



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

August 29, 2017

Titan Tire Corporation of Bryan  
927 South Union Street  
Bryan, OH 43506

**Re: Titan Tire Corporation of Bryan  
Director's Final Findings and Orders (DFFO)  
DFFO  
Scrap Tires  
Williams County  
ST021731**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for City of Cincinnati.

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

Sincerely,

A handwritten signature in black ink that reads "Greg Nichols". The signature is written in a cursive, flowing style.

Greg Nichols, Administrative Processing Unit  
Division of Materials & Waste Management

Enclosure

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Titan Tire Corporation of Bryan	:	<u>Director's Final Findings</u>
927 South Union Street	:	<u>and Orders</u>
Bryan, Ohio 43506	:	

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

Ohio EPA AUG 29 '17  
Entered Directors Journal

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Titan Tire Corporation of Bryan ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13 and 3745.01.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in ownership of Respondent or 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 makes the following findings:

1. Respondent is the owner of approximately 52.87 acres of property located at 927 South Union Street, Bryan, Williams County, Ohio, identified by the Williams County Auditor's Office as parcel number 063-210-02-020.000 ("the Property").

2. Respondent manufactures construction and mining tires on the Property, which falls within the meaning of a "tire manufacturing finishing center," defined in OAC Rule 3745-27-01(T)(5) as a "premises where tires are manufactured, inspected, and processed to either finished stock or scrap."
3. Approximately 371 scrap tires are stored outside on the ground at the Property, 150 of which are whole scrap tires and the remainder are cut scrap tires. The scrap tires located on the Property are off specification or experimental scrap tires. Each whole tire weighs approximately 7,000 pounds.
4. Respondent is a "person" as that term is defined in ORC Section 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
5. Respondent is an "owner" or "property owner" as that term is defined in OAC Section 3745-27-01(O)(7).
6. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and "solid waste" in OAC Rule 3745-27-01(S)(23).
7. 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."
8. OAC Rule 3745-27-60(B) provides that the storage of scrap tires in any amount is deemed a nuisance, a hazard to public health or safety, or a fire hazard unless the scrap tires are stored in accordance with the specific standards set forth in OAC Rule 3745-27-60(B)(1) – (B)(11).
9. Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are a common disease vector for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus, and Dengue Fever.
10. In response to a written complaint, on August 16, 2016, Ohio EPA's Northwest District Office, Division of Materials and Waste Management ("NWDO-DMWM") inspected the Property to determine compliance with the scrap tire provisions of ORC Chapter 3734 and OAC Chapter 3745-27. At the time of inspection, Ohio EPA observed whole scrap tires and cut scrap tires stored outside on the ground at the Property and noted the following violations of Ohio's solid waste laws and rules:
  - a) ORC Section 3734.03 and OAC Rule 3745-27-05(C), for open dumping scrap tires;

- b) OAC Rule 3745-27-60(B)(7)(a), for storage piles greater than 2,500 square feet in basal area;
- c) OAC Rule 3745-27-60(B)(7)(e), for failure to maintain fire lanes;
- d) OAC Rule 3745-27-60(C)(2), for failing to maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator;
- e) OAC Rule 3745-27-60(C)(3), for failing to maintain mosquito control records at the Property;
- f) ORC Section 3734.81(A), for operating a scrap tire storage facility without a license; and
- g) ORC Section 3734.76(B) and OAC Rule 3745-27-61(A)(1)(a), for operating a scrap tire storage facility without a registration.

On August 25, 2016, Ohio EPA documented these violations in a notice of violation ("NOV") letter to Respondent.

- 11. On September 19, 2016, Ohio EPA received two receipts for mosquito spraying from Respondent.
- 12. On October 17, 2016, Ohio EPA sent Respondent a partial resolution of violation letter. In that letter, Ohio EPA determined that some of Respondent's violations outlined in the August 25, 2016, NOV letter were resolved, including OAC Rule 3745-27-60(C)(2) and OAC Rule 3745-27-60(C)(3). Ohio EPA noted that Respondent provided to Ohio EPA mosquito control records from the licensed applicator documenting that mosquito larvicide was applied to scrap tires stored outside. Ohio EPA determined that the other violations noted in the August 25, 2016 letter had not been resolved.
- 13. Subsequently, Respondent removed approximately 905,312 pounds of cut tires, the equivalent of approximately 129 construction or mining equipment scrap tires.

## 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 maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator, in accordance with OAC Rule 3745-27-60(C)(2).
2. Upon the effective date of these Orders, Respondent shall maintain mosquito control records at the Property indicating the name, type, amount used per tire, and EPA registration number of the pesticide or larvicide, the date and time of the application, and the name of the person who applied the pesticide or larvicide. Respondent shall make the mosquito control records available for inspection by Ohio EPA during normal operating hours and retain copies of the records for a minimum period of three years pursuant to OAC Rule 3745-27-60(C)(3).
3. Not later than one year after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires, which are cut as of the effective date of these Orders, from the Property and shall transport them or cause them to be transported, in accordance with OAC Rule 3745-27-54 and applicable law, to a scrap tire facility licensed under ORC Section 3734.81 in Ohio, or 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.
4. Not later than two years after the effective date of these Orders, Respondent shall remove or cause the removal of all whole scrap tires, which are whole as of the effective date of these Orders, from the Property and shall transport them or cause them to be transported, in accordance with OAC Rule 3745-27-54 and applicable law, to a scrap tire facility licensed under ORC Section 3734.81 in Ohio, or to such a facility in another state operating in compliance with the laws of that state, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. Notwithstanding Order Number 3, these Orders shall not be construed to preclude Respondent from prepping the whole scrap tires for transportation by cutting them prior to removal in accordance with Order Number 4. Respondent shall have removed all scrap tires which are located on the Property on the effective date of these Orders from the Property, within 2 years after the effective date of these Orders.

5. Respondent shall obtain receipts or bills of lading from the carrier or transporter, as applicable, or the scrap tire facility in Ohio or a facility in another state operating in compliance with the laws of the state indicating weight, volume or number of scrap tires received as part of the scrap tire removal pursuant to Orders 3 and 4, above. Respondent shall forward such documentation to Ohio EPA's NWDO-DMWM office, at the address found in these Orders under Section IX., Notice, within fourteen days of scrap tire removal according to Orders 3 and 4, above.
6. By entry into these Orders, Respondent agrees to grant access to Ohio EPA, its representatives and contractors for the purpose of removing and disposing of all scrap tires stored or disposed at the Property and spraying for mosquitoes in the event that Respondent fails to comply with these Orders. This authorization and consent shall remain in full force and effect until all necessary and appropriate preventative and/or corrective action has been completed at the Property by either the owner or by Ohio EPA, its contractors, and its authorized representatives.
7. Respondent hereby agrees to relinquish any claim of ownership interest in any scrap tires that may be removed from the Property by Ohio EPA if Respondent fails to comply with these Orders.
8. Respondent hereby grants to Ohio EPA temporary rights-of-way and the right to improve existing, or build necessary roads on, over, and across the Property for the purpose of removal of scrap tires disposed at the Property if Respondent fails to comply with these Orders. At the conclusion of the removal of all scrap tires from the Property, all improvements shall attach to the Property, and become the property of the owner of the real property.
9. Respondent hereby agrees to hold the Director, his representatives and contractors harmless for all activities associated with removal and disposal of scrap tires from the Property if Respondent fails to comply with these Orders.

## **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 Ohio EPA's Chief, 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 from Respondent: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted to Ohio EPA by Respondent seeking termination in accordance with this section 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, 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 Respondent or the Property.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent under these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Materials and Waste Management  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

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

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders. Ohio EPA specifically reserves all rights to recover any public funds expended to remove and dispose of scrap tires located at the Property, as a result of Respondent's failure to comply with these Orders.

### **XII. WAIVER**

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

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

### **XIII. EFFECTIVE DATE**

The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

### **XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

**Environmental Protection Agency**

  
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Craig W. Butler, Director



**AGREED:**



Signature

8-7-17

Date

Michael G. Troymowich  
Printed or Typed Name

General Counsel + Corp. Sec.  
Title