

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Mr. Harold J. Reddick : Director's Final Findings  
dba Ray's Wrecking : and Orders  
650 South Detroit :  
Toledo, Ohio 43609 :

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Harold J. Reddick dba Ray's Wrecking ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13 and 3734.85.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent, and his heirs and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734. and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner of a 2.47 acre parcel of land located at 998 Whittier Street, Toledo, Lucas County, Ohio (the "Property"). The Property is adjacent to Swan Creek, a tributary of the Maumee River, and within the Toledo city limits.
2. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. Currently, an estimated 15,000 scrap tires are illegally disposed of on the Property.

4. The Property is neither licensed nor permitted as a scrap tire facility nor a solid waste disposal facility in accordance with ORC Chapter 3734. and OAC Chapter 3745-27.
5. Respondent is a licensed motor vehicle salvage dealer, pursuant to ORC Chapter 4738.
6. OAC Rule 3745-27-01(I)(5), as amended by OAC Rule 3745-27-01(S)(6) (effective August 15, 2003), defines "scrap tire" as "a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use."
7. Scrap tires are included in the definition of "solid waste" under OAC Rule 3745-27-01(B)(43), as amended by OAC Rule 3745-27-01(S)(24) (effective August 15, 2003).
8. The open dumping of scrap tires is a violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C), effective July 29, 1976, which respectively state that "[n]o person shall dispose of solid wastes by open burning or open dumping" and "[n]o person shall conduct, permit, or allow open dumping."
9. OAC Rule 3745-27-05(C) was amended on August 15, 2003 and currently states: "No person shall conduct, permit or allow open dumping. In the event that open dumping...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."
10. OAC Rule 3745-27-01(B)(23), as amended by OAC Rule 3745-27-01(O)(4)(b), effective August 15, 2003, defines "open dumping" as "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."
11. OAC Rule 3745-27-60(B), effective March 29, 1996, and as amended March 29, 2002, provides that storage of scrap tires in any amount outside or inside a building shall be deemed a nuisance, a hazard to public health or safety, or a fire hazard unless the tires are stored in accordance with the standards set forth within paragraphs (B)(1) through (B)(8) of the 1996 rule and (B)(1) through (B) (10) of the 2002 rule.

12. On April 4, 1997, the Toledo - Lucas County Health Department (the "Health Department") conducted an inspection of the Property, and in correspondence dated April 11, 1997, the Health Department notified Respondent that improper storage and handling of scrap tires, specifically, exceeding the individual scrap tire pile maximum basal area; exceeding the maximum tire pile height; failing to provide a fifty foot unobstructed fire lane, and; failing to provide mosquito control measures cause a nuisance and a hazard to public health or a fire hazard and are violations of OAC Rule 3745-27-60(B), (B)(6)(a) through (c), and (B)(8), effective March 29, 1996.
13. In correspondence dated June 16, 1997, the Health Department memorialized telephone conversations with Respondent and a site inspection conducted on that same day to determine Respondent's progress toward compliance with Ohio's scrap tire laws and rules. At the time of inspection, Respondent provided documentation for the removal and proper disposal of approximately 503 scrap tires from the Property on June 6, 1997. However, the Health Department informed Respondent that the violations for improper storage of scrap tires remain.
14. On July 1, 1997, Respondent's scrap tires caught fire, and approximately 1,000 tires burned. The Toledo Fire Department, the Health Department, the U.S. Coast Guard, and Ohio EPA, Northwest District Office, Division of Emergency and Remedial Response responded. The Health Department oversaw remediation of the scrap tire fire area on the Property. Results of water quality tests revealed that runoff migration did not impact Swan Creek.
15. On August 15, 1997, the Health Department conducted a followup inspection of the Property and observed a small difference in the largest scrap tire pile. The Health Department memorialized this inspection in correspondence dated August 15, 1997, wherein the Health Department instructed Respondent to continue to remove and properly dispose of scrap tires on a regular basis and requested Respondent to submit a compliance schedule within fourteen days.
16. On November 5, 1997, the Health Department conducted another followup inspection of the Property and observed no progress toward compliance with regard to proper storage, removal, and disposal of scrap tires. The Health Department memorialized this inspection in correspondence dated November 5, 1997, wherein the Health Department again instructed Respondent to submit a compliance schedule within fourteen days.
17. On December 8, 1997, the Health Department reinspected the Property and observed no reduction in the number of scrap tires. The Health Department memorialized this inspection in correspondence dated December 15, 1997, wherein the Health Department noted that Respondent had not yet submitted a compliance schedule.

18. Health Department field notes dated January 2, 1998, documented another inspection of the Property. The Health Department observed that Respondent had removed all of the vehicles stored in front of the scrap tire piles and requested that Respondent submit a written compliance schedule. Respondent stated that he would submit a written compliance schedule to the Health Department.
19. In written correspondence dated March 9, 1998, Respondent informed the Health Department of his plan for the removal and proper disposal of scrap tires on the Property.
20. A Health Department memorandum dated August 24, 1998, memorialized a telephone conversation with Respondent. Respondent stated that he was working with a licensed disposal facility to remove and properly dispose of the scrap tires. The Health Department confirmed this information on August 25, 1998. On September 4, 1998, the Health Department observed a semi trailer on the Property partially filled with scrap tires.
21. In field notes dated February 25, 1999, the Health Department documented a meeting with Respondent at the Property. Respondent showed receipts for the removal and proper disposal of 1,000 scrap tires on September 10, 1998, and for 950 scrap tires on September 11, 1998. Respondent stated that an additional 1,000 scrap tires had been removed and properly disposed of in October 1998, but he was unable to produce a receipt. Respondent stated that he would send a copy of the receipt when he found it, and that he would begin removing scrap tires from the Property again in March 1999.
22. By Public Health Order dated April 5, 1999, the Health Department memorialized an inspection of the Property and ordered Respondent to remove all existing scrap tires from the Property according to the following schedule: one third (a) of the scrap tires were to be removed and properly disposed of by April 15, 1999; one half (1/2) of the remaining scrap tires were to be removed and properly disposed of by April 30, 1999, and the remaining scrap tires were to be removed and properly disposed of by May 15, 1999.
23. In notes dated April 16, 1999, the Health Department documented finding the Property gate closed and locked. On April 22, 1999, the Health Department again visited the Property and spoke with an unnamed individual who claimed that the licensed disposal facility (used by Respondent) was not accepting tires at that time.
24. In correspondence dated May 28, 1999, the Health Department referred Respondent to the Lucas County Prosecutor's Office for violations of scrap tire storage regulations.

25. In notes dated June 8, 1999, the Health Department documented visiting the Property, which revealed no apparent change in the number of scrap tires on the Property, and speaking with an employee who stated that no scrap tires had been removed.
26. On July 27, 1999, Ohio EPA conducted an inspection of the Property and observed a long, continuous pile of scrap tires with a basal area greater than 2,500 square feet. The scrap tires were illegally dumped and improperly stored. In a notice of violation (NOV) letter dated August 2, 1999, Ohio EPA notified Respondent that open dumping of scrap tires is a violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C), effective July 29, 1976. Ohio EPA also informed Respondent of the following: the basal area of the tire pile prohibited exemption from the registration requirements for a scrap tire collection, storage, and recovery facility, in accordance with OAC Rule 3745-27-61(A)(2)(c) and (A)(3)(a), effective March 1, 1996; failure to submit an application for a scrap tire storage registration certificate by September 1, 1996 is a violation of OAC Rule 3745-27-97(B)(2), effective June 30, 1998; maintenance of an individual scrap tire storage pile with a basal area greater than 2,500 square feet is a violation of OAC Rule 3745-27-60(B)(6)(a), and; failure to maintain fire lanes free of combustible material is a violation of OAC Rule 3745-27-60(B)(6)(d), effective March 29, 1996.
27. On July 7, 2000, Ohio EPA conducted an inspection of the Property and observed a long, continuous pile of scrap tires illegally dumped and improperly stored. In an NOV letter dated July 13, 2000, Ohio EPA informed Respondent that violations of ORC Section 3734.03, OAC Rule 3745-27-05(C), effective July 29, 1976, and OAC Rule 3745-27-60(B)(6)(a) and (d), effective March 29, 1996, remain.
28. On September 19, 2000, Ohio EPA conducted an inspection of the Property. At the time of inspection Respondent stated that an individual had quartered scrap tires on the Property and removed them for disposal in Michigan. However, Respondent was unable to provide copies of receipts. In an NOV letter dated September 21, 2000, Ohio EPA informed Respondent that violations of ORC Section 3734.03 and OAC Rule 3745-27-05(C), effective July 29, 1976, remain at the Property.
29. On October 17, 2000, Ohio EPA received a written schedule from Respondent, dated October 13, 2000. Per the schedule, Respondent stated that he would remove at least 100 scrap tires per month. Respondent also submitted copies of receipts for the removal of approximately 2,562 scrap tires from the Property in March of 2000. In correspondence dated October 20, 2000, Ohio EPA informed Respondent that the individual who removed the scrap tires from the Property in March of 2000 was not a Registered Scrap Tire Transporter and that scrap tire removal by an illegal transporter is a violation of ORC Section 3734.83(C).

30. In correspondence dated January 2, 2001, Ohio EPA notified Respondent that the agency had not received receipts or shipping papers since October 17, 2000, and reminded Respondent to comply with his written schedule dated October 13, 2001. Ohio EPA again informed Respondent that scrap tire removal by an illegal transporter is a violation of ORC Section 3734.83(C).
31. On January 16, 2001, Ohio EPA received documentation from Respondent for the removal and proper disposal of 300 scrap tires (all disposed on January 12, 2001) from the Property.
32. In correspondence dated January 25, 2001, Ohio EPA again reminded Respondent to comply with his written schedule dated October 13, 2000.
33. On August 2, 2001, Ohio EPA received documentation from Respondent for the removal and proper disposal of 501 scrap tires (disposed on February 16, 2001, March 14, 2001, April 16, 2001, May 15, 2001, and June 15, 2001) from the Property.
34. On November 20, 2001, Ohio EPA received documentation from Respondent for the removal and disposal of 500 scrap tires (disposed on July 16, 2001, August 15, 2001, September 14, 2001, October 15, 2001, and November 15, 2001) from the Property.
35. On February 23, 2002, Ohio EPA received documentation from Respondent for the removal and proper disposal of 300 scrap tires (disposed on December 21, 2001, January 17, 2002, and February 16, 2002) from the Property.
36. By Public Health Order dated March 17, 2003, the Health Department ordered Respondent to separate scrap tire storage piles of more than 500 scrap tires 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 feet; to maintain fire lanes free of combustible material including, but not limited to, weeds and leaves, and to maintain sufficient fire lanes to allow access by emergency vehicles at all times to and around the scrap tire storage piles and areas, as required by OAC Rule 3745-27-60 (B)(6)(d), (e)<sup>1</sup>, and (f)<sup>2</sup>, effective March 29, 2002. The Health Department also ordered Respondent to remove all scrap tires in excess of a single pile occupying not more than 2,500 square feet, in accordance with OAC Rule 3745-27-61(A)(2)(c); with a pile height not to exceed eight feet, in accordance with OAC Rule 3745-27-60(B)(6)(b); and, to implement mosquito control measures according to OAC Rule 3745-27-60(B)(8), all effective March 29, 2002.

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<sup>1</sup>Incorrectly cited as OAC Rule 3745-27-60(B)(6)(d).

<sup>2</sup>Incorrectly cited as OAC Rule 3745-27-60(B)(6)(e).

37. On September 29, 2003, the Health Department conducted a followup inspection of the Property and observed four piles of improperly stored scrap tires. In an NOV letter dated October 7, 2003, the Health Department notified Respondent that violations of OAC Rule 3745-27-60(B)(6)(d), (e), and (f)<sup>3</sup>, effective March 29, 2002, remain.
38. On March 15, 2004, the Health Department conducted another inspection of the Property and observed four piles of improperly stored scrap tires. In an NOV letter dated March 16, 2004, the Health Department notified Respondent that violations of ORC Section 3734.03 and OAC Rule 3745-27-60(B)(6)(a), (b), (d), (e), and (f), effective March 29, 2002, remain.
39. On April 20, 2004, Ohio EPA conducted an inspection of the Property and observed a large, elongated pile of scrap tires open dumped and improperly stored. In an NOV letter dated May 12, 2004, Ohio EPA notified Respondent that violations of ORC Section 3734.03, OAC Rule 3745-27-05(C) effective August 15, 2003, and OAC Rule 3745-27-60(B)(6)(d), (e), and (f), effective March 29, 2002 remain unaddressed. In the same correspondence, Ohio EPA notified Respondent of violations of ORC Section 3734.76(C) and OAC Rule 3745-27-61(A), effective March 29, 2002, for operating a solid waste facility without a registration or permit, and ORC Section 3734.81, for operating a scrap tire facility without a license.
40. On June 2, 2004, Ohio EPA sent Respondent an invitation to negotiate proposed Orders. On August 11, 2004, Ohio EPA representatives met with Respondent to attempt a negotiated settlement with regard to this matter. However, Ohio EPA and Respondent failed to reach agreement with regard to a schedule for the removal and proper disposal of the tires and with regard to payment of a civil penalty.
41. On November 12, 2004, Ohio EPA, accompanied by the Health Department, conducted another inspection of the Property and observed a large, elongated pile of scrap tires open dumped and improperly stored. During the inspection Respondent stated that he had been removing scrap tires by placing them in cars that are removed to Toledo Shredder for scrap metal recovery. Respondent produced 13 weight slips from Toledo Shredder dated from August 25 to October 12, 2004. In an NOV letter dated December 2, 2004, Ohio EPA notified Respondent that violations of ORC Section 3734.03, OAC Rule 3745-27-05(C) effective August 15, 2003, and OAC Rule 3745-27-60(B)(6)(d), (e), and (f), effective March 29, 2002, remain unaddressed. In the same correspondence, Ohio EPA also notified Respondent of violations of ORC Section 3734.76(C) and OAC Rule 3745-27-61(A), effective March 29, 2002, for

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<sup>3</sup>Incorrectly cited as OAC Rule 3745-27-60(B)(6)(e).

operating a solid waste facility without a registration or permit, and of ORC Section 3734.81, for operating a scrap tire facility without a license.

42. To date, approximately 15,000 scrap tires remain on the Property as confirmed by the inspection conducted on November 12, 2004.
43. Scrap tires, if not properly managed, may become a breeding ground for mosquitos. Mosquitos are a common disease vector for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus and Dengue Fever.
44. Due in part to the Property's location in downtown Toledo, its proximity to Interstate 75 and Swan Creek, the confirmed presence of West Nile Virus in Lucas County in 2004, and the potential for another tire fire, the Director has determined that the accumulation of scrap tires on Respondent's Property constitutes a danger to the public health or safety or to the environment.
45. ORC Section 3734.85 provides that, "[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. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner."

## **V. ORDERS**

Respondent shall achieve compliance with ORC Chapter 3734. and the rules promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondent shall implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(B)(8) and (B)(9). Respondent shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(B)(10) to Ohio EPA, Northwest District Office within ten(10) days after each application of the registered pesticide, larvicide, or adulticide.

2. Not later than thirty (30) days after the effective date of these Orders, Respondent shall establish storage piles and fire lanes at the Property in accordance with OAC Rule 3745-27-60(B)(1) through (B)(6).
3. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter to a licensed disposal facility under one of the following:
  - 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
  - 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.
4. Respondent 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. 3.
5. Respondent shall continue to comply with Orders No. 1 and 2, above, until such time as all scrap tires have been removed from the Property.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrate to the satisfaction of Ohio EPA that Respondent has 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 Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

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

This certification shall be submitted to Ohio EPA and shall be signed by 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 Respondent.

## **VIII. NOTICE**

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

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Solid and Infectious Waste Management  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Unit Supervisor, DSIWM

and

Toledo-Lucas County Health Department  
635 N. Erie St.  
Toledo, Ohio 43624-1317  
Attn: Environmental Health Director

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

## **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 Respondent 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 Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. 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 the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

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Joseph P. Koncelik, Director

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