



State of Ohio Environmental Protection Agency

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Columbus, OH 43216-1049

September 3, 2002

Re: Director's Final Findings & Orders

CERTIFIED MAIL

Cooper Tire & Rubber Company
701 Lima Avenue
Findlay, Ohio 45840-2315

Dear Sir:

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

Sincerely,

Kimberly L. Reese
Systems Management Unit
Division of Solid & Infectious Waste Management

Enclosure: Director's Final Findings and Orders

cc: Scott Hester, CO, DSIWM
Beth Skulina, NWDO, DSIWM
Bob Large, CO, DSIWM
Hancock County Health Department
Wood County Combined General Health Department

Bob Taft, Governor
Maureen O'Connor, Lieutenant Governor
Christopher Jones, Director

OHIO E.P.A.

SEP -3 2002

ENTERED DIRECTOR'S JOURNAL

Issuance Date: SEP 3 2002

Effective Date: SEP 3 2002

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF

Cooper Tire & Rubber Company
701 Lima Avenue
Findlay, Ohio 45840-2315

: Director's Final
: Findings and Orders

Respondent

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to Cooper Tire & Rubber Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Sections 3734.02 and 3745.01 of the Ohio Revised Code (ORC).

II. PARTIES

These Orders shall apply to and be binding upon the Respondent, and its assigns and successors in interest under Ohio law. No changes in ownership relating to the Cooper Tire & Rubber Company will in any way alter the Respondent's responsibilities under these Orders. The Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA.

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

By: Zona Clements Date: 9/3/02

III. DEFINITIONS

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

IV. FINDINGS OF FACT

The Director has determined the following findings of fact:

1. The Respondent's principle place of business in Ohio is located at 701 Lima Avenue, Findlay, Hancock County, Ohio 45840-2315. The Respondent operates a regional inspection point at 141 Stanford Parkway, Findlay. The Respondent is a manufacturer of tires and operates "tire adjustment centers" and "tire manufacturing finishing centers" as those terms are defined in Ohio Administrative Code (OAC) Rule 3745-27-01.
2. The Respondent has been subject to one or more court orders to preserve as evidence non-saleable tires generated at the Respondent's tire manufacturing plants and "adjustment" tires returned from customers to one of the Respondent's four regional inspection points. The Respondent operates a tire manufacturing plant and a regional inspection point in Findlay, Ohio. These facilities meet the definition of "tire adjustment center" and "tire manufacturing finishing center" as those terms are defined in Ohio Administrative Code (OAC) Rule 3745-27-01.
3. The Respondent is storing these tires at the Findlay facilities and at the Ampoint Industrial Complex (Ampoint), Perrysburg, Ohio (collectively the "Facilities"). These tires are stored in a similar manner as that which the Respondent uses to store new tires after manufacture and prior to distribution. Tires at the Findlay facilities are temporarily stored in enclosed trailers in a secure area and/or inside a building prior to shipment in the same manner as new tires. Tires at the Ampoint facility are stored in accordance with the National Fire Protection Association (NFPA) standards for indoor tire storage in a secure building with a **dry** sprinkler system.
4. The Respondent is tracking these tires on an inventory system and intends to arrange for proper disposal and/or recycling of these tires as promptly as practicable after the court orders are lifted. The total quantity to be stored is unknown and currently exceeds 30,000 tires.
5. ORC 3734.75(D)(2), ORC 3734.76(D)(2) and OAC 3745-27-61(A)(2)(b) provides an exemption from registration as a scrap tire collection facility for a tire manufacturing finishing center or tire adjustment center, provided that the tires are located in a single, covered scrap tire storage area at which no more than four thousand scrap tires are stored.
6. Storage conditions for tires at these Facilities meet or exceed the storage standards of OAC 3745-27-65(F). These facilities are inspected by the local fire department

on a regular basis. Tires are either stored in enclosed semi-trailers or in a secure building equipped with a dry sprinkler system.

7. Issuance of these exemptions to the Respondent from the requirements of OAC Rule 3745-27-61 in accordance with the following Orders, is unlikely to adversely affect public health or safety or the environment.

ORDERS

1. Pursuant to ORC Section 3734.02(G), the Respondent is hereby granted exemptions from the registration requirements of OAC Rule 3745-27-61 in accordance with the following Orders, provided that operations at the Facilities are conducted in accordance with OAC Chapter 3745-27 and all other applicable requirements.
2. The Respondent is hereby exempted from registration **as** either a scrap tire collection or storage facility at the Facilities for tires which are being stored as evidence pursuant to certain judicial orders. Storage of the tires must be in accordance with applicable NFPA standards for the storage of rubber tires.
3. The Respondent shall notify Ohio EPA if the Respondent uses any additional facilities in Ohio for storage of these tires.
4. The Respondent shall notify Ohio **EPA**, Northwest District Office (NWDO), Division of Solid and Infectious Waste Management (DSIWM) when all of the court orders are lifted, rescinded, canceled, or terminated. The notification shall include the total number of tires accumulated and a proposed schedule for removal of the tires. If this removal of the scrap tires will take more than ninety days, the Respondent shall request Ohio EPA NWDO's concurrence with the proposed schedule for completing the removal.
5. The Respondent shall promptly arrange for disposal and/or recycling of all tires stored as a result of the court orders as soon as those court orders are lifted, rescinded, canceled, or terminated. The Respondent shall use a registered scrap tire transporters for all tires which are no longer suitable for use on a motor vehicle, as originally intended.
6. Nothing in the exemption shall be construed to authorize any waiver or variance from any other requirements of applicable state solid waste laws or regulations except as specified herein. This exemption shall not be interpreted to release the Respondent from responsibility under Chapters 3704, 3434, or 6111 of the Ohio Revised Code, the Federal Clean Water Act, or the Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants from the Facilities to the environment.

VI. TERMINATION AND SATISFACTION

The Respondent's obligations under these Orders shall terminate when the Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA, Division of Solid and Infectious Waste Management, that all obligations under these Orders have been performed and Ohio EPA, Division of Solid and Infectious Waste Management, acknowledges, in writing, Ohio EPA's acceptance of this certification and demonstration.

This certification shall be submitted by the Respondent and shall be signed by a responsible official of the Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete to the best of my knowledge and belief."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of the Respondent.

VII. 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 signatory to these Orders, for any liability arising out of or relating to the operation of Respondent's Facilities.

VIII. OTHER APPLICABLE LAWS

Except as exempted herein, all actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to the Respondent. Ohio EPA reserves all rights and privileges except as specified herein.

IX. NOTICE

All documents demonstrating compliance with these Orders and all other documents required under these Orders to be submitted to Ohio EPA shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Attn: Supervisor, DSIWM
347 North Dunbridge Road
Bowling Green, OH 43402

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

X. 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 penalties against the Respondent for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the 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 the 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 the Respondent or with respect to alleged noncompliance with these Orders or applicable law. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

Xi. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of any enforcement action by Ohio EPA for only those matters addressed in these Orders, the Respondent agrees that these Orders are lawful and reasonable, that the items and time frames provided for compliance herein are reasonable and that the Respondent agrees to comply with these Orders. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights section of these Orders.

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

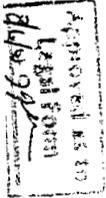
Notwithstanding the preceding, Ohio EPA and the Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, the Respondent retains the right to intervene and participate in such appeal. In such an event, the Respondent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

XII. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO AGREED:

Cooper Tire & Rubber Company



By: C. F. Nagy

Date 8/13/02

Title: C.F. NAGY
ASST TREASURER

By: H. Small

Date 8/13/02

Title: VP - Planning & Control

Ohio Environmental Protection Agency

Christopher Jones
Christopher Jones, Director

Date 8-29-02