



**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor  
**Laurie A. Stevenson**, Director

October 30, 2019

Randy Maze  
325 South Main Street  
Lima, OH 45801

**Re: Randy Maze  
Director's Final Findings and Orders (DFFO)  
DFFO  
Scrap Tires  
Allen County  
ST023267**

**Subject: Final Findings and Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Randy Maze.

You are hereby notified that this action of the Director of Ohio EPA (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 the fee if by affidavit it is demonstrated 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  
30 E. Broad St., 4<sup>th</sup> Floor  
Columbus, Ohio 43215

If you have any questions, please contact Teri Finfrock at (614) 644-3037.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory Nichols", is written over the word "Sincerely,".

Gregory Nichols  
Division of Materials & Waste Management

cc: Teri Finfrock, DMWM, Legal  
Kelly Jeter, DMWM, CO  
Carl Mussenden, DMWM, CO  
Bruce McCoy, DMWM, CO  
Kristin Tillison, DMWM, NWDO  
Micke Reiser, DMWM, NWDO

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of

Randy Maze	:	<u>Director's Final Findings</u>
325 South Main Street	:	<u>and Orders</u>
Lima, Ohio 45801	:	

Respondent

**I. JURISDICTION**

Ohio EPA OCT 30 '19  
Entered Directors Journal

These Director's Final Findings and Orders ("Orders") are issued to Randy Maze ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13, 3734.85 and 3745.01.

**II. PARTIES**

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 leases the property identified as Parcel Number 37-3110-04-004.000 ("the Property") located on 325 South Main St., Lima, Allen County, Ohio.
2. Respondent is a "person" as that term is defined in ORC § 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. Respondent is an "operator" as that term is defined in OAC Section 3745-27-01(O)(5).

4. There are an estimated one thousand scrap tires illegally stored inside one semi-trailer on the Property.
5. OAC Rule 3745-27-01(S)(6) 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."
6. Scrap tires are included in the definition of "solid wastes" under ORC § 3734.01(E) and OAC Rule 3745-27-01(S)(23).
7. The Property where the scrap tires are disposed is not validly registered, permitted or licensed as a scrap tire collection facility, a scrap tire storage facility, a scrap tire recovery facility, a scrap tire monocell or monofill, or a solid waste disposal facility, nor has any application been submitted.
8. The open dumping of solid waste and scrap tires are violations of ORC § 3734.03 which states that "[n]o person shall dispose of solid wastes by open burning or open dumping," and OAC Rule 3745-27-05(C) which states that "[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or 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."
9. ORC § 3734.01(I) defines "Open dumping" as follows: "The depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under Section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under Section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of Section 3734.85 of the Revised Code . . . ."
10. OAC Rule 3745-27-01(O)(4)(b) defines open dumping as, "[t]he 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)(4)(a) states, "The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with the following standards: Where multiple portable containers, trucks, or semi-trailers are used to store scrap tires, the portable scrap tire containers, trucks, or semi-trailers shall be separated from the following: (a) Buildings and structures that are owned or leased by the person storing the scrap tires by at least fifteen feet."
12. OAC Rule 3745-27-60(B)(7)(c) states: "The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure: Scrap tire storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles."
13. Ohio EPA conducted inspections of the Property on December 20, 2018, May 13, 2019, and May 28, 2019, and documented the following violation in letters dated February 22, 2019, May 20, 2019, and June 5, 2019:
  - OAC Rule 3745-27-05(C) for open dumping of solid wastes.
14. Ohio EPA conducted an inspection of the Property on July 22, 2019, and documented the following violations in a letter dated July 25, 2019:
  - OAC Rule 3745-27-05(C) for open dumping of solid wastes,
  - OAC Rule 3745-27-60(B)(4)(a) for storing a portable container and a semi-trailer storing scrap tires less than fifteen feet away from a building, and
  - OAC Rule 3745-27-60(B)(7)(c) for storing approximately one hundred sixty-five scrap tires less than twenty-five feet away from a building.
15. Ohio EPA conducted an inspection of the Property on September 4, 2019, and documented the following violations in a letter dated September 6, 2019:
  - OAC Rule 3745-27-05(C) for open dumping of solid wastes, and
  - OAC Rule 3745-27-60(B)(4)(a) for storing a portable container and a semi-trailer storing scrap tires less than fifteen feet away from a building.

The letter stated the OAC Rule 3745-27-60(B)(7)(c) had been resolved.
16. The Director has determined that the accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
17. ORC § 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."

18. ORC § 3734.85(A) also provides in relevant part: "If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was so extended, within that time, the director shall take such actions as the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal. The director shall enter into contracts for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this Section."
19. ORC § 3734.85(A) further provides, "If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this Section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director shall record the costs at the office of the county recorder of the county in which the accumulation of scrap tires was located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires was located until discharged."

## **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 cease acceptance and disposal of all solid wastes, including scrap tires, at the Property and shall comply with ORC Chapter 3734. and OAC Chapter 3745-27.

2. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of scrap tires from the Property and shall arrange for their transportation, by a registered transporter, to a scrap tire storage, monocell, monofill, or recovery facility licensed under ORC § 3734.81 in Ohio, 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.
3. Respondent shall obtain receipts from the registered transporter and the disposal facility, indicating weight, volume and number of scrap tires received. Respondent shall forward such documentation to Ohio EPA Northwest District Office on a monthly basis by the 10<sup>th</sup> day of each month, until receipts documenting that all scrap tires have been removed from the Property, lawfully transported, and disposed have been provided to Ohio EPA.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Materials and 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: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by 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 party to these Orders, for any liability arising from, or related to, the Respondent or the Property.

#### **VIII. 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 the Respondent or the Property.



### **IX. 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 Materials and Waste Management  
347 N. Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Unit Supervisor, DMWM

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

### **X. RESERVATION OF RIGHTS**

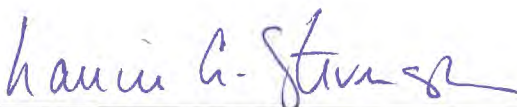
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against the Respondent for noncompliance 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 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.

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. 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:**



Laurie A. Stevenson, Director