



**Environmental  
Protection Agency**

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

July 29, 2011

**RE: MUSKINGUM COUNTY  
SITE - GENERAL**

Sherry Shindel  
Downing Company  
850 Airport Road  
Zanesville, Ohio 43701

Dear Mr. Shindel:

On July 20, 2011, Ohio EPA Southeast District Office received a complaint regarding the open dumping of solid waste on a parcel (#51-30-03-16-014) owned by Downing Company located south of Cinderpit Road, near the intersection with US 40, east of Zanesville, Ohio. On July 28, 2011, I investigated this complaint and found that this location is being used as a clean hard fill disposal area. I also observed that a small amount of solid waste (plastic pipe, metal, fabric, etc.) was included in the clean hard fill.

Clean hard fill consists only of concrete, asphalt, brick, block, tile, and stone. All material which does not meet the definition of clean hard fill must be removed from the property and disposed of properly. If these materials are not removed from the clean hard fill site, this site would be in violation of illegal disposal of demolition debris and open dumping of solid waste.

Please also note that when clean hard fill material is removed from a property and used for filling or raising the grade of a property other than the site of generation, a "Notice of Intent to Fill" must be forwarded to this office seven (7) days prior to the commencement of activities.

Please find enclosed a copy of Ohio Administrative Code Rule 3745-400-05. This Rule governs the use of clean hard fill and the reporting requirements for the use of that material on property other than the site of generation.

If you have any questions, please feel free to contact me at this office. You can reach me either by mail or by calling me at (740) 380-5428.

Sincerely,

Mark Mansfield  
Environmental Specialist II  
Division of Materials and Waste Management

MM/jg

Enclosure

3745-400-05 Clean hard fill.

- (A) Clean hard fill consisting of reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, or stone shall be managed in one or more of the following ways:
- (1) Recycled into a usable construction material.
  - (2) Disposed in licensed construction and demolition debris or other waste facilities.
  - (3) Used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on the site of generation.
  - (4) Used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on a site other than the site of generation, pursuant to paragraph (C) of this rule.

[Comment: Use of clean hard fill may create a nuisance or a safety hazard. The application of cover over the clean hard fill may be one way to address the nuisance or safety hazard.]

- (B) Clean hard fill may be stored for a period of less than two years. For the purpose of this rule, "stored" means debris which is held in a manner remaining retrievable and substantially unchanged. Clean hard fill stored more than two years shall be considered illegal disposal of construction and demolition debris. However clean hard fill piled adjacent to a construction materials processing facility shall not be considered stored for more than two years if the pile is active, that is, if clean hard fill material is added to and removed from the pile within a two year period.
- (C) The person responsible for causing clean hard fill to be used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on a site other than the site of generation, shall provide a written "Notice of Intent to Fill" to each licensing authority where the clean hard fill is to be placed. The Notice of Intent to Fill shall state the nature of the fill material, the site(s) to be filled, when filling will begin and end, and the telephone number of the notifier. The notification shall be received by each local licensing authority with sites to be filled, at least seven days prior to filling as required by division (F) of section 3714.13 of the Revised Code. The notifier shall provide a new Notice of Intent to Fill if there are any changes in the information required by this rule for notification.

3745-400-05

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Effective: August 31, 2002

R.C. 119.032 review dates: May 9, 2001 ; August 31, 2007

Certification: \_\_\_\_\_

June 24, 2002  
(Date)

Promulgated Under: R.C. Chapter 119  
Statutory Authority: R.C. Section 3714.02  
Rule Amplifies: R.C. Section 3714.02  
Prior Effective Dates: September 30, 1996