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TITLE: Foundry Sands and Voluntary Action Program (VAP) Eligibility

DATE EFFECTIVE: March 1997

KEYWORDS: Site grading plan, lead-containing historic fill materials, spent foundry sand, applicable standards, commercial land use, hazardous waste management units, construction and demolition debris.

RULES: OAC Rule 3745-400, 3745-400-01(E), 3745-400-04(B), 3745-400-05(A), 3745-300-08(B)(3), 3745-33-02.

QUESTION: Is a Resource Conservation and Recovery Act (RCRA) permit, or any other type of permit required for using lead contaminated historic fill materials within a final grading plan for a VAP property?

ANSWER: A VAP property may use lead containing historic fill materials such as foundry sands without obtaining a RCRA permit. Review of the submittal by the Division of Hazardous Waste Management may still be required and any proposed management of the lead-containing materials **other than** for use as graded fill on a VAP property would require additional evaluation to determine if a RCRA permit would be required.

If the historic fill materials contain construction debris, please be aware of OAC 3745-400, which contains regulations governing the on-site disposal of construction and demolition debris that are generated on-site. In particular, OAC Rule 3745-400-05(A) allows for construction wastes consisting of trees, brush and “clean hard fill” (defined in 3745-400-01(E) as: reinforced or non-reinforced concrete, asphalt concrete, brick, block tile & stone) to be disposed of on-site. However, OAC Rule 3745-400-04(B) requires that any demolition debris be disposed either at a licensed construction and demolition debris facility, or a licensed solid waste disposal facility. Demolition debris is defined in 3745-400 as materials resulting from destruction and construction of manmade physical structures; it does **not include** solid, infectious or hazardous wastes, or non-toxic: flyash, **foundry sand or slag**. ORC 3714.04 does provide for the Ohio EPA or an Ohio EPA approved local health department to issue an exemption to the rule, which permits the disposal of demolition wastes on-site, if the

volunteer can show that disposal of these demolition debris will not have adverse effects upon human health or the environment.

It is also important to be aware that if the construction activity at a site involves an area greater than five (5) acres, an NPDES storm water permitting per OAC 3745-33-02 or general construction storm water NPDES may be required through DSW.

EXAMPLE:

A former nineteen (19) acre industrial site contains historic fill materials which are pervasive throughout the site. The site has a long history of industrial uses and has been filled historically with materials consisting in significant part of spent foundry sand, some of which contains lead in excess of five (5) parts per million mg/L, and construction debris. The volunteer desires to enter the VAP and develop the property for commercial land use. The site has no eligibility problems with regard to the presence of hazardous waste management units at the site, which would have been created as the result of the management or disposal of RCRA-regulated hazardous waste on or after November 9, 1980.

The management of the historic fill materials on the site to achieve the applicable standards for commercial land use as specified in OAC 3745-300-08(B)(3) are addressed through voluntary action remedial activities consisting of construction of a cap for the property and the implementation of an Operations and Maintenance (O&M) plan and O&M agreement for the site. Based on the specific information provided by the volunteer and remedial activities that were conducted at the site, the volunteer was not required to obtain a RCRA permit for the voluntary action activities conducted at the site, utilizing the lead-containing historic fill materials.

SUMMARY:

A volunteer on a VAP property may use lead containing historic fill materials such as foundry sands without obtaining a RCRA permit. Disposal of construction and demolition debris is required to be addressed by DSIWM and/or an Ohio EPA approved local health department. Storm water runoff issues may also need to be addressed through DSW.

**OHIO EPA
CONTACT:**

For any questions concerning this issue, please contact the VAP central office at (614) 644-2924.