



Ohio Administrative Code Rule 3745-27-78 Beneficial use of scrap tires.

Effective: December 1, 2014

[Comment: It is recommended that the definitions of "beneficial use," "premises," "open dumping," "scrap tire," and "scrap tire recovery facility" located in rule 3745-27-01 of the Administrative Code be read before reading this rule.]

(A) Applicability. This rule is applicable to the beneficial use of scrap tires at any premises, pursuant to paragraph (A)(2) of rule 3745-27-03 of the Administrative Code, and as "beneficial use" is defined in rule 3745-27-01 of the Administrative Code. The term "beneficial use" does not include the processing of a scrap tire which occurs at a scrap tire recovery facility. Also, scrap tires which have been "processed" at a scrap tire recovery facility may no longer be defined as "scrap tires" when used. Beneficial use of one hundred or fewer scrap tires is not regulated by Chapter 3734. of the Revised Code or rules adopted under it, unless the director or the board of health of the local health district determines that the storage causes a nuisance, is a hazard to public health or safety, or is a fire hazard.

(1) The property owner or the person leasing the property shall notify the director and the health department of a proposed beneficial use listed in paragraph (D) or (E) of this rule prior to receipt of scrap tires at the premises.

(2) If the beneficial use is not listed in paragraph (D) or (E) of this rule, the property owner or the person leasing the property shall submit and receive approval of a beneficial use project plan prior to receipt of scrap tires at the premises.

(B) Authorization.

No person shall beneficially use scrap tires at a premises unless:

(1) The particular use is authorized in accordance with paragraph (D) or (E) of this rule and the person has provided notification required in accordance with paragraph (I) of this rule.



(2) If the use of scrap tires is not authorized in accordance with paragraph (D) or (E) of this rule, the person shall obtain authorization in accordance with paragraph (F) of this rule prior to receiving or beneficially using the scrap tires at a premises.

(3) Failure to provide notification or obtain authorization may result in the responsible person being cited for open dumping if any scrap tires are deposited on or in the ground or water.

(C) Storage.

(1) The storage of scrap tires prior to final placement or construction of the beneficial use project at a site shall be deemed a nuisance, a hazard to public health or safety, or a fire hazard unless:

(a) Scrap tires stored at the beneficial use site are stored for less than thirty days prior to final placement in the beneficial use project, and the tires are stored in accordance with the standards in rule 3745-27-60 of the Administrative Code.

(b) For beneficial use projects that may take thirty or more days to construct, the temporary storage of scrap tires shall not exceed the lesser of one thousand five hundred whole scrap tires, the equivalent amount of scrap tire shreds, or the amount of scrap tires that are scheduled in the beneficial use project plan to be used in a thirty-day period. All scrap tires stored at a beneficial use site shall be stored in accordance with the standards in rule 3745-27-60 of the Administrative Code, unless the beneficial use is at a licensed solid waste facility or licensed construction and demolition debris landfill.

(c) For shredded scrap tires stored at a licensed solid waste landfill or licensed construction and demolition debris landfill prior to beneficial use at that facility, the tires shall be stored in accordance with the standards in rule 3745-27-65 of the Administrative Code. The processed tires stored shall meet the storage specifications approved in the facility's permit to install, license, or other authorizing documents..

(2) When an approved beneficial use project plan is required in accordance with this rule, then the maximum size and duration of temporary storage shall be in accordance with the approved plan



rather than paragraph (C)(1) of this rule.

(3) When the beneficial use is authorized in accordance with paragraph (D) or (E) of this rule, the quantity and time limits, specified in paragraph (C)(1) of this rule, for storage prior to being beneficially used shall not be exceeded without prior written notification to Ohio EPA and the local health department and approval by the director.

(D) Authorized beneficial uses of whole or cut scrap tires.

(1) The following uses and quantities of whole or cut scrap tires are authorized in accordance with rule:

(a) Crash barriers at race tracks, up to one thousand five hundred scrap tires.

(b) Rifle range backstops, up to one thousand five hundred scrap tires.

(c) Agricultural use to hold down tarps and covers, up to two hundred fifty scrap tires and up to five thousand tire sidewalls. Mosquito control shall be maintained, as required in accordance with paragraph (D)(2) of this rule, the use of tire sidewalls rather than whole tires or bagel cut tires may provide adequate mosquito control by preventing the formation of standing water which may become a mosquito breeding habitat.

(d) For use at a solid waste landfill or construction and demolition debris landfill to hold down tarps and covers, up to two hundred fifty scrap tires and up to five thousand tire sidewalls. Mosquito control shall be maintained, as required in accordance with paragraph (D)(2) of this rule, the use of tire sidewalls rather than whole tires or bagel cut tires may provide adequate mosquito control by preventing the formation of standing water which may become a mosquito breeding habitat.

(2) Scrap tires being beneficially used shall be maintained such that the tires do not provide a breeding environment for mosquitoes.

(3) Scrap tires in use or stored at a beneficial use site, other than a licensed solid waste facility, shall meet the requirements of rule 3745-27-60 of the Administrative Code including but not limited to



mosquito control, pile size, and fire breaks. At a licensed facility, scrap tires in use or stored at a beneficial use site shall meet the requirements of rule 3745-27-65 of the Administrative Code.

(4) At any time when the use of the premises at which the whole or cut scrap tires are placed changes in such a way that the scrap tire beneficial use authorizations specified above no longer apply, all whole or cut scrap tires shall be removed from the premises within thirty days and delivered to an authorized destination, as described in paragraph (C) of rule 3745-27-56 of the Administrative Code. The scrap tires shall be transported in accordance with the requirements in rule 3745-27-56 of the Administrative Code.

(E) Authorized beneficial uses of shredded scrap tires. The following beneficial uses of shredded scrap tires are authorized in accordance with this rule if the applicable guidelines published by the American Society for Testing and Materials (ASTM) in the "Standard Practice for Use of Scrap Tires in Civil Engineering Applications" (D6270-98) (www.astm.org), are followed:

(1) For civil engineering applications in a solid waste landfill, as specified in the approved landfill permit to install or alteration or other authorizing documents.

(2) For civil engineering applications in a construction and demolition debris landfill, as specified in the approved license, license modification, or other authorizing documents.

(3) Light weight fill or construction material in public road, public parking, and public road embankment construction, if the use of shredded scrap tires is specifically approved by the government official responsible for the engineering and construction of the public roads and the public construction projects.

(4) Covering material for playgrounds. This beneficial use is restricted to shredded bias ply tires or tire shreds with all metal removed.

(5) Bulking agent for compost, with specific approval from the director, as required by Chapter 3745-560 of the Administrative Code.

(6) As a gravel substitute in septic system leach fields, provided that the use and the amount of



shredded scrap tires to be used is approved by the appropriate local health department or Ohio EPA, division of surface water. The compacted volume of tire shreds shall not exceed the volume of gravel that would have been used.

(7) As a gravel substitute for backfill around home and building foundations or basements provided that the use and the amount of shredded tires to be used complies with the applicable local building codes and the compacted volume of tire shreds used does not exceed the volume of gravel normally used.

(8) As a gravel substitute around drainage tiles and pipes as long as the compacted volume of tire shreds used does not exceed the volume of gravel normally used in the installation of the drainage system. Compressibility of the tire shreds shall be addressed in the project design.

(F) Beneficial uses not specifically authorized in paragraph (D) or (E) of this rule.

A project plan for a beneficial use request shall be submitted to and approved by the director before the applicant for a beneficial use project may accept scrap tires for use in the beneficial use project. The project plan shall contain the following:

(1) All the information required in paragraphs (F) and (G) of this rule such that the director can determine whether the criteria set forth in paragraph (J) of this rule are satisfied.

(2) Detailed engineering plans, specifications, and information that shall be presented in a manner acceptable to the director. Detail shall be sufficient to allow clear understanding for technical review of the project plan, and to provide assurance that the beneficial use shall be in compliance with Chapter 3745-27 of the Administrative Code.

Amendments to the project plan shall contain new pages or sheets to replace those affected by the proposed change, as well as any revised report sections. New narrative added to the revised project plan shall appear in capital letters, and narrative to be deleted out shall be lined out.

A project plan, notwithstanding any deficiency, may be considered and acted upon if sufficient information is contained in the detailed engineering plans, specifications, and report for the director



to determine whether the criteria set forth in paragraph (J) of this rule are satisfied.

If the director determines that information in addition to that required by this rule is necessary to determine whether the criteria set forth in paragraph (J) of this rule are satisfied, the director shall require that the applicant supply such information as a precondition to further consideration of the project plan.

(G) The project plan for a beneficial use request shall include all of the following:

- (1) The name, address, and phone number of the applicant.
- (2) The location and address of the proposed temporary storage and beneficial use site.
- (3) The name, address, and phone number of all owners of the property listed in paragraph (G)(2) of this rule.
- (4) Plan view drawings and detailed engineering plans containing plan view drawings with a scale of one inch equals a maximum of one hundred feet shall be used. The drawings shall legibly show the following items within the boundary of the beneficial use site and within five hundred feet of the boundary, or as otherwise specified in this paragraph:
 - (a) The location of all property lines.
 - (b) Location and limits of both the beneficial use site and the scrap tire storage area including any portable scrap tire storage containers and scrap tire storage piles (include maximum height of all scrap tire storage piles and use a scale insert as necessary).
 - (c) The location and limits of all fire breaks and all access roads.
 - (d) The location and limits of all buildings and structures.
 - (e) The location and limits of the regulatory floodplain.



- (f) The location and boundaries of all natural areas as listed in paragraphs (B)(1) and (B)(2) of rule 3745-27-62 of the Administrative Code.
- (g) Existing topography showing streams, wetlands, lakes, springs, and other surface waters of the state as defined in Chapter 3745-1 of the Administrative Code, with a contour interval no greater than five feet.
- (h) The north arrow.
- (5) Estimates of the maximum amount of tires, either number or quantity in weight or volume, to be used for this project and of the maximum amount of tires to be temporarily stored prior to being beneficially used. If the construction of the project will take longer than thirty days, temporary storage shall not exceed the amount of scrap tires planned to be used in a thirty-day period.
- (6) A detailed description of how the scrap tires are to be used and the engineering or financial benefits of using scrap tires versus other materials normally used.
- (7) A detailed schedule of the project, including start date and end date, from start to completion of construction of the beneficial use project.
- (8) A description of the mosquito control to be used during storage and beneficial use of the scrap tires.
- (9) A letter of consent from the owner of the property on which the beneficial use and temporary storage is to take place, if the property owner is not the person requesting the beneficial use approval. The letter shall include the following statement: "I understand that, as the owner of the property on which this beneficial use of scrap tires will be placed, I shall be responsible for the removal of the scrap tires in the event the project fails to comply with the approved plan and the beneficial use applicant fails to correct the problem or fails to remove the scrap tires."
- (10) Any beneficial use that places more than one hundred tires in contact with surface waters of the state shall not be considered by the director without evidence of prior coordination with the Ohio department of natural resources and the U.S. army corps of engineers. Proof of this coordination in



the form of written correspondence to and from the listed agencies shall be submitted with the project plan. Any objections or reservations by these agencies be fully resolved before Ohio EPA shall process any approval of the project plan.

(11) If the scrap tires are used for structural fill, submit construction plans for the structural fill, including a stability analysis when necessary, prepared by a registered professional engineer in accordance with sound engineering practice and signed and certified by the engineer. This includes, but is not limited to, all erosion control projects and embankments.

(12) A copy of the letter of transmittal and signed receipt demonstrating the project plan was sent to the local approved health department.

(H) After project plan approval, the applicant shall do the following:

(1) Comply with the project plan as submitted to and approved by the director.

(2) Comply with the mosquito control requirements of paragraph (D)(3) of this rule while the scrap tires are in storage and in use.

(3) Comply with the general scrap tire storage and handling provisions as specified in paragraph (C) of this rule unless alternate storage was approved in the project plan.

(4) Comply with the scrap tire shipping paper system of rule 3745-27-57 of the Administrative Code and shall enter the beneficial use project plan number, assigned by the Ohio EPA upon plan approval, on all shipping papers.

(5) Submit a report of project completion within sixty days of project completion, which includes as built drawings and a summary report of all scrap tires used as follows:

(a) The total quantity in number, weight (tons), or volume (cubic feet) of scrap tires used in the beneficial use project (clearly define the unit of measure used).

(b) The total quantity in number, weight (tons), or volume (cubic feet) of scrap tires received from



each scrap tire transporter (clearly define the unit of measure used). If the applicant is a registered scrap tire transporter, the requirements of this paragraph and paragraph (H)(5)(c) of this rule are waived since the applicant shall include this information in his scrap tire transporter's annual report.

(c) An estimate of the percentage of tires in each of the following three categories: (i) passenger car tires, (ii) heavy and medium truck tires, and (iii) all other tires.

(6) At any time when the use of the premises at which the whole scrap tires, tire pieces, or tire shreds are placed changes in such a way that the project plan no longer applies, all whole scrap tires, tire pieces, or tire shreds shall be removed from the premises within thirty days and delivered to an authorized destination, as described in paragraph (C) of rule 3745-27-56 of the Administrative Code. The scrap tires shall be transported in accordance with the requirements in rule 3745-27-56 of the Administrative Code.

(7) Upon revocation of a scrap tire beneficial use, the applicant shall remove and properly recycle or dispose of all scrap tires, tire pieces, and tire shreds within thirty days.

(I) Prior notification of beneficial use of scrap tires.

(1) A letter of notification shall be sent by certified mail or any form of mail accompanied by a receipt to Ohio EPA and the approved local health department for beneficial uses, authorized in accordance with paragraph (D) of this rule. The letter shall identify the name, address, and phone of the responsible individual, the address of the beneficial use site, and the total number of scrap tires to be beneficially used at the site.

(2) A letter of notification shall be sent by certified mail or any form of mail accompanied by a receipt to Ohio EPA and the approved local health department for beneficial uses authorized by paragraph (E) of this rule. The letter shall identify the name, address, and phone of the responsible individual, the address of the beneficial use site, and an estimate of the total number of scrap tires to be beneficially used at the site.

(J) Criteria for approval.



The director shall not approve a project plan for a beneficial use of scrap tires unless the director determines all of the following:

- (1) The beneficial use as described in the project plan shall not violate Chapter 3704., 3714., 3734., or 6111. of the Revised Code.
- (2) The beneficial use as described in the project plan shall provide a sound engineering or financial benefit over the material normally used.
- (3) The beneficial use as described in the project plan shall not result in unacceptable damage to the environment or public health and safety.
- (4) The scrap tire storage area, if any, shall meet the requirements of paragraph (C) of this rule.
- (5) The scrap tire beneficial use shall be capable of being constructed and completed in accordance with Chapter 3745-27 of the Administrative Code.
- (6) The person listed as property owner and the facility owner or operator or the person requesting approval for the beneficial use request is in substantial compliance with applicable provisions of Chapters 3704., 3714., 3734., and 6111. of the Revised Code, including all rules adopted, and any permits, registration certificates, or licenses issued thereunder, and has maintained substantial compliance with all applicable orders issued by the director or the environmental review appeals commission, or courts having jurisdiction in accordance with applicable law, in the course of such previous or current management or operations. The director may take into consideration whether substantial compliance has been maintained with any applicable order of a board of health maintaining a program on the approved list.
- (7) All proposed scrap tire storage area, including all portable containers are:
 - (a) At least one hundred feet from any buildings or structures not owned or leased by the property owner or the person requesting approval for the beneficial use.
 - (b) Not located in a regulatory floodplain.



(c) Not located within the natural areas specified in paragraph (B)(1) of rule 3745-27-62 of the Administrative Code.

(d) At least one thousand feet from the boundaries of the natural areas listed in paragraph (B)(2) of rule 3745-27-62 of the Administrative Code.

(e) At least two hundred feet from surface waters of the state, as defined in rule 3745-1-02 of the Administrative Code.

(f) At least five hundred feet from a domicile, not owned by the applicant. If the applicant is not the property owner of the beneficial use site, then at least five hundred feet from a domicile not owned by the property owner or applicant.

(g) Not located within one hundred feet of any property line.

(K) The director may deny a request for a beneficial use of scrap tires if within thirty days of receipt of notification that the project plan is incomplete, unless the applicant has done one of the following:

(1) Notified the director, in writing, that the project plan is being withdrawn.

(2) Corrected noted deficiencies and resubmitted the project plan.

(3) Submitted a written request to and obtained authorization from the director for an extension for a specific period of time.

(L) The director may revoke the approval of a project plan for a beneficial use of scrap tires if the director concludes at anytime that any applicable laws have been or are likely to be violated.