



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

September 13, 2021

Enviro Tire Recycling, LLC  
1371 Pelton Rd.  
Fostoria, Ohio 44830

William Frankart  
1371 Pelton Rd.  
Fostoria, Ohio 44830

**Re: Enviro Tire Recycling, LLC**  
**Director's Final Findings and Orders (DFFO)**  
**DFFOs**  
**Scrap Tires**  
**Wood County**  
**ST019935**

**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 regarding **Enviro Tire Recycling, LLC**.

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

Sincerely,

*Jeri Main*

Jeri Main  
Administrative Professional Unit  
Division of Materials & Waste Management

Enclosure

ec: Bruce McCoy/Carl Mussenden/Kelly Jeter, DMWM, CO  
Shannon Nabors/Michael Reiser/Tyler Madeker, DMWM, NWDO  
Teri Finrock/Robin Nichols, Legal  
Austin Nainiger, [anainiger@senecahealthdept.org](mailto:anainiger@senecahealthdept.org)

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Enviro Tire Recycling, LLC  
1371 Pelton Rd.  
Fostoria, Ohio 44830

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Director's Final Findings  
and Orders

William Frankart  
1371 Pelton Rd.  
Fostoria, Ohio 44830

Respondents

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Enviro Tire Recycling, LLC and William Frankart ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13, 3734.85, and 3745.01.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondents and Respondents' heirs and successors in interest liable under Ohio law. No change in ownership of the Business Location or of the Properties (as those terms are hereinafter defined) shall in any way alter Respondents' 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 Enviro Tire Recycling, LLC is a scrap tire transportation company that has been registered to operate in Ohio since April 24, 2014, and is located at 4715 Baird Road in Fostoria, Wood County, Ohio ("Business Location"). This Business Location is the only location identified in Respondent Enviro Tire's 2021 scrap tire transporter application as a location used for sorting or temporary storage of scrap tires.
2. Respondent William Frankart is the owner of the Business Location, which is identified by the Wood County Auditor as parcel number N53-312-160000002001.
3. Respondent William Frankart is the owner of Respondent Enviro Tire.
4. Respondents are each a "person" as that term is defined in ORC Section 3734.01(G) and Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
5. Respondents are each an "operator" as that term is defined in OAC Section 3745-27-01(O)(5).
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 3745-27-56(C)(2) specifies that scrap tire transporters may "[s]tore scrap tires only in a covered trailer or vehicle for not longer than thirty days prior to transporting the scrap tires to one of the destinations listed in paragraph (C)(1) of this rule. These trailers or vehicles must be parked at one of the transporter's business locations specified in the application for an annual registration certificate. Scrap tires may be transferred directly from one vehicle or trailer to another to create a full load in a vehicle or trailer at the scrap tire business location as long as the scrap tires are not left on the ground after the transfer is complete[.]"
9. OAC Rule 3745-27-56(C)(3)(a) prohibits a scrap tire transporter from leaving scrap tires outside of a covered trailer or vehicle beyond the end of the current work shift.
10. OAC Rule 3745-27-56(C)(6), in part, specifies that scrap tires must be stored and handled so as not to create a nuisance hazard to public health or safety, or a fire hazard. OAC Rule 3745-27-56(C)(6)(c) further clarifies that "[t]railers or vehicles containing scrap tires shall not be parked at locations other than the scrap tire transporter's registered business location, a licensed scrap tire facility, or an unregistered scrap tire facility operating in accordance with rule 3745-27-61 of the Administrative Code (such as pre-positioned trailers in accordance with paragraph (C)(8) of this rule) for longer than fourteen days. The scrap tires in trailers or

vehicles shall be considered open dumped unless written prior notification is given to the local health department and Ohio EPA that the vehicle or trailer requires mechanical repairs which will take longer than fourteen days to complete and such repairs are being completed in a timely manner."

11. The open dumping of scrap tires is a violation of ORC Section 3734.03 and OAC Rule 3745-27-05(D), which respectively state that "[n]o person shall dispose of solid wastes by open burning or open dumping" and "[n]o person shall conduct, permit, or allow open dumping."
12. Respondents have stored a minimum of 40 trailers on the Business Location beyond the 30 days allowed by OAC Rule 3745-27-56(C)(2) and have allowed approximately 6,000 scrap tires to remain on the ground outside and an additional 1,000 scrap tires inside a building at the Business Location in violation of OAC Rule 3745-27-56(C)(3)(a).
13. Respondents have stored a minimum of 53 trailers full of scrap tires on property owned by Zender Electric, LLC located at 927 McDougal Street in Fostoria, Seneca County, Ohio, and identified by the Seneca County Auditor's office as Parcel Number P51030965520100 ("McDougal Street Property"). An additional 87 trailers full of scrap tires were stored by Respondents on property owned by NSB&K Properties LLC located at 912 Sandusky Street in Fostoria, Seneca County, Ohio, and identified by the Seneca County Auditor's office as Parcel Number P51010859240100 ("Sandusky Street Property"). These trailers contain approximately 147,000 scrap tires that are stored at locations not identified in Respondent Enviro Tire's scrap tire registration and without authorization to exceed the fourteen days allowed by OAC Rule 3745-27-56(C)(6)(c), which constitutes open dumping.
14. ORC Section 3734.03 and OAC Rule 3745-27-05(D) respectively state that "[n]o person shall dispose of solid wastes by open burning or open dumping" and "[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 responsible for the open dumping, the owner of the property, or the person 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."
15. On March 12, 2021, the Seneca County Health Department conducted an inspection of the Sandusky Street Property and noted that the majority of the scrap tires present in trailers had been stored for longer than the maximum of fourteen days allowed by rule. On March 24, 2021, the City of Fostoria Fire Department conducted an inspection of the McDougal Street Property and noted that additional trailers have been stored at the McDougal Street Property since June 2020 and that they appear to be full of tires. This information was transmitted to Ohio EPA via E-mail on March 24, 2021, and Ohio EPA subsequently issued a Notice of



Violation ("NOV") to Respondents dated March 29, 2021, documenting the violation of OAC Rule 3745-27-56(C)(6)(c) for storing trailers of tires on the Sandusky Street Property and the McDougal Street Property (collectively, the "Properties") for greater than fourteen days.

16. On April 12, 2021, Ohio EPA received correspondence from Respondents acknowledging receipt of the NOV and claiming extenuating circumstances contributed to the trailers being on the Properties for longer than allowed by rule. Respondents further indicated an inventory of trailers at the Properties was taken, and Respondents planned to begin removing trailers from the Properties at a rate of 5-10 trailers per week provided the destination facilities had the capacity to accept the scrap tires.
17. On May 10, 2021, Respondents provided an inventory of the trailers on the Properties, which included an identification number for each trailer and a notation of the type of scrap tires stored within each specific trailer.
18. On July 2, 2021, Ohio EPA conducted an inspection of the Business Location and noted the following violations:
  - a. OAC Rule 3745-27-56(C)(2) for storing scrap tires in trailers at the Business Location for more than 30 days. Specifically, a total of 54 trailers containing scrap tires were noted during the inspection and Respondent Frankart indicated that while some trailers had recently been brought onsite, the majority had been present for greater than 30 days.
  - b. OAC Rule 3745-27-56(C)(3)(a) for allowing scrap tires to remain on the ground past the end of the work shift. Specifically, a five-foot-tall pile of scrap tires measuring approximately 100 feet by 60 feet was observed on the ground to the west of Respondent Frankart's building. Respondent Frankart estimated the number of tires in the pile to be approximately 6,000. There were an additional 1,000 scrap tires estimated to be stored within a building.

Ohio EPA notified Respondents of these violations in an NOV dated July 9, 2021.

19. Respondents have begun removal of trailers of scrap tires from the Properties, however, trailers of scrap tires remain beyond the timeframes allowed by rule at the Properties and the Business Location and scrap tires remain on the ground at the Business Location.
20. To date, Respondents are responsible for the accumulation of approximately 190 trailers of scrap tires at the Properties and the Business Location that are not being managed in accordance with ORC Chapter 3734 and the rules promulgated thereunder. Respondents are also responsible for an estimated seven thousand loose scrap tires not stored in trailers at its Business Location in violation of ORC

Chapter 3734 and the rules promulgated thereunder. Respondents have conducted, permitted, or allowed open dumping in violation of ORC Section 3734.03 and OAC Rule 3745-27-05.

21. ORC Section 3734.85 states 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, the director 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. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner."
22. ORC Section 3734.85 further provides that if the recipient of an order issued under ORC Section 3734.85(A) "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 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."

## **V. ORDERS**

Respondents 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, Respondents shall cease transporting scrap tires to the Properties and shall cease storing scrap tires at any property not specified in Respondent Enviro Tire's scrap tire transporter registration, except as allowed by OAC Rule 3745-27-56(C)(6)(c).
2. Upon the effective date of these Orders, Respondents shall ensure that no new scrap tires are stored at the Business Location in excess of the thirty days allowed by OAC Rule 3745-27-56(C)(2).

3. Not later than fourteen (14) days after the effective date of these Orders, Respondents shall submit to Ohio EPA a complete inventory of all trailers of scrap tires on the Properties and all trailers of scrap tires at the Business Location, including a unique identification number for each trailer, a notation of whether the trailer is roadworthy, and a description of the type and estimated number of tires in each trailer.
4. Not later than thirty (30) days after the effective date of these Orders, Respondents shall remove or cause the removal of all scrap tires open dumped outside and in buildings at the Business Location. Respondents shall ensure that these scrap tires are transported by a registered scrap tire transporter to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; a scrap tire facility in another state operating in compliance with the laws of the state in which it is located; or any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
5. Not later than one hundred eighty (180) days after the effective date of these Orders, or within an alternate timeframe agreed to in writing by Ohio EPA, Respondents shall remove or cause the removal of all scrap tires currently at the Properties, including any scrap tires stored in trailers. Respondents shall ensure that all scrap tires removed are transported by a registered scrap tire transporter to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; a scrap tire facility in another state operating in compliance with the laws of that state in which it is located; or any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. Respondents shall first prioritize the removal of scrap tires from the Sandusky Property that are located below power lines, and then shall prioritize the removal of the rest of the tires from the Sandusky Property and the McDougal Street Property prior to removal of the scrap tires in trailers from the Business Location in accordance with Order 7. Respondents shall remove the scrap tires in accordance with the following schedule:
  - a. Not later than thirty (30) days after the effective date of these Orders, and every 30 days thereafter, remove a minimum of thirty-five (35) trailers of scrap tires from the Properties, until all scrap tires are removed from the Properties.
6. Not later than one hundred eighty (180) days after the effective date of these Orders, or within an alternate timeframe agreed to in writing by Ohio EPA, Respondents shall remove and lawfully recycle or dispose of all non-roadworthy trailers from the Properties.
7. Not later than two hundred ten (210) days after the effective date of these Orders, or as otherwise agreed to in writing by Ohio EPA, Respondents shall remove or cause the removal of all scrap tires at the Business Location that have been stored for more than thirty (30) days. Respondents shall ensure that all scrap tires

removed are transported by a registered scrap tire transporter to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; a scrap tire facility in another state operating in compliance with the laws of that state in which it is located; or any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.

8. Beginning on the effective date of these Orders, for each calendar month, Respondents shall keep a log of the following:
  - a. All incoming scrap tires at the Business Location noting the date of arrival, the date of removal, and the final destination facility. This log shall include the weight, volume, or number of scrap tires received and removed.
  - b. All scrap tires and trailers required to be removed from the Properties and Business Location pursuant to these Orders noting the identification number of each trailer removed, if applicable, and the property that the scrap tires or trailers were removed from. Respondents shall obtain receipts from each registered scrap tire transporter and disposal facility utilized, indicating the weight, volume, and number of scrap tires disposed.

Respondents shall forward a copy of this documentation to Ohio EPA's Northwest District Office monthly by the 10th day of each following month, until logs and receipts documenting that all scrap tires and trailers have been removed from the Properties and the Business Location in accordance with these Orders have been received by the District Office.

## **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation from Respondents: "The undersigned certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by Respondent Frankart and a responsible official of Respondent Enviro Tire. For purposes of these Orders, responsible official is a manager, member, or other duly authorized

representative of the limited liability company who is in charge of a principal business function of Respondent Enviro Tire.

## **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, Respondents, the Business Location, or the Properties.

## **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 Respondents, the Business Location, or the Properties.

## **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 Respondents under to 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 43402-9398

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

## **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders, including the right to pursue any individual or entity not a party to these Orders for any violation cited in these Orders.

## **XII. WAIVER**

Respondents consent to the issuance of these Orders and agree to comply with these Orders. Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

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

## **XIII. ACCESS**

To the extent that either Respondent owns or controls the properties or trailers, Respondents hereby grant access to the Business Location, Sandusky Street Property, McDougal Street Property, and any trailer located on those properties to Ohio EPA and its employees, authorized representatives, and contractors to perform actions pursuant to ORC Section 3734.85(A) that are necessary or appropriate for the purpose of removing and disposing of scrap tires located on those properties and applying mosquito control in the event that Respondents fail to comply with any deadline required by these Orders. Respondents hereby agree to relinquish any claim of ownership interest in any tires that are removed by Ohio EPA, or its authorized representatives or contractors, from the properties.

Respondents hereby agree to hold the Director; Ohio EPA; and Ohio EPA's employees, authorized representatives, and contractors harmless for actions taken and for actions not taken in accordance with access provided pursuant to these Orders.

## **XIV. EFFECTIVE DATE**

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



**XV. 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**

**Entered into the Director's Journal on:**



9/13/2021

Laurie A. Stevenson, Director

Date

**AGREED:**

**Enviro Tire Recycling, LLC**



Signature

9-9-2021

Date

William J. Frankart

Printed or Typed Name

Owner

Title

**William Frankart**



Signature

9-11-2021

Date

William J. Frankart

Printed or Typed Name