



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

**CERTIFIED**

October 28, 2013

Rumpke Waste, Inc.  
10795 Hughes Road  
Cincinnati, OH 45251

**Re: Director's Final Findings and Orders  
Pike Sanitation Landfill-Scrap Tire Monocell Facility**

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, OH 43215

Sincerely,

A handwritten signature in cursive script that reads "Georgia Frakes".

Georgia Frakes, Management Analyst  
Division of Materials and Waste Management

Enclosure: Director's Final Findings and Orders

cc: Scott Hester, DMWM, CO  
Dan Bergert, DMWM, SEDO  
Wally Burden, Pike County Health Comm.

OHIO E.P.A.

OCT 28 2013

BEFORE THE

ENTERED DIRECTOR'S JOURNAL  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Rumpke Waste, Inc.**  
Re: Pike Sanitation Landfill  
Scrap Tire Monocell Facility  
10795 Hughes Road  
Cincinnati, OH 45251

**Director's Final Findings and Orders**

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: *Don Lassiter* Date: 10-28-13

**I. JURISDICTION**

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

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Rumpke Waste, Inc. and successors in interest liable under Ohio law. No change in ownership to Rumpke Waste, Inc., Pike Sanitation Landfill, or Pike Sanitation Landfill – Scrap Tire Monocell Facility, as hereinafter defined, shall in any way alter Rumpke Waste, Inc.'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 Waste, Inc. ("Rumpke") is the owner of property ("the Property") located at 11775 State Route 220 east, Waverly, Pike County, Ohio. The Property includes Pike Sanitation Landfill ("the Landfill"), a sanitary landfill facility as that term is defined in OAC Rule 3745-27-01(S)(4) and the Pike Sanitation Landfill – Scrap Tire Monocell Facility ("the Monocell"), a scrap tire monocell facility as that term is defined in OAC Rule 3745-27-01(S)(11). The Monocell has an authorized maximum daily waste receipt ("AMDWR") of 2 tons, as established in Permit to Install Number 06-07468 issued on December 13, 2004.
2. On July 31, 2013, the Director and Respondents Pike Sanitation, Inc. and

Rumpke consented to Director's Final Findings and Orders ("July 2013 Orders") to resolve violations at the Property. The July 2013 Orders require, in part, that Rumpke properly store and manage the approximately 120,000 cubic yards of scrap tires accumulated at the Property in accordance with requirements and timeframes specified in the July 2013 Orders.

3. On August 9, 2013, the Director and Respondents Pike Sanitation, Inc. and Rumpke consented to Director's Final Findings and Orders ("August 2013 Orders") that modified that July 2013 Orders to allow for the acceptance of a limited amount of tires at the Monocell in order for Rumpke to serve its customers. Rumpke asserted that any tires accepted at the Monocell would be properly managed in accordance with OAC Chapter 3745-27 and the July 2013 Orders and August 2013 Orders.
4. On October 14, 2013, Rumpke submitted a request for Director's exemption and variance from certain solid waste requirements in order to dispose of approximately half of the existing scrap tires referenced in Finding 2 in the remaining capacity of the Monocell not later than December 31, 2013. In effect, approximately 60,000 cubic yards of scrap tires would be disposed thirteen months earlier than the January 31, 2015 timeframe required by the July 2013 Orders.
5. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid waste 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 permit or license or comply with other requirements of ORC Chapter 3734 and any rules adopted thereunder.
6. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Rumpke has requested limited exemption from the requirement that all construction and operation at a scrap tire monocell facility be conducted in strict compliance with the applicable authorizing documents, including permits. Specifically, Rumpke has requested an exemption from the application of the Monocell's AMDWR to the acceptance of the scrap tires existing at the Property at the time the July 2013 Orders were issued ("Existing Tires"), in order to efficiently dispose of the Existing Tires in the Monocell. Rumpke intends to dispose of up to 500 tons of the Existing Tires per day in the Monocell.

7. Disposing of the Existing Tires in a more expeditious manner than allowed under the Monocell's current AMDWR of 2 tons, as proposed in the October 14, 2013 exemption request, will significantly reduce the potential for nuisance or hazard to public health or the environment. Therefore, granting an exemption from the requirement to conduct all construction and operation in strict accordance with the authorizing documents, in order to allow the acceptance of the Existing Tires in the manner specified, is unlikely to adversely affect the public health or safety or the environment.
8. Pursuant to ORC Section 3734.02(A), the Director may grant a variance if he determines that the construction, operation, closure activities, and/or post-closure activities in the manner approved by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or 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, and 6111 and rules adopted thereunder.
9. OAC Rules 3745-27-19(I) and 3745-27-75(I) generally require that the owner or operator use scales as the sole means of determining gate receipts at the facility.
10. Pursuant to ORC Section 3734.02(A) and OAC Rule 3745-27-03(C), Rumpke has requested a variance from the requirement to use scales as the sole means of determining gate receipts at the Monocell. Rumpke intends to use large off-road rock trucks to transport the Existing Tires at the Property to the Monocell for disposal. Due to the size of the off-road rock trucks, they are unable to traverse the scales. Therefore, Rumpke has requested that gate receipts be determined based on the weight of a representative load of Existing Tires, off-loaded and weighed on the scales under the observation of Ohio EPA staff, in lieu of weighing each load of Existing Tires received at the Monocell for disposal.
11. Granting a variance from the requirement to use scales as the sole means of determining gate receipts as described in Finding 9, above, for acceptance of the Existing Tires at the Monocell, as proposed in the October 14, 2013 request, will not create a nuisance or 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, or 6111 or any rules adopted thereunder.

## **V. ORDERS**

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Rumpke is

hereby exempted from the requirement to conduct all construction and operation at the Monocell in strict accordance with Permit to Install Number 06-07468, issued on December 13, 2004, only to the extent that Rumpke need not comply with the AMDWR established in Permit to Install Number 06-07468 with regard to the acceptance or disposal of the Existing Tires at the Property in accordance with the October 14, 2013 exemption request and the July 2013 and August 2013 Orders. This exemption expires on December 31, 2013.

2. Pursuant to ORC Section 3734.02(A) and OAC Rule 3745-27-03(C), Rumpke is hereby granted a variance from the requirement to use scales as the sole means of determining gate receipts as described in Finding 9, above, when accepting the Existing Tires for disposal at the Monocell, subject to the following:
  - a. Under the observation of Ohio EPA staff, Rumpke shall obtain, at a minimum, five (5) representative samples of the Existing Tires to be transported to the Monocell by completely filling off-road rock trucks that will be used in the transport of the Existing Tires and thereafter offloading the scrap tires into vehicles that can travel across approved scales.
  - b. The representative samples shall be obtained using sizes, types, and conditions representative of all Existing Tires that will be disposed at the Monocell in accordance with these Orders.
  - c. For the purpose of recording the weight of the Existing Tires transported from the Property and disposed in the Monocell under the variance granted in these Orders, the weight of a load of Existing Tires transported by off-road rock truck shall be established as the average of the highest three (3) weights observed from the representative samples. Rumpke shall record this weight as the weight of each load of Existing Tires transported to the Monocell in an off-road rock truck.
  - d. This variance expires on December 31, 2013.
3. Except as otherwise expressly provided herein, Rumpke shall comply with all other applicable requirements of ORC Chapter 3734 and the rules promulgated thereunder.

## **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 Respondent or the Facility.

## **VII. RESERVATION OF RIGHTS**

Ohio EPA reserves all rights, privileges, and causes of action. 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.

## **VIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Directors journal.

**IT IS SO ORDERED**



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Scott J. Nally, Director

Ohio Environmental Protection Agency