

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Rumpke of Ohio, LLC	:	<u>Director's Final</u>
10795 Hughes Road	:	<u>Findings and Orders</u>
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 Revised Code ("ORC") 3734.02(A) and 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 Mobile Recovery Unit, as hereinafter defined, shall in any way alter Rumpke's obligations 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.

IV. FINDINGS

The Director of Ohio EPA ("Director") has determined the following findings:

1. Rumpke is the owner and operator of a mobile scrap tire recovery facility ("Mobile Recovery Unit") located on property owned by D&R Recyclers, Inc. at 3851 South Street, Hamilton, Butler County, Ohio ("the Site"). The Mobile Recovery Unit is a "mobile scrap tire recovery facility" as that term is defined in OAC Rule 3745-27-01(S)(15)(a).

2. Rumpke is currently required to operate the Mobile Recovery Unit in accordance with the requirements in OAC Rule 3745-27-67(G).
3. OAC Rule 3745-27-67(G) specifies that when operating a mobile scrap tire recovery facility at a site, the owner or operator may temporarily store at the site up to five thousand (5,000) square feet in basal area of either whole or processed scrap tires subject to the standards specified in rule.
4. OAC Rule 3745-27-67(G)(1) requires that individual scrap tire storage piles stored outside of a building shall be no greater than two thousand five hundred (2,500) square feet in basal area; not exceed eight (8) feet in height; and be separated from other scrap tire storage piles and from buildings and structures by a fire lane with a width equal to or greater than fifty-six (56) feet.
5. On January 15, 2004, Ohio EPA granted Rumpke a variance, pursuant to OAC Rule 3745-27-03(C), in order to increase the maximum height of two (2) storage piles at the Site to fourteen (14) feet and to add two (2) scrap tire storage piles, each measuring up to 2,500 square feet in basal area and up to eight (8) feet in height, at the site.
6. By letters dated May 11, 2005 and June 8, 2005, Rumpke requested another variance, pursuant to OAC Rule 3745-27-03(C), from the provisions of OAC Rule 3745-27-67(G) in order to increase the scrap tire storage area at the Site. Specifically, Rumpke is proposing to add one additional scrap tire storage pile, measuring up to 2,500 square feet in basal area and up to 14 feet in height. Rumpke requested this variance to allow for handling of rimmed tires. The additional storage area will allow rimmed tires to be segregated from scrap tires that are ready for processing.
7. Pursuant to OAC Rule 3745-27-03(C), the Director may grant a variance only if the applicant demonstrates to the Director's satisfaction that construction, operation, and performance of closure activities and/or post-closure activities of the solid waste 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 is unlikely to result in a violation of any other requirements of ORC Chapters 3704., 3714., 3734., or 6111., and any rules adopted thereunder.
8. Granting a variance from the requirements of OAC Rule 3745-27-67(G) in order to increase the scrap tire storage area at the Site, in the manner proposed, 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 Rumpke performs the proposed activities in accordance with the May 11, 2005, and June 8, 2005, requests and with the following Orders.

V. ORDERS

1. Pursuant to ORC Section 3734.02(A) and OAC Rule 3745-27-03(C), and except as otherwise provided in these Orders, Rumpke is hereby granted a variance from the requirement in OAC Rule 3745-27-67(G) that limits the size of scrap tire storage piles in order to increase the scrap tire storage area at the Site in accordance with these Orders and the May 11, 2005, and June 8, 2005, requests.
2. Pursuant to the January 15, 2004, Director's Final Findings and Orders and the May 11, 2005, variance request, Rumpke may store at the Site whole or processed scrap tires in no more than three (3) individual scrap tire storage piles, each having a maximum basal area of two thousand five hundred (2,500) square feet and a maximum height of fourteen (14) feet.
3. In addition to the scrap tire storage piles specified in Order Number 2, above, Rumpke may store at the Site whole or processed scrap tires in up to two (2) additional individual piles, each having a maximum basal area of two thousand five hundred (2,500) square feet and a maximum height of eight (8) feet.
4. Rumpke shall not, at any time, store at the Site whole or processed scrap tires in scrap tire storage piles that exceed a total of twelve thousand five hundred (12,500) square feet in basal area.
5. Pursuant to OAC Rule 3745-27-67(F)(2)(a), Rumpke shall not locate the scrap tire storage piles at the Site within one hundred (100) feet of the property line or from other buildings or structures not owned or leased by the property owner or the owner or operator of the mobile scrap tire recovery facility.
6. Pursuant to OAC Rule 3745-27-67(G)(1)(c), Rumpke shall separate the scrap tire storage piles from other scrap tire storage piles and from buildings and structures by a fire lane with a width equal to or greater than fifty-six (56) feet.
7. Pursuant to OAC Rule 3745-27-67(G)(3), Rumpke shall separate the scrap tire storage piles from possible ignition sources (e.g., open flame, welding equipment) by at least fifty (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 material including, but not limited to, weeds and leaves.
9. Pursuant to OAC Rule 3745-27-67(G)(5), Rumpke shall control mosquitoes by either removing liquids from scrap tires and immediately storing them such that water does not accumulate in scrap tires or containers, by applying a pesticide or larvicide, or by using another method of mosquito control which is approved by Ohio EPA.
10. In the event that Rumpke demobilizes the Mobile Recovery Unit from the Site, all scrap tires temporarily stored at the Site shall be removed in accordance with OAC Rule 3745-27-67(G)(6).
11. Not later than thirty (30) days after the effective date of these Orders, Rumpke shall submit to Ohio EPA any changes in the authorizing documents for the Mobile Recovery Unit that were made as a result of these Orders.
12. These Orders shall expire when Rumpke removes its mobile scrap tire recovery facility from the Site, unless otherwise authorized by Ohio EPA.
13. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. These Orders shall not be interpreted to release Rumpke from responsibility under ORC Chapters 3704., 3714., 3734., or 6111.; under the Federal Clean Water Act, the Resource Conservation and Recovery 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 local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to the Site, Rumpke, and/or the Mobile Recovery Unit.

VII. NOTICE

All documents required to be submitted by Rumpke pursuant to 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 5th Street
Dayton, Ohio 45402-2911
Attn: Tracy Buchanan, Supervisor

or to such persons or addresses as may hereafter be otherwise specified in writing by Ohio EPA.

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 or to modify or revoke these Orders 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 which may occur at the Mobile Recovery Unit or the Site.

IT IS SO ORDERED:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency