



State of Ohio Environmental Protection Agency

Southwest District Office

Clermont
General

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Dayton, Ohio 45402

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

July 14, 2009

Mr. Donald Combs
Combs Trucking and Land Improvements
1503 State Route 28
Loveland, Ohio 45140

Re: Notice of Violation

Dear Mr. Combs:

On July 1, 2009, I inspected your property at 1503 State Route 28 in Loveland, Ohio along with Pat Willoughby from Ohio EPA, Southwest District Office. The purpose of the inspection was your request that Ohio EPA inspect your site, to discuss violations which had been cited by the Clermont County Health District, and to help you come into compliance with Ohio's rules and regulations.

During the inspection, you stated that you bring waste into your facility, dump the waste onto the ground, and then separate the metal and some of the wooden timbers, plywood, and pallets for reuse. You stated that you will remove the remaining "picked through" waste and take it to a landfill, but that you only want to take full loads. You also stated that you have not been taking loads to the landfill because business has been slow and it is hard to meet expenses during this hard economic time.

The following is a list of observations noted during the inspection:

Open dumping of solid waste

There is a large pile of solid waste directly behind the building which contains your office. Within this pile of waste the following items were observed:

- Thick foam padding (the type which could have been used for seating or a bed)
- A tote bag
- Rolled up carpeting
- Grass clippings
- Cardboard

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the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any construction and demolition debris into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner."

OAC 3745-400-01(II) states "'Recycling' means processing a material using such methods, including but not limited to, screening, sorting, or shredding, for use in a beneficial manner that does not constitute disposal."

For purposes of this document, disposal includes the beneficial use of C&DD where that use results in placement of C&DD into or on any land or ground or surface water. Using C&DD to make another product (e.g. concrete), is considered recycling.

OAC 3745-400-01(LL) states "'Reuse' means reincorporating a material as a part of a structure and does not include reincorporating a material as fill."

OAC 3745-400-01(OO) states "'Storage' means the holding of debris for a temporary period in such a manner that it remains retrievable and substantially unchanged and, at the end of the period, is disposed, reused, or recycled in a beneficial manner."

To qualify as storage, the activity must meet all four criteria (temporary, retrievable, unchanged, and is disposed, reused, or recycled).

DETAILED DISCUSSION

C&DD can be recycled or reused. C&DD can be incorporated into a product. C&DD can be stored temporarily.

OAC 3745-400-03(C) states that any site where debris is not disposed, such as where debris is reused or recycled in a beneficial manner, or stored for a temporary period remaining unchanged and retrievable, is excluded from regulation as a C&DD facility. Thus, any C&DD

material that is actively reused, or processed for recycling or for production or incorporation into a product, is not regulated until it is disposed, at which time, its disposal may be regulated under either ORC Chapter 3714 or 3734 as appropriate.

The Office of Compliance Assistance & Pollution Prevention maintains recycling documents that are found at: www.epa.state.oh.us/ocapp/p2/online/docs.html. You will find the C&DD Recycling Guidebook as well as a list of C&DD recyclers under the Sectors Index/Recycling link.

C&DD can be used as fill material or for agronomic benefit.

With the exception of two cases where certain types of C&DD are used as fill material, all instances of using debris as a fill material or for agronomic benefit are considered disposal. A location where this occurs is regulated as a facility (requiring an annual license).

The two exceptions are:

- 1) Clean hard fill can be used in legitimate fill operations. See OAC 3745-400-05 for instructions as to when a Notice of Intent to Fill is required.
- 2) Debris, trees, and brush removed in clearing a construction site (not a demolition site) may be used as fill material on the site of generation. ORC Section 3714.01(E) states that a facility "does not include any construction site where construction debris and tree and brush removed in clearing the construction site are used as fill material on the site where the materials are generated or removed..."

Prior to use, anyone wanting to beneficially use C&DD must either obtain an annual license or obtain an exemption from the facility license requirement and from compliance with OAC 3745-400 and ORC 3714.

If an exemption is sought, the request should be submitted to the licensing authority which is

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either:

- The local health department, if the site where the disposal will occur is in the jurisdiction of an approved health department (DSIWM maintains a list of Approved Health Departments, available at: www.epa.state.oh.us/dsiwm/pages/general.html), or
- The Ohio EPA, DSIWM district office with jurisdiction over the site where the disposal will occur if the local health department is not approved.

It is recommended that the exemption request also address the following regulatory considerations:

- The C&DD is not mixed with other types of waste. If it is mixed with other types of waste, such as solid waste, the health department does not have the authority to approve the exemption.
- The debris or waste has not been rendered so that it is not identifiable as C&DD.
- Granting the exemption will not adversely affect the public health or safety or the environment and will not create a fire hazard.
- The C&DD is not placed in a 100-year floodplain and will not result in the increase of more than one foot in the elevation of the flood stage of the watercourse upstream or downstream of the intended placement. ORC Section 3714.04 prohibits granting such an exemption.
- The C&DD is not placed above a sole source aquifer. ORC Section 3714.04 prohibits granting such an exemption.

For more information regarding exemption requests for C&DD, see the Ohio EPA policy DSIWM 00-400-0546 titled *Exemptions for Construction and Demolition Debris Disposal*.

C&DD can be disposed in a licensed facility.

The C&DD rules establish acceptable disposal methods for C&DD and allow for recycling, reuse, and storage. OAC 3745-400-04 states that C&DD can be disposed:

- at a licensed C&DD disposal facility.
- at a licensed solid waste facility (landfill, incinerator, or composting facility).
- by open burning, if permitted pursuant to OAC 3745-19.
- by another method approved by the licensing authority.

DSIWM maintains a list of licensed disposal facilities at: www.epa.state.oh.us/dsiwm/pages/general.html.

If the C&DD is NESHAP regulated asbestos, a list of landfills that are permitted to accept NESHAP regulated asbestos is maintained by the Division of Air Pollution Control at: www.epa.state.oh.us/dapc/atu/asbestos/asb_land.html.

FREQUENTLY ASKED QUESTIONS

Q1. I want to demolish my barn, bury the debris on my property, and build a new barn. What approval do I need to obtain before I can bury the barn debris on my property?

A1. Because neither the statute (ORC Chapter 3714) nor the rules (OAC 3745-400) which regulate C&DD exempt individual property owners from having to comply with the requirements contained in the regulations, it is necessary to obtain an exemption from the licensing authority prior to burying the debris. Without the exemption, burial of the barn debris would be illegal disposal of C&DD.

Q2. I have a load of old lumber from a demolition site that I would like to chip and use as material to create a recreational trail on another property. What approval do I need to receive before I can place the chipped wood?

A2. C&DD which has been processed into a saleable or marketable product is not

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required to be managed as C&DD. As long as the chipped wood C&DD is used as mulch would normally be used, its placement onto the ground as mulch does not constitute disposal.

However, if use of the chipped wood C&DD is not typical for mulch, or if the storage of the lumber or mulch causes a nuisance, changes the material, or makes it no longer retrievable, then the activity may be viewed as illegal disposal of C&DD and the owner of the material or property where the material is placed may be subject to enforcement. Both the provider and user of the chipped wood C&DD should also be aware that they are liable for any adverse environmental impacts that may occur due to the mismanagement of the chipped wood C&DD or any contaminants that may be present (e.g. coatings or chemically treated wood).

Q3. *I have a load of old lumber from a demolition site that I would like to chip and use as fuel in an industrial boiler. What approval do I need to receive?*

A3. As long as the C&DD is used in an industrial process or fuel-burning equipment as fuel, it does not constitute disposal. The industrial process or fuel-burning equipment may be subject to regulation through the Division of Air Pollution Control pursuant to OAC 3745-17. The burning of the C&DD may also affect emissions so the user of the C&DD fuel should confirm that existing air permits are sufficient and that burning the C&DD fuel will not be a violation.

However, if the storage of the C&DD causes a nuisance, changes the material, or makes it no longer retrievable, then the activity may be viewed as illegal disposal of C&DD and the owner of the material or property where the material is placed or burned may be subject to enforcement. Both the provider and user of the C&DD fuel should also be aware that they are liable for any adverse environmental impacts that may occur due to the mismanagement of the C&DD or any

contaminants that may be present (e.g. coatings or chemically treated wood).

Q4. *I want use C&DD as a fill material at multiple sites. What sort of approval do I need to obtain before I can do this?*

A4. The use of C&DD (besides clean hard fill) as fill material is considered disposal. Therefore, you will need to request and receive either a C&DD facility license for each location or an exemption from needing an annual license to operate a C&DD disposal facility and from compliance with OAC 3745-400 and ORC 3714.

The location of the sites where the C&DD is to be placed, whether distributed across the state (i.e. within the jurisdiction of multiple licensing authorities) or are all within the jurisdiction of one licensing authority, will determine who will review and approve or deny the license or exemption request. If the multiple sites are located within the jurisdiction of more than one licensing authority, then you will need to obtain a facility license or exemption from each licensing authority before beneficially using the C&DD within that jurisdiction. Furthermore, the decision as to whether or not to approve the disposal at each site will be up to the discretion of each licensing authority and will occur independent of the decisions made by other licensing authorities. If the multiple sites are located within the jurisdiction of one licensing authority, each site will need to obtain its own facility license, however, if an exemption is requested, it will be up to the individual licensing authority whether to issue an exemption for each site or to issue one exemption for each individual site listed.

Q5. *I am an operator of a solid waste landfill facility and I want to use C&DD as alternative daily cover at my facility. What approval do I need to get before I can do these activities and from whom do I request the approval?*

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A5. Using C&DD at a solid waste landfill facility is handled differently from other types of beneficial uses. Because the C&DD statute allows C&DD to be disposed at a solid waste landfill facility, it is not necessary to obtain an exemption from the requirements of the C&DD rules to use C&DD as alternative daily cover at a solid waste landfill facility. The Ohio EPA, DSIWM will have full responsibility for reviewing each request on a case-by-case basis. See 0654 *Alternative Daily Cover (ADC) Requests* for more information about ADC requests.

The owner or operator of the solid waste landfill facility, in accordance with ORC 3714.07, is required to collect disposal fees when accepting C&DD for disposal.

Q6. *What type of approval is needed when clean hard fill is to be used to change the grade on a site other than the site of generation?*

A6. OAC 3745-400-05 allows clean hard fill to be used as structural fill on a site other than the site of generation provided that the person wanting to place the material sends to the licensing authority a written Notice of Intent to Fill at least seven days prior to placing the clean hard fill. No additional approval is needed from the licensing authority before the filling activity can occur. The person wanting to use the clean hard fill is required to include the following information in the Notice of Intent to Fill:

- The type of fill material that will be used (i.e. the composition of the fill material);
- the location where the fill material was generated;
- the location where the fill material will be placed;
- when the filling will occur, including the date filling will begin and the date it will end; and
- the telephone number of the person submitting the Notice of Intent to Fill.

Q7. *What type of approval is needed when clean hard fill is to be used as road bed material?*

A7. Using clean hard fill as road bed material would qualify as recycling clean hard fill into a usable construction material, or reuse of stone. Therefore, anyone wanting to conduct this activity would not need to notify nor would they need to obtain approval from the Ohio EPA prior to conducting the activity.

Q8. *How long can I store C&DD?*

A8. Storage must be for a temporary period. The length of time will depend on what the material is and how it is stored. The material must be stored in a manner such that the material is retrievable and is substantially unchanged. Dumping debris over the side of a hill probably would not be considered retrievable. If leachate and odors are emanating from the material, it probably would not be considered substantially unchanged. The material eventually needs to be taken elsewhere for disposal, reuse, or recycling. If materials accumulate, and are not actively being processed, then this action may be considered illegal disposal and not storage.

Note: The above also applies to clean hard fill stored for a period of two years or more.

Q9. *If concrete isn't used at a construction site, can it be dumped out, allowed to set-up, and be broken apart in order to be considered clean hard fill?*

A9. Yes. Typically waste from the manufacture of construction materials is solid waste. However, for leftover concrete from a construction site that is allowed to set-up, it is considered clean hard fill. The unused concrete can be taken back to the concrete plant or be taken to another site to set-up.

POINT OF CONTACT

Central District Office DSIWM Supervisor
(614) 728-3778

Northeast District Office DSIWM Supervisor
(330) 963-1200

Disposal and Beneficial Use of C&DD

Northwest District Office DSIWM Supervisor
(419) 352-8461

Southeast District Office DSIWM Supervisor
(740) 385-8501

Southwest District Office DSIWM Supervisor
(937) 285-6357

Central Office Processing and Engineering Unit
(614) 644-2621

DISCLAIMER

The procedures set out in this document are intended solely for guidance of government

personnel. The procedures are not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party against Ohio EPA. While this guidance document is not legally binding, all statutes and rules referenced herein are binding and enforceable. Ohio EPA reserves the right to vary this guidance or to change it at any time without public notice and also reserves the right to deviate from this guidance on a case-by-case basis.

Beneficial Uses of Scrap Tires

PURPOSE

This educational guideline addresses the beneficial use of scrap tires and is intended to guide readers through some of the major requirements of the scrap tire rules. However, it is only a guide and the appropriate sections of the Ohio Administrative Code should be read in their entirety.

The information presented in this document is intended to explain when Ohio EPA authorization in accordance with Ohio Administrative Code Rule 3745-27-78 is required prior to the beneficial use of whole, cut, and processed scrap tires, and if so, how authorization can be obtained. Other governmental restrictions, such as building and fire codes may require additional approvals.

The director of Ohio EPA is responsible for approving beneficial use project plans based on criteria in Ohio Administrative Code Rule 3745-27-78(J). These criteria include determining whether or not the use of whole, cut, or processed scrap tires will provide a sound engineering or financial benefit over the material normally used in each type of project.

The storage and use of 100 or fewer scrap tires is not regulated by law unless such storage or use is likely to cause a public nuisance, health or fire hazard. If the scrap tires are determined by Ohio EPA or the local health department to not be a beneficial use, the tires will be classified as open dumped and will need to be moved to a licensed scrap tire facility.

APPLICABLE RULES/STATUTES

Ohio Revised Code 3734
Ohio Administrative Code 3745-27-78

PRE-APPROVED USES OF WHOLE SCRAP TIRES, CUT SCRAP TIRES AND SCRAP TIRE PIECES.

All pre-approved beneficial uses of whole, cut, and processed scrap tires are listed in paragraphs (D) and (E) of Ohio Administrative Code Rule 3745-27-78 and, therefore, do not require a project plan to be submitted and approved by Ohio EPA. However, **prior** notification is required to the appropriate Ohio EPA district office and local health department.

The pre-approved beneficial uses of whole or cut scrap tires listed in Ohio Administrative Code Rule 3745-27-78(D) include:

- agricultural and landfill use to hold down tarps and covers (250 whole tires and 5,000 sidewalls maximum);
- crash barriers around race tracks (1,500 tires maximum); and
- backstops for rifle ranges (1,500 tires maximum).

Pre-approved uses of processed scrap tires include several different civil engineering uses such as a drainage aggregate (i.e., sand and gravel) substitute in:

- solid waste landfill leachate collection systems and other civil engineering uses in the landfill as authorized in the landfill's permit;
- construction and demolition debris landfill leachate collection systems and other civil engineering uses in the landfill as authorized in the facility license or permit;
- on-site residential septic system leach fields;

Beneficial Uses of Scrap Tires

- drainage around building foundations and building foundation insulation;
- covering material for playgrounds if all wire is removed;
- construction material and lightweight fill in the construction of public roadways, public parking, and public road embankment construction, if the use of shredded scrap tires is specifically approved by a government official responsible for the engineering and construction of the public roads and the public construction projects.

The benefits of processed scrap tire in civil engineering uses have been studied and evaluated by the American Society of Testing and Materials (ASTM). The results and design guidelines are described in ASTM publication D6270-98 (2004), Standard Practice for Use of Scrap Tires in Civil Engineering Applications, which can be obtained by calling (610) 832-9555 or visiting ASTM's Web site at: <http://www.astm.org>.

The use of processed tires as a construction material in landfills must be authorized in the solid waste landfill's permit or the construction and demolition debris landfill's license. This authorization must be obtained before using the processed scrap tire material.

All beneficial use projects require that a report of project completion be made to Ohio EPA-DSIWM's Scrap Tire Unit within 60 days of project completion. This information is intended for informational purposes to record the number of scrap tires used in all successfully completed beneficial use projects in Ohio. For landfills with ongoing uses of scrap tires, annual reporting is requested.

OHIO EPA BENEFICIAL USE PROJECT PLANS

Beneficial use projects of whole, cut, and processed scrap tires which are not pre-approved in Ohio Administrative Code Rule

3745-27-78 (D) or (E) require a project plan to be submitted to and reviewed by the appropriate Ohio EPA district office where the project is to be built. Information to be included in project plans is listed in Ohio Administrative Code Rule 3745-27-78 (G) and (H). Paragraph (J) of this same rule describes the criteria to be considered by the director of Ohio EPA prior to beneficial use approval.

Beneficial use project plans may be submitted by individual landowners (of the property where the project is proposed) or by the company proposing to complete the project.

ADDITIONAL AUTHORIZATIONS

Depending on the specific beneficial use proposed, authorizations may be required by other local and/or state regulatory offices such as local building code enforcement offices, zoning authorities, local health departments, etc.

Some uses which *may* also require other (non-Ohio EPA) office approvals include, but are not limited to, the following types of uses: 1) drainage material for residential on-site septic system leach fields will require additional approval coordination through the local health department; 2) drainage material in building foundations may require a building code variance, etc.

WHO CAN HAUL SCRAP TIRES TO A BENEFICIAL USE SITE?

If the whole, cut or processed scrap tire material measures 4 inches or larger in any dimension, the material must be hauled and delivered by an Ohio EPA registered scrap tire transporter. The list of currently registered scrap tire transporters can be viewed online at: <http://www.epa.state.oh.us/dsiwm> or you may call Ohio EPA's Division of Solid and Infectious Waste Management in Central Office at (614) 644-2621 to receive a current list of registered scrap tire transporters.

Beneficial Uses of Scrap Tires

For authorized beneficial uses of processed scrap tires measuring 4-inches or less in all dimensions, any hauler may be used.

STORAGE PRIOR TO BENEFICIAL USE

Whole, cut, and processed scrap tires must be properly stored prior to beneficial use. If the whole, cut, or processed scrap tires are not placed into the beneficial use project on the day they are delivered, storage must be in accordance with paragraph (C) of Ohio Administrative Code Rule 3745-27-78.

DISPOSAL AFTER A BENEFICIAL USE

If the tire material is removed from a beneficial use site, the tire material may be recycled at a scrap tire facility, reused at another approved beneficial use project, or disposed as a solid waste.

POINT OF CONTACT

Northeast District Office DSIWM Supervisor at
Twinsburg: 330-963-1200

Northwest District Office DSIWM Supervisor at
Bowling Green: 419-352-8461

Central District Office DSIWM Supervisor at
Columbus: 614-728-3778

Southeast District Office DSIWM Supervisor at
Logan: 740-385-8501

Southwest District Office DSIWM Supervisor at
Dayton: 937-285-6357

Central Office-Scrap Tire Unit at Columbus:
614-644-2621

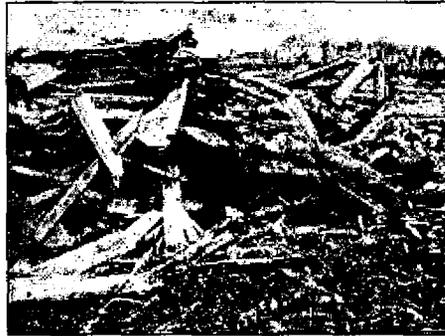
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Construction, Renovation and Demolition Debris

By: Andy Kubalak

Debris generated during the construction, renovation or demolition of a commercial building that is destined for disposal is classified as waste. Anyone who generates waste must evaluate it to determine if it is considered a hazardous waste. This evaluation is the generator's responsibility and can include any knowledge of the materials used to construct the building and analyses of representative samples of the waste. (Please see Chapter 1 of the *Generator Handbook* for guidance when evaluating waste).



Debris generated during the construction, renovation or demolition of a single family residence does not need to be evaluated because it is excluded under Ohio Revised Code (ORC) 3734.02 (D). The exclusion is for waste generated at locations meeting the definition of "household," and includes places such as campgrounds, apartments, motels, hotels and bunkhouses.

Some construction, renovation and demolition debris that businesses generate may be identified as hazardous wastes. The most common contaminant found in buildings that could cause debris to be classified as hazardous waste is lead-based paint. Other removable components that may also be hazardous, and should be removed prior to demolition, are fluorescent lamps and thermostats that contain mercury and other hazardous constituents. We suggest that you manage these as *universal waste*.

Because of its physical nature and the way it is generated, the evaluation of demolition debris can pose some unique problems. You can find information about sampling demolition debris on the American Society for Testing and Materials' (ASTM) Web site:

- **ASTM Standard E 1908-03:** Standard Guide for Sample Selection of Debris Waste from Building Renovation or Lead Abatement Project for Toxicity Characteristic Leaching Procedure (TCLP) Testing for Leachable Lead (Pb), and
- **Suggested Sampling Plans for Building Debris Disposal:** This Web site contains evaluation strategies for construction and demolition debris from the Washington State Department of Ecology/Connecticut Department of Environmental Protection.

If the demolition debris is some form of metal, such as steel structural components, lead pipes, or electrical components, they may be recycled as scrap metal without regulation under the hazardous waste rules, even if coated with lead-based paint. If you know or suspect that structural debris contains asbestos, you should contact Ohio EPA's *Division of Air Pollution Control* (DAPC) at (614) 644-2270, prior to any demolition.

If the debris is generated from a household, or if you determine that debris generated from a commercial building is non-hazardous, it may be disposed of in a construction and demolition debris (C&DD) landfill. Ohio EPA's *Division of Solid and Infectious Waste* (DSIWM) prohibits some structural debris from being buried on-site. Clean hard fill such as bricks may be buried on-site. Refer to DSIWM *guidance* documents for more information about the C&DD rules. 