

**Memorandum**

**Florida Department of  
Environmental Protection**

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TO: District Waste Program Administrators  
District Solid Waste Engineers

FROM: Richard B. Tedder, P.E. Administrator  
Solid Waste Section

Chris McGuire, Senior Assistant General Counsel  
Office of General Counsel

DATE: April 4, 2002

SUBJECT: Management of Components of Yard Trash: Dirt, Ash and Mulch  
Memo # SWM-05.6

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Several questions have arisen recently concerning the regulation of yard trash or components of yard trash. This memorandum does not set forth any new policies or interpretations of the Department, but merely attempts to consolidate other documents that have been produced on the subject.

Dirt

Land clearing debris is defined in Rule 62-701.200(62), Florida Administrative Code (F.A.C.) to include rocks and soils. Yard trash is defined in Rule 62-701.200(143), F.A.C. as vegetative matter resulting from landscaping maintenance or land clearing operations, which would generally include rocks and soils. Dirt alone, however, unless it is contaminated with solid waste or other pollutants, is not considered a solid waste. Therefore, uncontaminated dirt which is removed from yard trash (which includes land clearing debris) should not be subject to solid waste regulations. Fines and other small particles which are removed from a construction and demolition debris waste stream (typically called recovered screened materials or RSM) are not considered uncontaminated dirt for purposes of this memorandum.

Ash

Clean dry wood may be burned in air curtain incinerators or combustors, and in some cases through simple open burning. This material is defined to include only wood which is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, or other wood preservatives or treatments. The ash from the burning of clean dry wood presumably contains only those same materials which are naturally found in the wood waste. Metals in the wood may be concentrated in the ash, but we have no evidence to suggest that this concentration creates a greater environmental or public health threat than the concentration that would naturally result from the decomposition of that wood. Therefore, ash from the burning of clean dry wood should be regulated in the same manner as the clean dry wood itself. Such wood ash from the burning of yard trash may be used as a soil amendment or incorporated into mulch or compost products under the same conditions as yard trash could be used. Wood ash from the burning of agricultural

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vegetative products, including bagasse, may also be used as a soil amendment or similar product under the same conditions as the vegetation itself could be used. Wood ash from the burning of other wood products such as lumber may also be used, but only if the Department has assurances that the wood waste contained essentially no treated or painted wood. This may often mean that a person burning lumber which might have some small amount of treated or painted wood mixed in with it will have to test the ash before using it in a manner that would create exposure pathways that could lead to threats to human health or the environment.

### Mulch

Rule 62-709.320, F.A.C. currently allows a person to mulch, compost, or otherwise process yard trash and clean wood under a registration program. Products made from these materials have essentially unrestricted distribution. Such a registered facility is not allowed to process any wood which has been treated or painted. However, it is possible that facilities which are operating under other Department permits might not be specifically restricted from distributing products made with treated lumber. It is also possible that facilities which produce mulch from sources other than yard trash or waste wood are operating without any Department permit.

It is the Department's position that any treated lumber, particularly that which has been treated with chromated copper arsenate<sup>1</sup> (CCA), which is not being used for its originally intended purpose but is instead being processed and used in a manner that creates a potential threat to the environment or public health, is a solid waste. As such, mulch made from treated lumber may not be placed or deposited in or on the land or waters in this state except in a manner approved by the Department, in accordance with Section 403.708(1), Florida Statutes. Any existing permits which may be read to include any such approval should be reevaluated by District staff.

### Caveat

This guidance memorandum does not constitute policy or rule of the Department. It is intended solely as internal guidance to District permit review staff, and is not intended to create additional requirements for the regulated community or to affect the rights of substantially affected parties to any agency decision. Please do not cite any part of this memorandum as though it were a standard, rule, or requirement.

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<sup>1</sup> A separate memorandum is being developed to address the management of CCA-treated lumber.