



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

September 20, 2013

RE: RRI OF OHIO INC.
NOTICE OF VIOLATION
ST018358
SCRAP TIRES
MAHONING COUNTY

Mark S. Lewis, President
RRI of Ohio, Inc.
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Dear Owners/Operators:

On August 28, 2013, Ohio Environmental Protection Agency (Ohio EPA) Division of Materials and Waste Management (DMWM) Northeast District Office (NEDO) inspected the RRI of Ohio, Inc., and adjacent buildings located at 1165 Brittain Street, Youngstown, Ohio (Property). RRI of Ohio, Inc. is a formerly licensed Class II Scrap Tire Recovery Facility (Facility) that was required to undergo mandatory closure upon final denial of the license, as effective November 2, 2009.

Upon completion of the inspection, Ohio EPA identified the owners/operators in violation of the following:

1. **Ohio Administrative Code (OAC) Rule 3745-27-66(A)** states, in part, "[c]losure activities shall be mandatory for a scrap tire collection, storage, or recovery

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facility if ... [a] scrap tire collection, storage, or recovery facility license held by the facility has expired, a further license has been applied for and denied, and all remedies for such denial have either been exhausted, or waived by failure to pursue such remedies in a timely manner..."

OAC Rule 3745-27-66(C) states that "[n]ot later than thirty days after a scrap tire collection, storage, or recovery facility has ceased to accept scrap tires, the facility owner shall do the following:

(a) Remove all scrap tires to one or more of the following: (i) A scrap tire recovery facility licensed under Chapter 3745-37 of the Administrative Code. (ii) A scrap tire monocell or monofill facility licensed under Chapter 3745-37 of the Administrative Code. (iii) A scrap tire collection or storage facility licensed under Chapter 3745-37 of the Administrative Code. (iv) A solid waste incineration or energy recovery facility subject to regulation under Chapter 3745-27 of the Administrative Code. (v) A premises located in this state where scrap tires shall be beneficially used in accordance with rule 3745-27-78 of the Administrative Code. (vi) A facility authorized to accept scrap tires, or a premises that shall beneficially use the scrap tires, that is located in another state and is operating in accordance with the laws of that state. (vii) A transporter holding a valid annual registration certificate under rule 3745-27-54 of the Administrative Code.

(b) Remove any solid waste remaining on site and dispose of them at a facility authorized to dispose of such waste.

(c) Clean all areas of the facility and any appurtenances, including, but not limited to, containers, equipment, machines, storage tanks, floors, and facility surfaces that were in contact with scrap tires, solid waste, or processed materials at any time during the operation of the facility and that are not to be removed during the closure. The above shall be washed or otherwise subjected to procedures that substantially reduce or eliminate any remaining constituents or contaminants derived from contact with scrap tires, solid waste, or processed materials.

(d) Submit the final annual report for the facility, as required by paragraph (J)(3) of rule 3745-27-65 of the Administrative Code, to the director."

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The owners/operators are in violation of these rules due to the owners/operators failure to close the facility within 30 days after final denial of the license on November 2, 2009, to remove and properly dispose of all scrap tires, cleaning all areas and appurtenances, and submittal of a final annual report for the former Facility.

Note: RRI of Ohio, Inc. caught on fire May 30, 2012 and on few other occasions in June 2012. The fires consumed most of the buildings on the Property and burned a majority of the contents of the former Facility. The contents of the former Facility include roughly 14,220 passenger tire equivalents (PTEs) as observed per a NOV dated October 7, 2011. Based on analytical results, Ohio EPA determined that the contents, including all the scrap tires, within the structure are "regulated asbestos containing material" (RACM) and are subject to Ohio Administrative Code (OAC) 3745-20-01(B)(42)(d). As RACM, the building contents must be removed, loaded, transported, and properly disposed in accordance with applicable state and federal air regulations. Pursuant to 40 CFR 61 Subpart M an individual trained in the provisions of national emissions standards for hazardous air pollutants (NESHAPs) must be on-site during loading and transportation operations.

- 2. Ohio Revised Code (ORC) Section 3734.03** states, in part, *"No person shall dispose of solid wastes by open burning or open dumping. . . ."*

OAC Rule 3745-27-05(C) 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."*

The owners/operators are responsible for cleanup and appropriate disposal of the whole and partially burnt scrap tires as a result of the May 30, 2012 and subsequent fires. Furthermore, as RACM, the building contents must be removed, loaded, transported, and properly disposed in accordance with applicable state and federal air regulations. Pursuant to 40 CFR 61 Subpart M an individual trained in the provisions of national emissions standards for hazardous air pollutants (NESHAPs) must be on-site during loading and transportation operations.

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3. **OAC Rule 3745-27-60(C)(1)** states, in part, that “[a]nyone storing scrap tires shall maintain mosquito control as follows: 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.

OAC Rule 3745-27-60(C)(2) 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.”

The owners/operators are in violation of the above cited scrap tire rules. During the inspection, Ohio EPA observed whole and partial scrap tires within the former Facility. Scrap tires that can hold water that could potentially breed mosquitoes, and the presence of mosquitoes constitutes a nuisance and a hazard to public health and safety. Currently the former Facility is a burned-out shell and completely open to the environment. The owners/operators must either keep the tires dry or maintain mosquito control until the scrap tires have been removed and properly disposed at an appropriate, licensed facility.

As a result of the fires, the owners/operators are also responsible to comply with all aspects of OAC Rule 3745-27-79.

OAC Rule 3745-27-79 states “[s]oil, surface water, and ground water contamination characterization and remediation caused by open burning of scrap tires, applies to “any site or facility where the open burning of scrap tires has occurred including, but not limited to, all licensed scrap tire facilities...and all other sites where scrap tires are managed, collected, stored, recovered, disposed...and to any associated areas affected by the scrap tire fire, including soil, surface water, and ground water.”

OAC Rule 3745-27-79(A)(2) states “[t]his rule is applicable to the ‘responsible individual’ which includes, but is not limited to the owner, operator, registrant, permittee, licensee, and/or person who conducted or allowed the accumulation or open burning of scrap tires.”

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Therefore, the owners/operators are also in violation of the following:

4. **OAC Rule 3745-27-79(B)(1)** states, in part, *“the responsible individual shall characterize and, if necessary, remediate areas of contamination resulting from the open burning of scrap tires...(a) after the occurrence of a fire at a site or facility” and “(b) after the open burning of scrap tires at any site or facility...”*

OAC Rule 3745-27-79(B)(2) states, in part, *“... any work performed by the responsible individual to characterize and/or remediate contamination shall accurately and completely characterize the rate, source, and extent of contamination, and to remediate the contamination in a manner that is protective of human health and the environment and, to the extent technically and economically feasible, provides for the restoration of the contaminated site or facility to its pre-existing condition.”*

The owners/operators are in violation of these rules for failure to characterize and remediate contamination of the Property after a tire fire. To date, the owners/operators have not begun any work to characterize or remediate the former Facility or the Property as a result of the open burning of scrap tires in violation of OAC Rule 3745-27-79(B)(1) and (2). Furthermore, as RACM, the building contents must be removed, loaded, transported, and properly disposed in accordance with applicable state and federal air regulations. Pursuant to 40 CFR 61 Subpart M an individual trained in the provisions of national emissions standards for hazardous air pollutants (NESHAPs) must be on-site during loading and transportation operations.

5. **OAC Rule 3745-27-79(B)(3)(a) through (3)(e)** states that *“whenever there is a fire at a site or facility, the responsible individual shall immediately...notify local police and fire agencies ... notify the Ohio EPA emergency response team using their twenty-four hour toll free number ... take all reasonable actions necessary to suppress the fire and to protect human health and safety of the environment ... take all reasonable measures necessary to contain any residuals including but not limited to pyrolytic oil and water that result from suppressing a fire at the site or facility. These measures shall include establishing berms, dikes or other containment devices where necessary, and ...take all reasonable measures necessary to ensure that fires do not occur, recur, or spread to other areas of the site of facility. The measures shall include removing or isolating tires and/or portable containers.”*

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In violation of OAC Rule 3745-27-79(B)(3)(a) through (3)(e), the owners/operators failed to inform the local police and fire agencies, notify the Ohio EPA emergency response, take all reasonable measures to suppress the fires, and take all measures to ensure that fires do not occur, recur, or spread to other areas beyond the former Facility.

6. **OAC Rule 3745-27-79(C)(1)(a)** states that after the occurrence of a fire at a site or facility, the responsible individual shall complete the following: *“Priority 1: within seven days of the occurrence of a fire at a site or facility, notify, in writing, the Ohio EPA district office in which the site or facility is located, the local solid waste management district, the Ohio EPA central office, and the local health department. The responsible individual shall include in the notification the name and telephone number of the contact person reporting the fire; the address or location of the scrap tire fire; the date and duration of the fire; and the quantity of tires involved, to the extent known.”*

The owners/operators failed to complete the “Priority 1” actions specified in the rule within seven days of the occurrence of the fires at the Facility. In addition, as of the date of this letter, the owners/operators have not completed the “Priority 1” actions specified in the rule, in violation of OAC Rule 3745-27-79(C)(1)(a). OAC Rule 3745-27-79(C)(1)(b) through (e) prioritizes remediation of scrap tire fire sites, from the removal of whole and partially burned tires to the containerization, characterization, and removal of fire residuals.

7. **OAC Rule 3745-27-79(C)(1)(b)** states that after the occurrence of a fire at a site or facility, the owners/operators must complete the following: *“Priority 2: Remove all whole and partially burned tires as soon as possible to reduce the possibility of additional fires. Partially burnt tires shall be disposed of as solid waste. Whole tires with melted or charred surfaces and partially burnt tires shall not be used in civil engineering projects or disposed of in a scrap tire monofill or monocell...”*

The owners/operators failed to complete the “Priority 2” actions specified in the rule after the occurrence of the fires at the Facility. As of the date of this letter, you have not completed the “Priority 2” actions specified in the rule. Furthermore, as RACM, the building contents must be removed, loaded, transported, and properly disposed in accordance with applicable state and federal air regulations. Pursuant to 40 CFR 61 Subpart M an individual trained in the provisions of national emissions standards for hazardous air pollutants (NESHAPs) must be on-site during loading and transportation operations.

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8. **OAC Rule 3745-27-79(C)(2)(b)** states that removal actions shall be “*begun within forty-five days at any site or facility where more than ten thousand PTEs are involved in a fire.*” Pursuant to OAC Rule 3745-27-79(D), a *characterization and remediation plan* shall be submitted to Ohio EPA within forty-five days after the start of any scrap tire fire involving more than ten thousand PTEs.

In violation of OAC Rule 3745-27-79(C)(2)(b), the owners/operators failed to initiate removal actions within forty-five days of the scrap tire fires. The owners/operators are responsible for initiating removal actions immediately. As previously discussed, the building contents must be removed, loaded, transported, and properly disposed in accordance with applicable state and federal air regulations.

9. **OAC Rule 3745-27-79(F)** states that *surface water* contamination or degradation of surface waters of the state shall be characterized and remediated as specified in this paragraph, unless prior written concurrence is obtained from or unless other or different requirements are specified by the director, the approved board of health, or a court of law.

In violation of OAC Rule 3745-27-79(F), the owners/operators failed to characterize and remediate all surface water that has been in contact with the partially burnt scrap tires and remaining residual. The owners/operators are responsible for initiating surface water remediation immediately.

Please note that once the property is remediated of burnt scrap tire residual, OAC Rule 3745-27-79(F) states that “[a] certification report shall be submitted to Ohio EPA following remediation of the area...”

Within 14 days of receipt of this letter, the owners/operators need to provide documentation to this office that includes the steps taken to comply with violations cited above. Documentation of steps taken to comply with the rules and in response to the violations includes, but is not limited to, written correspondence, updated policies, plans, and photographs supporting remediation activities, as appropriate, and may be submitted via the postal service or electronically to colum.mckenna@epa.state.oh.us.

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. If circumstances delay the abatement of violations, the owners/operators are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

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Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions, please contact me by telephone at (330) 963-1268, or by e-mail at colum.mckenna@epa.state.oh.us.

Sincerely,



Colum McKenna
Environmental Specialist
Division of Materials and Waste Management

cc: Chris Williams, DAPC-NEDO
Connie Livchak, DMWM-CO
Melinda Berry, DMWM-CO
Bob Eubanks, AGO, EES
Lieutenant Sharyl Frasier, City of Youngstown Fire Department
Brenda Williams, City of Youngstown Building Department.
Deputy Owens/Deputy Walker, Mahoning County Sheriff's Department
File: [Singh/TIRE/RRI of Ohio/COR/50]
DMWM #4121