



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

Re: 715 North Detroit Street Kenton, Ohio
Clayton Tire
Hardin County
Open Dumping – Case #13-33
Notice of Violation

August 26, 2013

Eugene and Sue Rarey
4700 Urbana Woodstock Road
Cable, Ohio 43009

Dear Mr. and Ms. Rarey:

On August 8, 2013, the Ohio Environmental Protection Agency (Ohio EPA), Northwest District Office (NWDO) received a complaint regarding the property that is owned by you, at 715 North Detroit Street, Kenton, Ohio, Hardin County (Site). The Site is identified as Parcel # 363900250000 by the Hardin County Auditor. The secretary of state lists you as the agent/registrant of Clayton Tire. The complainant alleged that numerous tires and junk is around the former Clayton Tire business.

On August 13, 2013, Ohio EPA initially visited the Site to investigate the complaint. During a phone conversation on August 14, 2013, and August 16, 2013, I spoke with Mr. Kurt Barthauer representing Clayton Tire. Mr. Barthauer stated that the Clayton Tire has been closed at that location for almost two years, and someone must have dumped the tires on the property.

On August 16, 2013, I conducted an inspection at the Site. During the inspection, I observed approximately 400 tires on the Site. Some of the scrap tires have already been collected and laced along the fence by Mr. Barthauer.

For allowing approximately 400 scrap tires accumulate on the ground at the Site, the owner/operator is in violation of the following:

1. **OAC Rule 3745-27-05(C):**

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.

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

"Open dumping" means the following: (b) The deposition of solid wastes that consist of scrap tires into waters of the state, and also means the 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 licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code.

2. **Ohio Revised Code (ORC) Chapter 3734.03** (in pertinent part):
No person shall dispose of solid waste by open burning or open dumping,...
3. **ORC Chapter 3734.76(C)** (in pertinent part):
... no person shall establish a new, or modify an existing, scrap tire storage facility without first either registering with the director by submitting an application for a scrap tire storage facility registration certificate ...
4. **OAC Rule 3745-27-61(B)** (in pertinent part):
An application for a registration certificate as required by section 3734.75, 3734.76, or 3734.78 of the Revised Code, shall be submitted to and approved by the director, before the establishment or modification of the scrap tire collection, class II scrap tire storage, or class II scrap tire recovery facility is begun ...
5. **OAC Rule 3745-27-60(B)(7)** (in pertinent part):
The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure:
 - (a) *Individual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code. Scrap tire storage piles shall include any area where scrap tires are stored in racks. The two thousand five hundred square feet basal area shall apply to multiple racks and small scrap tire piles not separated from other racks, piles, or structures by a fire break at least fifty-six feet wide. The basal area of the scrap tire storage pile shall include the area of the tire piles, racks, and the area of any walkway or other open areas that do not meet the definition of a fire break as defined in rule 3745-27-01 of the Administrative Code...*
 - (c) *Scrap tire storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles...*
6. **OAC Rule 3745-27-60(C)**:
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.*

These violations will continue until all scrap tires open dumped at this Site are removed, and verification that the scrap tires were properly handled in accordance with OAC Rule 3745-27 is submitted. Please remember a registered scrap tire transporter must be used if more than ten scrap tires are hauled in a single load. A list of registered scrap tire transporters is enclosed.

The owner/operator of Clayton Tire needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, the owner/operator is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, shipping papers, and photographs, as appropriate, and may be submitted via the postal service (347 North Dunbridge Road Bowling Green, Ohio 43402) or electronically to kristin.tillison@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 owner/operator is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions, please contact me by telephone at (419) 373-3064 or by e-mail at kristin.tillison@epa.state.oh.us.

Sincerely,



Kristin Tillison, RS
Environmental Specialist
Division of Materials and Waste Management

/cg

Enclosure

pc: Kurt Barthauer, Clayton Tire
File: Hardin County, Tires

ec: Jeremy Scoles, Ohio EPA, NWDO