

Issuance Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Rumpke of Ohio, LLC	:	Director's Final
10795 Hughes Road	:	Findings and Orders
Cincinnati, Ohio 45251	:	

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Rumpke of Ohio, LLC (Rumpke) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Administrative Code (OAC) Rule 3745-27-03(C).

**II. PARTIES**

These Orders shall apply to and be binding upon Rumpke and successors in interest liable under Ohio law. No change in ownership of Rumpke or the Facility as defined herein shall in any way alter Rumpke's responsibilities under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder. Unless otherwise stated, all OAC Rule citations shall refer to rules currently in effect.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Rumpke is the owner and operator of a mobile scrap tire recovery facility (Facility) that is currently located on property owned by D&R Recyclers, Inc. in Butler County at 3851 South Street, Hamilton, Ohio.
2. Rumpke is currently operating the Facility in compliance with the requirements of OAC Rule 3745-27-67(G).

3. OAC Rule 3745-27-67(G) states that, when operating a mobile scrap tire recovery facility, an owner or operator may temporarily store whole or processed tires in piles that total no more than 5,000 square feet in basal area.
4. OAC Rule 3745-27-67(G)(1) states that any individual scrap tire storage pile located outside a building shall have a maximum basal area of 2,500 square feet, shall have a maximum height of eight feet, and shall be separated from other piles and buildings by fire lanes with a width of at least 56 feet.
5. In a letter dated August 1, 2003, Rumpke requested a variance from the provisions of OAC Rule 3745-27-67(G) to increase the scrap tire storage area. Specifically, Rumpke proposes to increase the height of two storage piles to maximum of 14 feet and proposes to add two scrap tire piles, each measuring up to 2,500 square feet in basal area and up to eight feet in height. Rumpke requested the variance to account for any inactivity caused by mechanical maintenance and/or inclement weather.
6. Pursuant to OAC Rule 3745-27-03(C), the Director of Ohio EPA has the authority to grant variances only if the applicant demonstrates to the director's satisfaction that construction activities, operation, closure activities, and/or post-closure activities of the facility in the manner approved by the variance and any terms or conditions imposed as part of the variance, will not create a nuisance or a hazard to public health or safety or the environment and are unlikely to result in a violation of any other requirements of ORC Chapters 3704, 3714, 3734, or 6111, and any rules adopted thereunder.
7. Granting a variance from the requirements of OAC Rule 3745-27-67(G)(1) to allow the storage of scrap tires in accordance with the request described in Finding 5, above, will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of any other requirements of ORC Chapters 3704, 3714, 3734, or 6111, and any rules adopted thereunder, provided that the proposed activities are performed in accordance with the August 1, 2003, request and these Orders

## **V. ORDERS**

1. Pursuant to OAC Rule 3745-27-03(C), Rumpke is hereby granted a variance from the requirements of OAC Rule 3745-27-67(G) that limit the size of the scrap tire storage piles at the Facility. As part of this variance, Rumpke is subject to the following orders.

2. Rumpke may store whole or processed scrap tires in up to two individual piles, each having a maximum basal area of 2,500 square feet and a maximum height of 14 feet.
3. In addition to the piles specified in Order 2, above, Rumpke may store whole or processed scrap tires in up to two additional individual piles, each having a maximum basal area of 2,500 square feet and a maximum height of eight feet.
4. Rumpke shall not, at any time, store whole or processed scrap tires in piles that exceed a total of 10,000 square feet in basal area.
5. Pursuant to OAC Rule 3745-27-67(F)(2)(a), Rumpke shall not locate the storage piles within 100 feet of the property line or other buildings or structures not owned or leased by the property owner.
6. Pursuant to OAC Rule 3745-27-67(G)(1)(c), Rumpke shall separate the storage piles from other piles and buildings by using fire lanes with a minimum width of 56 feet.
7. Pursuant to OAC Rule 3745-27-67(G)(3), Rumpke shall separate the storage piles from possible ignition sources by at least 50 feet.
8. Pursuant to OAC Rule 3745-27-67(G)(4), Rumpke shall maintain the fire lanes so that they are free of combustible materials including, but not limited to, weeds and leaves.
9. Pursuant to OAC Rule 3745-27-67(G)(5), Rumpke shall control mosquitoes.
10. If Rumpke demobilizes from the site, pursuant to OAC Rule 3745-27-67(G)(6), it shall remove all scrap tires stored as part of the mobile scrap tire recovery facility.
11. Within 30 days after the effective date of these Orders, Rumpke shall submit to Ohio EPA a plan drawing detailing the locations and configurations of the four scrap tire piles.
12. Within 30 days after the effective date of these Orders, Rumpke shall submit to Ohio EPA any changes in the authorizing documents for the Facility that were made due to these Orders.

13. These Orders shall expire when Rumpke removes its mobile scrap tire recovery facility from the D&R Recyclers Inc. property, unless otherwise authorized by Ohio EPA. In the event D&R Recyclers Inc. wishes to operate a mobile scrap tire recovery facility in the manner authorized by these Orders, it must first request and obtain approval from Ohio EPA. Any such request must demonstrate that the additional storage area will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of any other requirements of ORC Chapters 3704, 3714, 3734, or 6111, and any rules adopted thereunder.
14. Nothing in these Orders shall be construed to authorize any activity, method, or waiver from the requirements of ORC Chapter 3734 or the regulations promulgated thereunder, except as expressly provided herein. These Orders shall not be interpreted to release Rumpke from responsibility under ORC Chapters 3704, 3734, or 6111; under the Federal Clean Water Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

## **VI. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws and regulations. These Orders do not waive or compromise the applicability or enforcement of any other statute or regulation applicable to Rumpke or the Facility.

## **VII. NOTICE**

All documents required by these Orders shall be submitted to the following address:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Solid and Infectious Waste Management  
401 East 5<sup>th</sup> Street  
Dayton, Ohio 45402-2911  
Attn: Tracy Buchanan, Supervisor

## **VIII. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative,

legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Rumpke for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Rumpke to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of Rumpke to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Rumpke. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for any violations at the Facility.

**IT IS SO ORDERED:**

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Christopher Jones, Director  
Ohio Environmental Protection Agency