

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Case No. 01-ST-014

AMERICAN SCRAP TIRE
RECYCLERS, INC.,

Applicant.

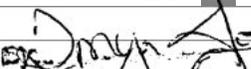
DIRECTOR'S FINAL
FINDINGS AND ORDERS

OHIO E.P.A.
JUN - 5 2003
DIRECTOR'S JOURNAL

Pursuant to **Chapter 3734** and sections 119.09 et seq. of the Ohio Revised Code, and the rules of the Ohio Environmental Protection Agency, the Director of Environmental Protection hereby makes the following **Findings and issues the** following Orders:

FINDINGS

1. On March 26, 2001, the Director of the Ohio Environmental Protection Agency ("Director") received a scrap tire transporter registration application from American Scrap Tire Recyclers, Inc.
2. On or about October 26, 2001, the Director issued a Proposed Denial of Applicant's annual scrap tire transporter registration.
3. On November 20, 2001, American Scrap Tire Recyclers, Inc. filed a request for an adjudication hearing regarding the Ohio EPA's proposed denial of Applicant's annual scrap tire transporter registration.
4. On February 10, 2003, the Hearing Officer assigned to this case, counsel for the Applicant, and counsel for the Ohio EPA participated in a telephone conference in this case.
5. During the February 10, 2003 telephone conference, counsel for the Applicant represented that his client no longer wished to proceed to a hearing in this matter.
6. On March 21, 2003, the Hearing Officer assigned to this case issued a telephone conference report and a 'Confirmation of ~~Withdrawal of Request~~ for Adjudication'

Ohio Environmental Protection Agency
Date 6/5/03


confirming that the Applicant had effectively withdrawn its request for adjudication.

7. Given the fact that American Scrap Tire Recyclers, Inc. does not wish to proceed to a hearing in this case and has effectively withdrawn its request for an adjudication hearing, there remain no unresolved issues of law or fact requiring the convening of an adjudication hearing. Therefore, this case is ~~moot~~ and should be dismissed.
8. No evidence has been presented in this adjudication proceeding demonstrating that the Director's proposed denial should not ~~be issued~~ as a final action.
9. Because there has been no evidence presented in this adjudication proceeding demonstrating that the Director's proposed denial should not be issued as a final action, the Director should issue the October 26, 2001 proposed action as a final action.
10. No adjudication hearing has been held in this matter.
11. The Hearing Officer assigned to this case has filed a Report and Recommendation recommending that the Director dismiss Ohio EPA Case No. 02-CT-006 and that the Director issue a final action denying American Scrap Tire Recyclers, Inc.'s scrap tire transporter registration application.
12. No objections to the Hearing Officer's Report and Recommendation have been filed.
13. **The** recommendations of the Hearing Officer are lawful and reasonable and are hereby adopted.

ORDERS

1. Ohio EPA Case No. 01-ST-014 is dismissed.
2. A final action shall be issued that is identical in substance to the attached October 26, 2001 proposed action. (A copy of the October 26, 2001 proposed action is attached hereto and labeled Exhibit A.)

IT IS SO ORDERED:



CHRISTOPHER JONES
Director

JUN - 5 2003

Date

Issuance Date: 10/26/01

Effective Date: JUN - 5 2003

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:

American Scrap Tire Recyclers, Inc. : Director's Final
3574 North Myers Road : Finding and Orders
Geneva Township, Ohio 44041

These Director's Final Findings and Orders are hereby issued to American Scrap Tire Recyclers, Inc. pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under sections 3734.13 and 3745.01 of the Ohio Revised Code ("ORC").

FINDINGS

The Director has determined the following findings of fact:

1. On March 24, 2001, Mr. Sanford Schroll, Secretary of American Scrap Tire Recyclers, Inc. ("ASTRI" or "the Company") signed a registration application for the Company's scrap tire transport operations. The application was received by Ohio EPA on March 26, 2001.
2. Ohio Administrative Code (OAC) Rule ~~3745-27-55(B)~~ states that the Director may deny any application for an annual registration certificate for a scrap tire transporter if within thirty days of receipt of notification the application is incomplete, the owner or operator has not notified the director that the application is being withdrawn, has not corrected noted deficiencies and resubmitted the application, or has not submitted a written request for an extension.
3. OAC Rule ~~3745-27-54(C)(4)~~ requires that an Application contain an executed financial assurance instrument in accordance with rule 3745-27-15 of the Administrative Code.
4. On October 26, 1999, ASTRI provided an acceptable surety performance bond issued by Frontier Insurance Company, Rockhill, New York as its financial

assurance instrument required in accordance with OAC Rules 3745-27-15 and 3745-27-55 to qualify for issuance of the Company's first annual registration.

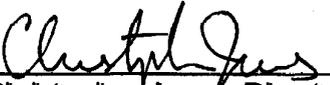
5. Until June 1, 2000, ASTRI had maintained acceptable financial assurance in accordance with OAC Rule 3745-27-15 to qualify for issuance of each of the Company's annual registrations in accordance with OAC Rule **3745-27-55**.
6. OAC Rule 3745-27-15(H)(1) provides that a surety company issuing a bond for performance of final closure shall, at a minimum, be among those listed as acceptable sureties on federal bonds in "Circular 570" of the U.S. Department of the Treasury.
7. As of June 1, 2000, Frontier Insurance Company, Rock Hill, New York was no longer included on the Circular 570 list published by the U.S. Department of Treasury and is, therefore, no longer qualified to provide Performance bonds for scrap tire transporter final closure.
8. In a letter dated August 2, 2000, Ohio EPA notified ASTRI that its performance bond no longer met the requirements for acceptable performance bonds described in OAC Rules 3745-27-15(H)(1) and 3745-27-54 and, therefore, ASTRI must provide an alternative financial assurance instrument immediately.
9. In a letter dated April 2, 2001, Ohio EPA notified ASTRI that its Application received by Ohio EPA on March 26, 2001, was deficient and still required financial assurance in accordance with OAC Rules 3745-27-15 and 3745-27-54 before the Director could issue annual scrap tire transporter's registration. The Company was also notified in that letter that its Application would be denied if acceptable financial assurance was not provided in accordance with OAC Rule 3745-27-15 within fifteen **(15) days**.
10. As of the date hereof, ASTRI has not completed its Application by providing Ohio EPA with an acceptable financial assurance instrument.

ORDERS

1. The Application for annual scrap tire transporter registration submitted by ASTRI and received by Ohio EPA on March 26, 2001, is hereby denied.
2. Upon the effective date of these Findings and Orders, ASTRI shall immediately cease any transportation of scrap tires in the State of Ohio, except as may be otherwise allowed by OAC Rule 3745-27-54(A)(2) or ORC Section 3734.83(D).

3. Upon the effective date of these Findings and Orders, ASTRI shall comply with OAC Rule 3745-27-55(C)(5)(a) by immediately notifying by certified mail each of its scrap tire customers in Ohio of this denial.

IT IS SO ORDERED:


Christopher Jones, Director