Manager, accompanied us during our inspection. One of the objectives for meeting at the facility was to evaluate the possible locations for connection to the sewer line to discharge leachate from the compost facility.

You informed us that Northeast Ohio Regional Sewer District (NEORS) granted you a temporary discharge permit to the sanitary line (which is located northeast of the compost facility) and that during the previous week, 100,000 gallons of leachate had been discharged to the sanitary sewer. Of the 100,000 gallons of leachate discharged, 12,000 gallons was from the storage tank and the remainder was pumped from within the compost area. In addition, there were five (5) bladders containing leachate on site. Each bladder holds about 20,000 gallons. The leachate in the bladders was frozen, so it could not be discharged to the sanitary line. There was a significant amount of leachate still ponded within the compost facility (see photo #1). In addition, it was noted that leachate had spilled outside of the compost facility near the pump (see photo #2) and migrated to the west of the facility (photo #3).

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Photo #1. Leachate accumulation in compost facility



Photo #2. Leachate spill outside of compost facility.



Photo #3. Leachate migrating north from the compost area.

Therefore, the owner/operator is in violation of the following solid waste rules:

Ohio Administrative Code (OAC) 3745-560-210 (N): *“Leachate management. The owner or operator shall do the following:*

- (1) Take action to minimize the production of leachate.*
- (2) Eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility.*
- (3) Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state. Leachate may be collected and contained for reintroduction into the composting process.”*

During the inspection, it was noted that unfinished compost is being stored outside of the Class II compost facility boundaries. The unfinished compost is being used on berms (photo #4), stored in a large pile located east of the “finished” pile that is under roof (photo #5), and placed on the C&DD facility as vegetative cover (photo #6). There also appears to be a large pile of what appears to be unfinished compost located east of the compost facility near the homes located on Schaaf Rd. (photo #7).

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Photo #4. Unfinished compost placed on berms surrounding compost facility.



Photo #5. Unfinished compost located north of the finished pile under roof.

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Photo #6. Unfinished compost placed on C&DD facility as vegetative cover



Photos #7. Possible unfinished compost located on adjacent property.

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As per the NOV issued to Rosby Resource Recovery, Inc. on February 26, 2013, the undegraded plastics contained in the compost are defined as foreign/inert matter and must be managed as solid waste. If undegraded plastics remain in the product, the compost should be screened or otherwise processed to remove solid wastes. Any processing of the compost material that contains the plastics must be conducted within the boundaries of the composting facility. Placement of solid waste contained in compost onto the ground outside the composting facility boundary constitutes open dumping.

Therefore, the owner/operator is in violation of the following solid waste rules:

Ohio Revised Code (ORC) 3734.03: *“No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection...”*

The owner or operator of this facility violated this rule by disposing of solid waste by open dumping. The unfinished compost, which contained undegraded plastics, are considered solid waste and therefore, the activity conducted at the facility is considered open dumping.

Ohio Administrative Code (OAC) 3745-27-05(C): *“No person shall conduct, permit, or allow open dumping.”*

The owner or operator of this facility violated this rule by disposing of solid waste by open dumping. The unfinished compost, which contained undegraded plastics, are considered solid waste and therefore, the activity conducted at the facility is considered open dumping.

Tire storage: During the inspection, it was observed that tires are being stored in the northeast portion of the Rosby Resource Recovery, Inc. property (photo #8). It was noted that some of the tires contained frozen water (photo #9). I have enclosed Guidance Document #646: Mosquito Control and Storage of Scrap Tires and Guidance Document #645: How do Ohio's Scrap Tire rules Affect Generators of Scrap Tires for guidance on how to properly manage scrap tires at your facility. Ohio Administrative Code Rule 3745-27-60 **General storage and handling of scrap tires** can be viewed at: http://epa.ohio.gov/portals/34/document/currentrule/3745-27-60_current.pdf.

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Photo #8. Scrap tires located on the Rosby Resource Recovery, Inc. property

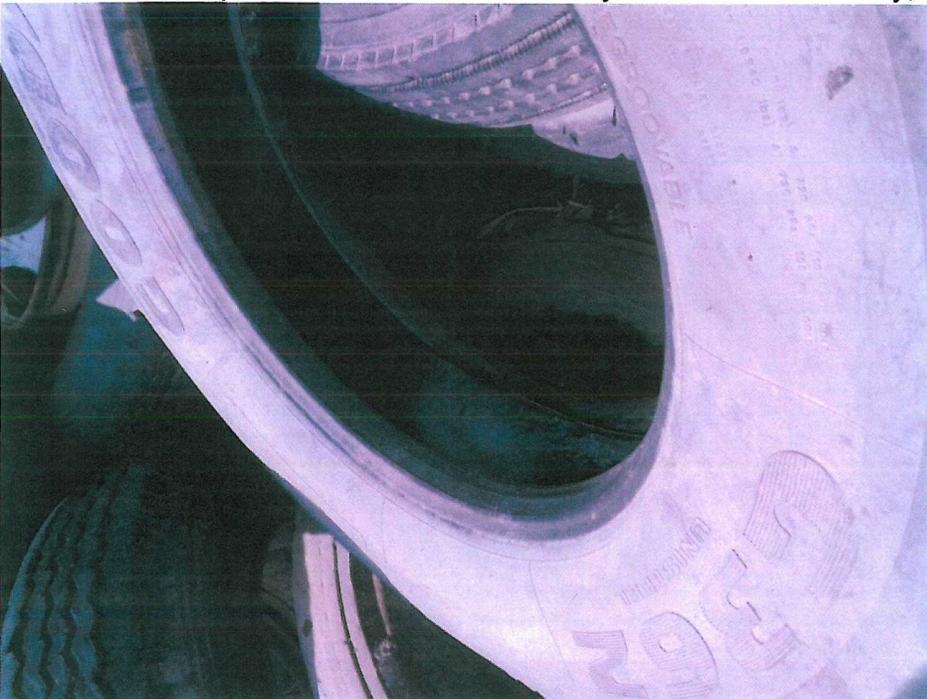


Photo #9. Frozen water in scrap tire.

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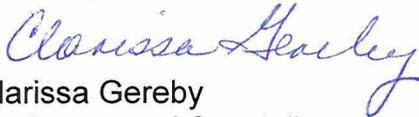
Odors: When we entered the site, Jennifer Carlin and I noted fairly strong, unpleasant compost odors on Greenview Drive, which is the private drive that leads into the Rosby Resource Recovery, Inc. facility. Winds were calm at the time. We did not detect off-site odors before or after the inspection.

Rosby Resource Recycling, Inc. must immediately undertake some type of corrective action with respect to the above noted violations. Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734 of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance.

Your written response to this letter must be received by Ohio EPA within 14 days of receipt of this letter. If there is insufficient time to correct the alleged violations within this timeframe, your response must include a timeline for correcting the violations.

If you have any questions regarding this correspondence, please contact Clarissa Gereby at (330) 963-1224 or Jennifer Carlin at (330) 963-1133.

Sincerely,



Clarissa Gereby
Environmental Specialist
Division of Materials and
Waste Management



Jennifer Carlin
Environmental Specialist
Division of Materials and
Waste Management

CG/JC/cl
Attachments

cc: Dane Tussel, Cuyahoga County Health Department
Colin Johnson, Cuyahoga County Health Department
Judy Bowman, DMWM, NEDO
Erm Gomes, DSW, NEDO
Dan Bogoevski, DSW, NEDO
Mayor Mike Procuik, City of Brooklyn Heights
File:[Sowers/COMP/Rosby Class II/COR/18]

Mosquito Control and Storage of Scrap Tires

Mosquitoes are a problem throughout Ohio. At least 62 different species of mosquitoes are found in the state. Mosquitoes interfere with work and leisure activities due to the annoyance of their bites and irritating reaction that follows. Most importantly, they can transmit diseases such as La Crosse, St. Louis, Eastern Equine, and West Nile Virus encephalitis. Ohio regulations now include requirements to prevent mosquitoes from breeding in scrap tires.

PURPOSE

This educational guideline addresses property owner and facility owner and operator responsibilities for mosquito control in Ohio and is intended to guide readers through some of the major requirements of the scrap tire rules. However, it is only a guide and the appropriate sections of the Ohio Administrative Code should be read in their entirety.

Effective mosquito control requires a well-planned program and the cooperation of homeowners, industry, and local and state governments each doing their part to reduce mosquito nuisances in their area. Water management is essential to the effective control of mosquito breeding. Eggs do not hatch unless they are on or in water. The first control measure is to prevent the buildup of standing water in tires. Scrap tires stored outside are of particular concern because the rain water that accumulates in the scrap tires provides an ideal breeding place for mosquitoes which carry many diseases.

Ohio law regulates scrap tire collection, storage, recovery and disposal facilities and scrap tire transporters. Ohio EPA regulations are designed to reduce the potential for mosquitoes to breed in scrap tires, whether the tires are located at a regulated facility or stored by individual property owners. In all cases, the facility owner or operator or property owner has a responsibility to control mosquito breeding in the tires by keeping the tires dry and appropriately stacked, or by using an insecticide or larvicide registered by the Ohio Department of Agriculture for use in Ohio, as

necessary. This fact sheet was prepared to provide information on mosquito control methods for scrap tires.

APPLICABLE RULES/STATUTES

Ohio Revised Code 3734
Ohio Administrative Code 3745-27-56
Ohio Administrative Code 3745-27-60
Ohio Administrative Code 3745-27-65

HOW DO I KEEP SCRAP TIRES DRY?

There are several ways to keep scrap tires dry or otherwise prevent water buildup in the tires so treatment with an insecticide or larvicide is not necessary.

- 1) Store all tires indoors or in closed containers.
- 2) Cover the scrap tires with a tarp or heavy plastic sheeting to prevent water from collecting in the tires.
- 3) Provide drainage by boring, drilling, cutting, or punching holes in the tires. Prevent drainage hole blockage by leaves or other debris.
- 4) Chop, cut, or shred the tires small enough so that the pieces will not hold water.
- 5) Other methods that can be shown to keep out water can be approved by

Mosquito Control and Storage of Scrap Tires

either Ohio EPA or the local health department.

IS BALING OF TIRES AN EFFECTIVE WAY TO ELIMINATE MOSQUITO BREEDING?

No. Tire bales may hold water, even when properly constructed, and allow mosquitoes to breed. Frequent inspections and treatments are needed.

TREATING SCRAP TIRES WITH A LARVICIDE OR INSECTICIDE

The property owner or facility owner or operator may choose to hire a pesticide applicator licensed by the Ohio Department of Agriculture who is authorized to apply general use or restricted use larvicides or insecticides. If the scrap tire facility operator or property owner wants to apply the larvicide or pesticide, then a general use larvicide/pesticide must be used. The Ohio Department of Health, (614) 752-1029, can provide a list of registered larvicides/insecticides that have a lower persistence and toxicity to the applicator and to the environment, if used according to the label specifications.

GENERAL INSECTICIDE AND LARVICIDE PRECAUTIONS

The Ohio Department of Health recommends the following before using an insecticide or larvicide:

- Read the label carefully and follow the directions on the insecticide/larvicide container label.
- Store insecticides/larvicides in plainly labeled containers, safely away from livestock, pets and children. Also, store them in a separate area where they will not contaminate food or feed.
- Avoid repeated and prolonged skin contact with insecticides/larvicides, and keep out of eyes, nose and mouth. If insecticides/larvicides do get on clothing

or on skin, remove contaminated clothing at once and wash skin and clothing thoroughly.

- Don't contaminate wells, ponds or streams when cleaning spray equipment.
- Wash your hands and face with soap and water immediately after applying an insecticide/larvicide and before eating, drinking or smoking.

LARVICIDE OR INSECTICIDE CONTAINER DISPOSAL

Following are some recommendations from the Ohio Department of Health that you should consider when disposing of containers:

- Triple rinse all containers (the liquid may be placed in the sanitary sewer, if acceptable).
- Never bury or burn empty larvicide or insecticide containers or other wastes.
- Whenever possible, buy insecticides in re-useable containers, or disposable containers that dissolve in the tank.
- Most empty insecticide containers can be disposed of at a solid waste landfill provided that they have been triple-rinsed, and punctured or crushed in the case of drums or cans.

RISKS TO THE APPLICATOR AND TO PERSONNEL AFTER APPLICATION

People applying a general use insecticide or larvicide should wear rubber gloves or other non-absorbent gloves, eye protection, and a filter mask. Other protective clothing may be specified on the product label. (A licensed applicator will have the appropriate equipment, apparel and training for this operation.) The protection is designed to prevent particulate matter and aerosols from getting into the eyes or lungs and to reduce skin exposure to

Mosquito Control and Storage of Scrap Tires

insecticides. Because registered chemicals on the list available from the Ohio Department of Agriculture have a relatively low persistence and toxicity, no significant threat to non-target species is expected if applied according to label specifications. Personnel handling tires after an insecticide/larvicide application should wear non-absorbent gloves.

For more information regarding the use of a particular insecticide or larvicide, please contact the Ohio Department of Agriculture at 614-728-6987.

POINT OF CONTACT

Northeast District Office DSIWM Supervisor at
Twinsburg: 330-963-1200

Northwest District Office DSIWM Supervisor at
Bowling Green: 419-352-8461

Central District Office DSIWM Supervisor at
Columbus: 614-728-3778

Southeast District Office DSIWM Supervisor at
Logan: 740-385-8501

Southwest District Office DSIWM Supervisor at
Dayton: 937-285-6357

Central Office-Scrap Tire Unit at Columbus:
614-644-2621

DISCLAIMER

The procedures set out in this document are intended solely for guidance. The procedures are not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party against Ohio EPA. While this guidance document is not legally binding, all statutes and rules referenced herein are binding and enforceable. Ohio EPA reserves the rights to vary this guidance or to change it at any time without public notice and also reserves the right to deviate from this guidance on a case-by-case basis.

How Do Ohio's Scrap Tire Rules Affect Generators of Scrap Tires?

PURPOSE

This educational guideline is applicable to the general public, tire dealers, and scrap tire businesses and addresses an individual's responsibility when handling scrap tires in Ohio and is intended to guide readers through some of the major requirements of the scrap tire rules. However, it is only a guide and the appropriate sections of the Ohio Administrative Code should be read in their entirety.

APPLICABLE RULES/STATUTES

Ohio Revised Code 3734
Ohio Administrative Code 3745-27-54 through 3745-27-79

ARE SCRAP TIRES REALLY A PROBLEM?

Each year, more than 12 million scrap tires are generated in Ohio. While many of these tires are recycled or properly disposed, some end up in stockpiles or in illegal dumps around the state. Currently, it is estimated that more than 43 million tires have been removed from stockpiles or illegal dumps in Ohio since 1996. An estimated 5 million scrap tires remain in illegal dumps in Ohio. These open dumps create many hazards to public health and the environment, two of which are of particular concern. First, tire dumps can spawn dangerous fires that produce toxic smoke and oils. Second, tire piles are prime breeding grounds for mosquitoes that can carry dangerous diseases such as West Nile Virus and encephalitis. To address growing concerns over illegal dumping of scrap tires and large tire stockpiles, the Ohio legislature passed a bill in 1993 to regulate scrap tires. In response to this law, Ohio EPA created rules designed to track scrap tires from the time they are generated until they are properly recycled, reused, or disposed.

ARE USED TIRES ALSO SCRAP TIRES?

Yes. A used tire is a scrap tire because the original owner has discarded it and no longer wants the tire. A used tire is a scrap tire whether it is mounted on a rim or not. A used tire remains a scrap tire until it is installed on a vehicle. Retreadable casings are also scrap tires until a retreading business has accepted and inspected the tire and marked it as suitable for retreading.

WHO IS A SCRAP TIRE GENERATOR?

A scrap tire generator is any individual or business that removes tires from vehicles or stores tires removed from vehicles. Types of generators include: individual citizens; retail tire dealers; service stations; tire retreading businesses; and motor vehicle salvage dealers (MVSD). Also included as scrap tire generators are property owners who possess scrap tires that have been stored or open dumped on their property.

IF I AM A GENERATOR OF SCRAP TIRES, HOW DO OHIO'S SCRAP TIRE RULES APPLY TO ME?

If certain conditions are met, generators typically do not have to register as a "scrap tire facility" under the scrap tire rules. This means that most generators do not have to obtain an annual license or a scrap tire registration from Ohio EPA. To maintain this unlicensed status, the generator must store and handle tires in compliance with the general storage rule, allow only transporters who are registered by Ohio EPA to take tires away, and dispose of tires only at locations approved by Ohio EPA. The table at the end of this document illustrates the requirements that each type of generator must meet in order to remain unlicensed.

How Do Ohio's Scrap Tire Rules Affect Generators of Scrap Tires?

HOW DO THE OHIO AND LOCAL FIRE CODES APPLY TO THE STORAGE OF SCRAP TIRES?

The location of a single container holding scrap tires is not specified in the scrap tire rules and should be coordinated with the local fire official. The general fire code, Ohio Administrative Code 1301:7-7-03, **General precautions against fire**, applies to the storage of combustible material such as scrap tires. The location of a single scrap tire pile, multiple scrap tire piles, multiple containers, or any combination is subject to 3745-27-60 of the Ohio Administrative Code.

AS A GENERATOR OF SCRAP TIRES, CAN I STORE THE TIRES ANY WAY I WANT?

No. As indicated on the table on the last page, all generators of scrap tires must store and handle tires in compliance with the general storage and handling rules found in section 3745-27-60 of the Ohio Administrative Code. Although the rule should be read completely by all generators of scrap tires, the rule includes the following main points:

- * Keep the scrap tires dry. If tires are stored outside, they must either be covered or must have mosquito controls applied to prevent mosquitoes from living and breeding in the pile. Tire piles must be separated by appropriate fire lanes and fire lanes must be kept clear of litter, debris and vegetative matter. Lastly, all tires must be kept at least 50 feet from possible ignition sources.
- * Tires must be stored in piles not larger than 2,500 square feet in basal area and in quantities not greater than in the amounts listed in the table on the last page.
- * If dry tires are stored inside a building or in an enclosed container, no additional mosquito controls are necessary. However, aisles of at least eight feet must be maintained between piles, tires

must not be stored within three feet of the ceiling or within three feet of heating ducts and vents, and tires must be kept a minimum of 50 feet from all possible sources of ignition.

AM I ALLOWED TO HAUL SCRAP TIRES TO A RECYCLING (RECOVERY) OR DISPOSAL FACILITY?

As indicated by the table on the last page, you may only haul scrap tires to a recovery or disposal facility if you transport them in loads of 10 or fewer tires. Loads larger than 10 tires must be transported by a transporter who has obtained a valid registration certificate from Ohio EPA. This specifically includes used tires and retreadable casings transported to another tire dealer or tire retreader.

AS A GENERATOR OF SCRAP TIRES, WHAT KIND OF RECORDS DO I NEED TO KEEP?

Generators of scrap tires are required to assist registered transporters by filling out scrap tire shipping papers that will certify the following: 1) the number of tires being shipped; and, 2) that the tires were either dry at the time of pick up, that the tires had been removed from the rim within the past seven days, or that appropriate mosquito controls had been applied to the pile if the tires had been stored outside. This certification will protect the generator by providing proof that the tires were hauled by a registered transporter. Likewise, it will protect the transporter by providing written certification that the tires were handled in a manner that will prevent mosquitoes from being transported from one part of the state to another. The generator should keep copies of shipping paper on file for at least three years.

The file of shipping papers can be used to show compliance with Ohio law. Section 3734.83(C) of the Ohio Revised Code requires that "... no person who possesses scrap tires shall cause them to be transported by any person who is not registered as a transporter..." The penalties for violating this or any section of the Ohio

How Do Ohio's Scrap Tire Rules Affect Generators of Scrap Tires?

Revised Code relative to the handling and storage of scrap tires are listed in section 3734.99 of the Ohio Revised Code (a felony with a fine of at least \$10,000 but not more than \$25,000, or imprisonment for at least two years, but not more than four years, or both.)

IF A GENERATOR WANTS TO BE A SCRAP TIRE TRANSPORTER, AND DOES NOT MEET ONE OF THE EXEMPTIONS, WHAT IS REQUIRED AND HOW MUCH WILL IT COST?

If a generator wants to be a scrap tire transporter or does not meet one of the scrap tire transporter exemptions, they will be required to submit an application for an annual registration certificate to Ohio EPA's Central Office, and to obtain financial assurance in the amount of \$20,000. Applications can be downloaded from Ohio EPA's Web site at: <http://www.epa.state.oh.us/dsiwm>. There is a \$300 registration fee. See Fact Sheet GD# 640, Standards and Requirements for Scrap Tire Transporters, for additional information.

HOW DO I VERIFY THAT A TRANSPORTER IS REGISTERED WITH OHIO EPA?

Each transporter must carry a current, original registration certificate issued by Ohio EPA. The certificate is printed on copy-proof, colored paper with the Seal of the State of Ohio imprinted on it. Copies of the Ohio certificates are not valid. Scrap tire certificates issued by other states are not valid in Ohio. The list of scrap tire transporters on Ohio EPA's web site, www.epa.oh.state.us, can be checked to verify that the scrap tire transporter is currently registered as an Ohio scrap tire transporter. A registration by any other state is not an acceptable substitute for an Ohio registration.

Failure to use an Ohio registered scrap tire transporter can result in civil or criminal penalties to both the generator and the transporter of \$10,000.00 to \$25,000.00 or imprisonment for 2 to 4 years per Ohio Revised Code Section 3734.99.

Ten or fewer scrap tires may be transported by a non-registered transporter. By using a non-registered scrap tire transporter for loads of more than ten tires, the generator may be participating in open dumping since the illegal hauler may open dump all except the few scrap tires that can be sold as used tires or retreadable casings. By using a non-registered scrap tire transporter, the generator remains liable for any costs associated with the illegal dumping of the tires. The above applies even if the transporter takes the tires for free.

POINT OF CONTACT

Northeast District Office DSIWM Supervisor at
Twinsburg: 330-963-1200

Northwest District Office DSIWM Supervisor at
Bowling Green: 419-352-8461

Central District Office DSIWM Supervisor at
Columbus: 614-728-3778

Southeast District Office DSIWM Supervisor at
Logan: 740-385-8501

Southwest District Office DSIWM Supervisor at
Dayton: 937-285-6357

Central Office-Scrap Tire Unit at Columbus:
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How Do Ohio's Scrap Tire Rules Affect Generators of Scrap Tires?

	All Generators of Scrap Tires	Retail Tire Dealers and Service Stations	Tire Retreaders	Motor Vehicle Salvage Dealers *
Must comply with general storage and handling rules?	<u>YES as well as state and local fire codes.</u>	<u>YES as well as state and local fire codes.</u>	<u>YES as well as state and local fire codes.</u>	<u>YES as well as state and local fire codes.</u>
Must use only Ohio EPA registered transporters?	YES (Unless 10 or fewer tires are transported)	YES (Unless 10 or fewer tires are transported)	YES (Unless 10 or fewer tires are transported)	YES (Unless 10 or fewer tires are transported)
What is the maximum number of tires that can be stored on the property to remain an unlicensed scrap tire facility?	100	1,000, if scrap tires are stored in an unsecured, uncovered, outdoor location <i>Any number</i> , if all scrap tires are stored in a secured building or enclosed container.	4,000, if scrap tires are stored in a single, covered scrap tire storage area.	Scrap tires may be stored in a single pile of not greater than 2,500 square feet in basal area and a maximum of 8 feet high.
Must maintain a file of scrap tire shipping papers?	Yes	Yes	Yes	Yes

* Note that a junk yard is not the same as a motor vehicle salvage dealer. A junk yard is not allowed to store more than 100 scrap tires without becoming a licensed scrap tire facility.