

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Republic Waste Services of Ohio, LLC	:	Director's Final
Countywide Recycling & Disposal Facility	:	Findings and Orders
3619 Gracemont Avenue, S.W.	:	
East Sparta, Ohio 44626	:	

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Republic Waste Services of Ohio, LLC (Republic) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Director) under Ohio Revised Code (ORC) Section 3734.02 and Ohio Administrative Code (OAC) Rule 3745-27-05(A)(4).

II. PARTIES

These Orders shall apply to and be binding upon Republic and successors in interest liable under Ohio law. No change in ownership of Republic shall in any way alter Republic's responsibilities 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 regulations promulgated thereunder. Unless otherwise stated, all citations of the OAC shall refer to regulations currently effective.

IV. ACTION

Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-05(A)(4), the Director hereby makes the following Findings and issues the following Orders.

V. FINDINGS

1. Republic is the owner and operator of the Countywide Recycling and Disposal Facility (Facility) located at 3619 Gracemont Street, S.W., East Sparta, Stark County.

2. On November 1, 2002, Republic submitted a request for authorization to use off-spec stone and waste concrete from Cultured Stone (a division of Owens Corning) as an alternative to aggregate in the construction of haul roads, storage areas, and parking areas on the property of the Facility.
3. ORC Section 3734.01(F) defines "disposal" in pertinent part to mean "...the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes...into or on any land or ground or surface water or into the air..."
4. ORC Section 3734.01(N) defines "facility" in pertinent part to mean "...any site location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes..."
5. The activities described in Finding No. 2, above, include placing solid waste into or on the ground or surface water, which is considered "disposal" at a "facility."
6. ORC Sections 3734.02(C) and 3734.05(A)(1) and (2) and OAC Chapters 3745-27, 3745-29, 3745-30, 3745-31, and 3745-37, require that a permit and license be obtained prior to the establishment of a solid waste facility.
7. OAC Rule 3745-27-05(A) specifies the methods of solid waste disposal which are authorized in Ohio. This rule authorizes sanitary landfilling, incineration, and composting as acceptable disposal methods. In addition, other methods of disposal may be used provided that such methods are demonstrated to the satisfaction of the Director to be capable of disposing of solid wastes without creating a nuisance or a health hazard, without causing water pollution, and without violating ORC Chapters 3704 and 3734 and any rules adopted thereunder.
8. The proposed disposal method described in the request noted in Finding No. 2, is a method other than sanitary landfilling, incineration, or composting and, therefore, requires authorization of the Director pursuant to OAC Rule 3745-27-05(A)(4).
9. Pursuant to ORC Section 3734.02(G), the Director may, by order, exempt any person generating, storing, treating, disposing of, or transporting solid wastes in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license or comply with other requirements of ORC Chapter 3734 and any rules adopted thereunder.

10. Pursuant to ORC Section 3734.57(A), the owner or operator of a solid waste disposal facility must collect and remit to the state a disposal fee for each ton of solid waste disposed at the facility.
11. Pursuant to ORC Section 3734.57(B), the solid waste management policy committee of a single or joint solid waste management district is authorized to levy a tiered disposal fee on solid wastes disposed at solid waste disposal facilities within that district. ORC Section 3734.57(B) further requires the owner or operator of the solid waste disposal facility operating in a solid waste management district where tiered disposal fees have been ratified to collect and remit to the solid waste management district the tiered fees on each ton of solid waste disposed at the facility. The Stark-Tuscarawas-Wayne Joint Solid Waste Management District has a tiered disposal fee for solid waste disposed within their district.
12. The disposal of solid wastes in accordance with Finding No. 2, can be performed without creating a nuisance or a health hazard, without causing water pollution, and without violating ORC Chapters 3704 and 3734 and any rules adopted thereunder, provided it is performed in accordance with the request and the Orders specified below.
13. Exempting Republic from the requirement to obtain a permit and a license to establish and operate a solid waste facility for the specific activities related to using manufactured stone and waste concrete in place of aggregate at the Facility, as proposed in accordance with the November 1, 2002, request, is unlikely to adversely affect the public health or safety or the environment provided it is performed in accordance with the Orders specified below.

VI. ORDERS

1. Pursuant to OAC Rule 3745-27-05(A)(4) and ORC Section 3734.02(G), Republic is hereby authorized to use manufactured stone and scrap concrete from Cultured Stone in place of aggregate, as specified in Finding No. 2, as a method of disposal and is hereby exempted from the requirement to obtain a permit and a license to establish and operate a solid waste facility pursuant to ORC Chapter 3734 and OAC Chapters 3745-27, 3745-31, and 3745-37.
2. The exemption granted in Order No. 1 shall apply only to Republic and only for those specific activities proposed in the November 1, 2002, request.
3. Republic is required to collect and remit the state disposal fee and any district tiered disposal fee, in accordance with ORC Sections 3734.57(A) and 3734.57(B), for any manufactured stone and scrap concrete used or disposed of on-site.

4. Nothing in these Orders shall be construed to authorize any activity, method, or waiver from the requirements of Chapter 3734 or the regulations promulgated thereunder, except as expressly provided herein. These Orders shall not be interpreted to release Republic from responsibility under ORC Chapters 3704, 3734, or 6111; under the Federal Clean Water Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Republic. Ohio EPA reserves all rights and privileges except as specified herein.

VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Republic for noncompliance with these Orders.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Republic to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of Republic to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Republic. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations at the Facility.

IT IS SO ORDERED:

Christopher Jones, Director
Ohio Environmental Protection Agency