

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

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

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Rumpke Sanitary Landfill, Inc.  
Rumpke Sanitary Landfill  
10795 Hughes Road  
Cincinnati, Ohio 45251

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Director's Final  
Findings and Orders

**PREAMBLE**

It is agreed by the Parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Rumpke Sanitary Landfill, Inc. ("Rumpke") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.02(G) and 3745.01 and Ohio Administrative Code ("OAC") Rule 3745-27-03(B).

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Rumpke and any successors in interest liable under Ohio law. No change in ownership of Rumpke or of the Facility, 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, operator, permittee, and licensee of the Rumpke Sanitary Landfill ("Facility") located at 10795 Hughes Road, Cincinnati, Hamilton County,

Ohio. The Facility is a "sanitary landfill facility" as that term is defined in OAC Rule 3745-27-01(S)(4).

2. On June 21, 2001, Ohio EPA issued Rumpke a Corrective Measures Plan Approval for the HSW-1S Corrective Measures Area at the Facility.
3. On April 14, 2005, Ohio EPA received a letter from Rumpke titled "Rumpke Sanitary Landfill, Inc., Exemption Request." The letter, dated April 13, 2005, requested an exemption from OAC Rule 3745-27-10(F)(2)(e)(ii), which requires the ground water corrective measures monitoring plan to contain provisions for semiannual monitoring for the presence above background levels of parameters numbered 1-66 of appendix I of OAC Rule 3745-27-10 determined not to have been released to ground water. During the ground water assessments performed in the HSW-1S, HSW-2I, and HSW-4S corrective measures areas, Rumpke determined that there were three inorganic parameters (i.e., selenium, silver, and thallium) that were not present above background levels.
4. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, or processing solid waste that consists of scrap tires, in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a registration certificate, permit, or license or comply with other requirements of ORC Chapter 3734.
5. Because Rumpke was not required to conduct annual monitoring for selenium, silver, or thallium during detection monitoring at the Facility and because Rumpke determined that selenium, silver, and thallium were not present above background levels during ground water assessments performed in the HSW-1S, HSW-2I, and HSW-4S corrective measures areas, granting Rumpke an exemption from the requirement of OAC Rule 3745-27-10(F)(2)(e)(ii) to conduct semiannual monitoring for the presence of selenium, silver, and thallium above background levels during corrective measures monitoring is unlikely to adversely affect the public health or safety or the environment, provided Rumpke complies with the following Orders.

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## **V. ORDERS**

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Rumpke is hereby exempted from the requirement of OAC Rule 3745-27-10(F)(2)(e)(ii) to conduct semiannual monitoring for the presence of selenium, silver, and thallium above background levels during corrective measures monitoring in accordance with these Orders.

2. If selenium is detected in the Facility's annual leachate grab sample, as required by OAC Rule 3745-27-19(M)(5), at a concentration exceeding its OAC Rule 3745-81 maximum contaminant level of 0.05 mg/l, as effective on the date of this authorization, Rumpke shall provide Ohio EPA written notification of the detection not later than forty-five (45) days after the initial detection. In such an event, Rumpke shall resume semiannual monitoring for the presence of selenium above background levels during the next semiannual corrective measures monitoring event in accordance with OAC Rule 3745-27-10(F)(2)(e)(ii), unless Ohio EPA concurs in writing that the analytical result of a subsequent verification leachate grab sample for selenium refutes the initial detection.
3. If thallium is detected in the Facility's annual leachate grab sample, as required by OAC Rule 3745-27-19(M)(5), at a concentration exceeding its OAC Rule 3745-81 maximum contaminant level of 0.002 mg/l, as effective on the date of this authorization, Rumpke shall provide Ohio EPA written notification of the detection not later than forty-five (45) days after the initial detection. In such an event, Rumpke shall resume semiannual monitoring for the presence of thallium above background levels during the next semiannual corrective measures monitoring event in accordance with OAC Rule 3745-27-10(F)(2)(e)(ii), unless Ohio EPA concurs in writing that the analytical result of a subsequent verification leachate grab sample for thallium refutes the initial detection.
4. If silver is detected in the Facility's annual leachate grab sample, as required by OAC Rule 3745-27-19(M)(5), at a concentration exceeding its OAC Rule 3745-82 secondary contaminant standard of 0.1 mg/l, as effective on the date of this authorization, Rumpke shall provide Ohio EPA written notification of the detection not later than forty-five (45) days after the initial detection. In such an event, Rumpke shall resume semiannual monitoring for the presence of silver above background levels during the next semiannual corrective measures monitoring event in accordance with OAC Rule 3745-27-10(F)(2)(e)(ii), unless Ohio EPA concurs in writing that the analytical result of a subsequent verification leachate grab sample for silver refutes the initial detection.
5. In the event that selenium, silver, or thallium is identified as a waste-derived constituent for which the Facility is required to determine rate, extent, and concentration during any ground water quality assessment monitoring program to comply with OAC Rule 3745-27-10(E)(6) or 3745-27-10(E)(9), Rumpke shall resume semiannual monitoring for the presence of selenium, silver, or thallium above background levels during the next semiannual corrective measures monitoring event in accordance with OAC Rule 3745-27-10(F)(2)(e)(ii).

6. If a ground water remediation standard for selenium, silver, or thallium is established by the Facility to comply with OAC Rule 3745-27-10(F)(7) for any ground water corrective measures program, then Rumpke shall resume semiannual monitoring for the presence of selenium, silver, or thallium above background levels during the next semiannual corrective measures monitoring event in accordance with OAC Rule 3745-27-10(F)(2)(e)(ii).
7. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any other 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 CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the Facility.

#### **VII. 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, except as specified herein. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Rumpke and/or the Facility.

#### **VIII. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **IX. NOTICE**

All documents required to be submitted by Rumpke pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Solid and Infectious Waste Management  
401 East Fifth Street  
Dayton, Ohio 45402  
Attn: Supervisor, DSIWM

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

#### **X. RESERVATION OF RIGHTS**

Ohio EPA and Rumpke each reserve all rights, privileges, and causes of action, except as specifically waived in Section XI. of these Orders. 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 and/or for violations at the Facility.

#### **XI. WAIVER**

Rumpke hereby waives the right to appeal the issuance, terms and conditions, service, and implementation of these Orders, and Rumpke hereby waives any and all rights Rumpke may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Rumpke agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Rumpke retains the right to intervene and participate in such appeal. In such an event, Rumpke shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

#### **XII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

#### **XIII. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

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Joseph P. Koncelik  
Director

**IT IS SO AGREED:**

**Rumpke Sanitary Landfill, Inc.**

\_\_\_\_\_  
Signature

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Date

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Printed or Typed Name

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Title

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