



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

P.O. Box 1049
Columbus, Ohio 43216-1049

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

In the Matter Of:

Adriatic Recycling, Inc. : Director's Final Findings
278 Park Drive :
Campbell, Ohio 44405 :

Ted Perantinides :
278 Park Drive :
Campbell, Ohio 44405 :

Recycled Resources, Inc. :
10 Cross Winds Drive :
Pittsburgh, Pennsylvania 15220 :

Youngstown Industrial Properties :
5004 Winthrop Drive :
Austintown, Ohio 44515 :

Respondents

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Adriatic Recycling, Inc., Ted Perantinides, Youngstown Industrial Properties and Recycled Resources, Inc. ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") § 3734.13 and 3734.85.

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Christopher Jones, Director

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and their heirs and successors in interest liable under Ohio law. No change in ownership of the Respondents or of the Premises (as hereinafter defined) shall in any way alter Respondents' 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 has determined the following findings of fact:

1. The Respondents are the owners and/or operators of a scrap tire facility located at 600 Jones Street and 1165 Brittain Street, Youngstown, Ohio ("Premises").
2. Respondents Adriatic Recycling, Inc. ("Adriatic") and Youngstown Industrial Properties are incorporated under the laws of the State of Ohio. Respondent Mr. Ted Perantinides is the President of Adriatic Recycling, Inc. Mr. George Pontikos, President of Youngstown Industrial Properties, is the Statutory Agent of Adriatic Recycling, Inc.
3. The Premises was owned by Respondent Youngstown Industrial Properties and was leased to Respondent Mr. Perantinides and/or Respondent Adriatic to operate a scrap tire recovery facility. On June 18, 2003, Recycled Resources, Inc. purchased the Premises and is the current owner of the Premises.
4. Scrap tires are "solid wastes" as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(S)(6) and (S)(24).
5. The Respondents are "persons" as that term is defined in ORC Section 3734.01(G) and OAC Rule 3745-27-01(P)(3) and are responsible for the

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

accumulation of scrap tires on the Premises.

6. The Respondents have accumulated an estimated 173,000 passenger tire equivalents ("PTE") on approximately one acre at the Premises.
7. The Premises is located within the Youngstown General Health District ("YGHD"). The YGHD is not placed on the approved list of health districts per OAC Rule 3745-37-08. Ohio EPA administers and enforces the solid and infectious waste program.
8. On July 21, 1997, Ohio EPA issued a class II scrap tire recovery facility registration to Respondent Adriatic. Respondent Adriatic is subject to Condition #1 which states:

The maximum temporary outdoor storage of scrap tires shall be two piles each no larger than 2,500 square feet in basal area.
9. OAC Rule 3745-27-65(B) states, "(t)he owner or operator shall operate the scrap tire... recovery facility in strict compliance with the terms and conditions of the registration certificate or permit(.)"
10. By letters dated November 10, 1999, December 14, 1999, March 30, 2000, June 1, 2000, July 3, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6, 2001, February 27, 2001, March 13, 2001, June 26, 2001, September 7, 2001, November, 13, 2001, January 30, 2002, June 21, 2002, September 16, 2002, December 27, 2002, March 26, 2003, April 14, 2003 and July 3, 2003 Ohio EPA cited the Respondent Adriatic for exceeding the two 2,500 square feet basal areas approved in Condition No. 1 of the Respondent Adriatic's scrap tire registration (see Finding No. 8) in violation of OAC Rule 3745-27-65(B).
11. OAC Rule 3745-27-65(D)(4) states, "(t)he owner or operator shall store only scrap tires in the... temporary scrap tire storage area (recovery facilities)(.)"
12. By letters dated March 20, 1998, July 8, 1998, November 10, 1999, December 14, 1999, March 30, 2000, June 1, 2000, July 3, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6,

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Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

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- 2001, February 27, 2001, March 13, 2001, June 26, 2001, September 7, 2001, November, 13, 2001, January 30, 2002, June 21, 2002, September 16, 2002, December 27, 2002, March 26, 2003, April 14, 2003 and July 3, 2003 Ohio EPA cited the Respondent Adriatic for failing to store scrap tires in compliance with the approved registration certificate which limits the temporary storage of scrap tires to two piles. Respondent Adriatic is storing scrap tires in at least four locations, in violation of OAC Rule 3745-27-65(D)(4) and the registration.
13. On January 28, 2000, Ohio EPA issued a solid waste facility license for the Respondent Adriatic's class II scrap tire recovery facility with the following pertinent special terms and conditions:
 - A. Scrap Tire Pile A shall be no greater than 50 X 50 X 6 feet high by March 1, 2000. All scrap tires from Pile A shall be removed by no later than March 20, 2000;
 - B. All scrap tires from Pile B shall be removed by no later than April 15, 2000;
 - C. All scrap tires from Pile C shall be removed by no later than June 15, 2000.
 14. By letters dated March 30, 2000, June 1, 2000, July 3, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6, 2001, February 27, 2001, March 13, 2001, June 26, 2001, September 7, 2001, November, 13, 2001, January 30, 2002, June 21, 2002, September 16, 2002, December 27, 2002, March 26, 2003, April 14, 2003 and July 3, 2003 Ohio EPA cited Respondent Adriatic for failing to reduce the size and height of Pile A by March 1, 2000, and failing to remove all of the scrap tires from Pile A by March 20, 2000, in violation of the license condition set forth above in Finding No. 13.
 - A.
 15. By letters dated June 1, 2000, July 3, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6, 2001, February 27, 2001, March 13, 2001, June 26, 2001, September 7, 2001, November, 13, 2001, January 30, 2002, June 21, 2002, September 16, 2002, December 27, 2002, March 26, 2003, April 14, 2003 and July 3, 2003 Ohio EPA cited

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

Respondent Adriatic for failing to remove all scrap tires from Pile B by April 15, 2000, in violation of the license condition set forth above in Finding No. 13. B.

16. By letters dated July 3, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6, 2001, February 27, 2001, March 13, 2001, June 26, 2001, September 7, 2001, November, 13, 2001, January 30, 2002, June 21, 2002, September 16, 2002, December 27, 2002, March 26, 2003, April 14, 2003 and July 3, 2003 Ohio EPA cited Respondent Adriatic for failing to remove all scrap tires from Pile C by June 15, 2000, in violation of the license condition set forth above in Finding No. 13. C.

17. OAC Rules 3745-27-65(F)(1)(a)(b) & (c) (effective March 1, 1996) state,

The following requirements apply to the storage of scrap tires: (a) Scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area; and (b) Scrap tire storage piles shall not exceed fourteen feet in height; and (c) Where the length and width of a scrap tire storage pile(s) are each less than or equal to twenty five feet and the height of the scrap tire storage pile(s) is less than or equal to six feet, the scrap tires storage pile(s) shall 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 feet(.)

18. By letters dated January 8, 1998, March 20, 1998, July 8, 1998, May 10, 1999, June 16, 1999, November 10, 1999, December 14, 1999, March 30, 2000, June 1, 2000, July 3, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6, 2001, February 27, 2001, March 13, 2001, June 26, 2001, September 7, 2001, November, 13, 2001 and January 30, 2002, Ohio EPA cited Respondent Adriatic for storing scrap tires in piles which were in excess of the maximum twenty five hundred square feet basal area, and which were not clearly separated by a fire lane in excess of fifty feet. Scrap tires were also stored in piles greater than six feet high with less than a fifty foot fire lane between piles, in violation of OAC Rules 3745-27-65(F)(1)(a)(b) & (c).

19. OAC Rules 3745-27-65(F)(1)(a)(b) & (c) (effective March 29, 2002) state,

Additional scrap tire management requirements for scrap tire storage and

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

recovery facilities. (1) The following requirements apply to the storage outside of a building of whole scrap tires, cut scrap tires, or scrap tire shreds larger than TDC or TDF, as defined in paragraph (I)(13) of rule 3745-27-01 of the Administrative Code:(a) Scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area. (b) Scrap tire storage piles shall not exceed fourteen feet in height.(c) Fire lanes shall be equal to or greater than those listed in (the rule)(.)

20. By letters dated June 21, 2002, September 16, 2002, December 27, 2002, March 26, 2003, April 14, 2003 and July 3, 2003, Ohio EPA cited Respondent Adriatic for storing scrap tires in piles which were in excess of the maximum twenty five hundred square feet in basal area, and which were not clearly separated by a fire lane. Scrap tires were also stored in piles greater than fourteen feet high, in violation of OAC Rules 3745-27-65(F)(1)(a)(b) & (c).

21. OAC Rule 3745-27-65(H)(2)(b) (effective March 1, 1996) states,

The owner or operator shall do... the following to control mosquitoes at the facility...(f)rom April first to November first, annually, apply or arrange for the application of a pesticide or larvicide, which is registered for use for mosquito control by the Ohio department of agriculture, according to the manufacturer's or formulator's recommendations. Applications shall be made at no greater than thirty day intervals or as recommended by the manufacturer or formulator. Records shall be kept at the facility indicating the name, type, amount used per tire, and US EPA registration number of the pesticide or larvicide, the date and the time of the application, and the name of the person who applied the pesticide or larvicide... .

22. By letters dated July 8, 1998, June 16, 1999, June 1, 2000, October 30, 2000 (2 inspections, December 7, 2000 (2 inspections), June 26, 2001 and September 7, 2001, Ohio EPA cited Respondent Adriatic for not applying or arranging for the application of a pesticide or larvicide, or maintaining records on file at the facility, in violation of OAC Rule 3745-27-65(H)(2)(b).

23. OAC Rule 3745-27-65(G)(effective March 1, 1996) states,

The owner or operator shall maintain a contingency plan for the

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

occurrence of a fire at the facility. The contingency plan shall be kept at the facility and shall be updated at least annually. The contingency plan shall be updated within thirty days if the plan fails in an emergency situation, or if information contained in the plan changes. The plan shall include at least the following information: (1) An updated list of names, addresses, and phone numbers of all local police and fire departments, the Ohio EPA emergency response team, Ohio EPA district office, local health department, local solid waste management district, contractors, and local emergency response teams; and (2) An updated list of names, addresses, and phone numbers of all persons designated to act as emergency coordinators. This list shall include at least one person authorized to commit resources necessary to procure equipment, materials, and services; and (3) A description of arrangements agreed to by local police and fire departments, contractors, and local emergency response teams to coordinate emergency services in the event of a fire at the facility; and (4) An updated list of all emergency equipment at the facility, including but not limited to fire extinguishing systems and equipment, spill control equipment, and communications equipment.

24. By letters dated January 8, 1998, March 20, 1998, July 8, 1998, May 10, 1999, June 16, 1999, November 10, 1999, December 14, 1999, March 30, 2000, June 1, 2000, October 30, 2000 (2 inspections), December 7, 2000 (2 inspections), January 9, 2001, February 6, 2001, and January 30, 2002, Ohio EPA cited Respondent Adriatic for not maintaining a contingency plan, in violation of OAC Rule 3745-27-65(G).

25. OAC Rule 3745-27-65(G) (effective March 29, 2002) regarding a fire contingency plan for scrap tire storage and recovery facilities states,

The owner or operator shall maintain and be familiar with a fire contingency plan for the occurrence of a fire at the facility. The contingency plan shall be kept at the facility and shall be updated at least annually. The contingency plan shall be updated within thirty days if the plan fails in an emergency situation, or if information contained in the plan changes.

26. By letter dated April 14, 2002, Ohio EPA cited Respondent Adriatic for not

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

- maintaining a contingency plan, in violation of OAC Rule 3745-27-65(G).
27. Respondent Adriatic Recycling, Inc. submitted license applications to operate a class II scrap tire recovery facility for the years 2001, 2002 and 2003. The director proposed to deny the 2001 license application on May 9, 2001, the 2002 license application on August 1, 2002, and the 2003 license application on January 21, 2003.
 28. The Director finds that the accumulation of scrap tires at the Premises constitutes a danger to public health or safety or the environment, and that the accumulation does not meet any of the requirements of any exclusion from orders issued pursuant to ORC Section 3734.85(C).
 29. ORC Section 3734.85 states, "[i]f the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, he shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state."

V. ORDERS

1. Within one hundred twenty (120) days after the effective date of these Orders, the Respondents shall remove or cause the removal of the accumulation of scrap tires from the Premises using a registered scrap tire transporter:
 - a. To a scrap tire storage, monofill, monocell, or recovery facility which is operating in accordance with ORC Chapter 3734 and the rules adopted thereunder, or

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

- b. To a scrap tire storage, monofill, monocell, or recovery facility in another state operating in compliance with the laws of that state, or
 - c. To any other solid waste disposal facility in another state that is operating in accordance with the laws of that state and that is authorized to accept scrap tires for disposal, or
 - d. To a location authorized by the Director to beneficially use scrap tires, in accordance with OAC Rule 3745-27-78.
2. The Respondents shall obtain receipts from the registered transporter and the authorized scrap tire facility or solid waste disposal facility indicating weight, volume or number of scrap tires transported and shall forward such documentation to Ohio EPA within seven (7) days after completion of Order No. 1.
3. Whenever applicable, the Respondents shall comply with the requirements of OAC Rule 3745-27-79 at the Premises.
4. If the Respondents fail to comply with these Orders within one hundred twenty (120) days from the issuance of these Orders, the Director shall take such actions as the Director considers reasonable and necessary to remove and properly manage the accumulation of scrap tires at the Premises.
5. If the Director removes the scrap tires from the Premises, the Respondents shall reimburse the Director, within thirty (30) days from written request, for the costs incurred by the Director for conducting the removal operation, storing at a scrap tire storage facility, storing or disposing at a scrap tire monocell or monofill facility, processing scrap tires so removed, the transporting of the scrap tires from the Premises to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and for the administrative and legal expenses incurred by the Director in connection with the removal operation.

VI. TERMINATION

The Respondents' obligations under these Orders shall terminate when each of the

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Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

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Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that the Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's Division of Solid and Infectious Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify the Respondents of the obligations that have not been performed, in which case the Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "We certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by a responsible official of that Respondent.

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. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to each Respondent.

VIII. NOTICE

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

Ohio Environmental Protection Agency
Central Office
Division of Solid and Infectious Waste Management
P.O. Box 1049
Columbus, Ohio 43216
Attn: Mr. Bob Large, Supervisor, Scrap Tire Unit

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

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

IX. 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 the Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondents to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of the Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of the Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Christopher Jones

Director

Ohio Environmental Protection Agency