

Issuance Date: June 14, 2006

Effective Date: April 15, 2008

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Harvard Refuse, Inc.	:	<u>Director's Final</u>
Attn: Stanley Lojek	:	<u>Findings and Orders</u>
7720 Harvard Avenue	:	
Cleveland, Ohio 44105	:	

I. JURISDICTION

These Director's Final Findings and Orders (AOOrders@) are issued to Harvard Refuse, Inc. (AHarvard@), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (AOhio EPA@) under Ohio Revised Code (AORC@) Chapter 3734.83 and Ohio Administrative Code (AOAC@) Rule 3745-27-55.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Harvard and any successors in interest liable under Ohio law. No change in ownership of Harvard, or of the Business, as hereinafter defined, shall in any way alter Harvard'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 Chapters 3734. and the rules promulgated thereunder.

IV. FINDINGS

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

1. On February 15, 2006, Harvard submitted application for a Scrap Tire Transporter Annual Registration Certificate to continue operation of a scrap tire transporter business (the ABusiness@), which is located at 7720 Harvard Avenue, Cleveland, Cuyahoga County, Ohio.

2. Harvard is the Applicant as that term is defined in OAC Rule 3745-27-01(A)(6).
3. On April 16, 2001, Ohio EPA issued Director's Final Findings and Orders (April 16, 2001 Orders) to Harvard to resolve past and ongoing violations of solid waste and water pollution control laws. Harvard failed to comply with the April 16, 2001 Orders.
4. On April 13, 2006, the Director referred Harvard to the Attorney General's Office (AGO) to address violations of the Orders and ORC Chapters 3734. and 6111.
5. The Director of Ohio EPA is the jurisdictional authority for scrap tire transporters.
6. OAC Rule 3745-27-55 establishes criteria for approval, denial, suspension, or revocation of an annual registration certificate for a scrap tire transporter.
7. Pursuant to OAC 3745-27-55(A)(3), The director shall not approve any application for a registration certificate for a scrap tire transporter unless he determines all of the following:
 - (3) The applicant and/or person listed as owner and/or operator of a scrap tire transportation business, who has previously or is currently responsible for the management or operation of one or more scrap tire transportation businesses, construction and demolition debris facilities, and/or solid waste facilities, has managed or operated such businesses or facilities in substantial compliance with applicable provisions of chapters 3714., 3734., 6111., and 3704. of the Revised Code, and any rules adopted and permits, registration certificates, and/or licenses issued thereunder, and has maintained substantial compliance, at all facilities and businesses regulated under chapters 3734. and 3714. of the Revised Code, with applicable provisions of chapter 3704., 3714., 3734., and 6111. of the Revised code and with all applicable orders issued by the director or the environmental review appeals commission, or courts having jurisdiction in accordance with Chapter 3746-13 of the Administrative Code, in the course of such previous or current management or operations. The director may take into consideration whether substantial compliance has been maintained with applicable provisions of chapters 3714., 3734., 6111., and 3704. of the Revised code and with any applicable order of a board of health maintaining a program on the approved list in Ohio and any other courts having jurisdiction.
8. As evidenced by the April 13, 2006, enforcement referral to the AGO, Harvard has not maintained substantial compliance with the applicable provisions of ORC Chapters 3734. and 6111., the rules promulgated thereunder, and April 16, 2001 Orders.

9. Because Harvard has failed to maintain substantial compliance with the applicable provisions of ORC Chapters 3734. and 6111., the rules promulgated thereunder, and with the April 16, 2001 Orders, the Director, as the jurisdictional authority, cannot issue a 2006 Scrap Tire Transporter Annual Registration Certificate to Harvard for the Business.

V. ORDERS

The 2006 Scrap Tire Transporter Annual Registration Certificate application submitted by Harvard for its scrap tire transporter business located at 7720 Harvard Avenue, Cleveland, in Cuyahoga County, Ohio, is hereby denied.

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 Harvard and/or the Business.

VII. 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 Harvard for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Harvard to perform additional activities pursuant to ORC Chapters 3734. and 6111. or any other applicable law in the future. Nothing herein shall restrict the right of Harvard to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Harvard. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations at the Business.

IT IS SO ORDERED

Chris Korleski, Director
Ohio Environmental Protection Agency