



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

FEBRUARY 14, 2020

Bob Schanz
Barnes Nursery, Inc.
3511 Cleveland Road W
Huron, Ohio 44839

Re: Barnes Nursery, Inc.
Permit - Short Term
Approval
Beneficial Use
Erie County
BENU020372
Exemption

Subject: Barnes Nursery, Inc.
Land Application Management Plan Permit Approval and Incorporated Exemption
Excess Shingle Sand

Effective Date: **FEBRUARY 14, 2020**

Expiration Date: **FEBRUARY 14, 2025**

Dear Mr. Schanz,

Ohio EPA FEB 14 '20
Entered Directors Journal

The Ohio Environmental Protection Agency (Ohio EPA) has received and reviewed the land application management plan (LAMP) permit application submitted by Barnes Nursery, Inc. (Barnes Nursery). This LAMP permit and exemption (LAMP Permit), issued pursuant to Chapters 3734 and 6111 of the Ohio Revised Code (ORC), is for the use of Excess Shingle Sand generated by CertainTeed Corporation (CertainTeed) in Milan, Ohio, by placement on the land as an ingredient in a Soil Blend. The Soil Blend will be used as a topsoil product; as Bioretention Soils; as a component in Structural Fill; and as Fill.

CertainTeed is a roof shingle manufacturer located in Milan, Ohio. Mineral material (sand) is applied to the back of the asphalt-coated sheet. Throughout the manufacturing process, product losses, leaks, and spills of sand occur. This Excess Shingle Sand is collected and available for land application.

The Director of Ohio EPA (Director) has determined that issuing this LAMP Permit to land apply Excess Shingle Sand as part of a Soil Blend in the quantities and under the circumstances authorized in this LAMP Permit is unlikely to adversely affect public health or safety or the environment.

This LAMP Permit is issued pursuant to ORC Chapters 3734 and 6111 for the use of Excess Shingle Sand by placement on the land as an ingredient in a Soil Blend that is used as a topsoil product; as Bioretention Soils; as a component in Structural Fill; or as Fill. Pursuant to the authority of the Director under ORC Chapters 3734 and 6111, this LAMP Permit for Barnes Nursery is approved subject to all conditions below.

Further, the Director has determined that granting an exemption from the applicable solid waste provisions of ORC Chapter 3734 to use Excess Shingle Sand under the circumstances specifically authorized in this LAMP Permit is unlikely to adversely affect public health or safety

or the environment. Therefore, pursuant to ORC Section 3734.02(G), the Director hereby exempts Barnes Nursery from the applicable solid waste provisions of ORC Chapter 3734 and rules adopted thereunder specific to the land application of excess shingle sand in compliance with this LAMP Permit except as specifically stated in Condition 20.

CONDITIONS

1. As used in the LAMP Permit:

- a. "Agronomic benefit" means the promotion or enhancement of plant growth and includes but is not limited to increases in soil fertility and moisture retention.
- b. "Bioretention Soil" means soil made up of only sand, soil, and leaf compost with specific performance criteria that include high percolation rates to prevent surface ponding, large capacity to sequester pollutants as water percolates through, and supports the growth of plant populations. Bioretention Soils do not contain more than fifty percent Excess Shingle Sand by volume. Bioretention Soils are nonputrescible, have good cohesiveness, and are relatively uniform in texture. Bioretention Soils do not include soils that contain or are commingled with solid waste other than Excess Shingle Sand, construction and demolition debris, pulverized debris, sludge, slag, unfinished compost, or contaminated soil. Bioretention Soils are used specifically to prevent surface ponding, sequester pollutants from water as water percolates through, and to support the growth of plant populations.
- c. "Compost Product" means compost that meets applicable compost product quality standards as defined in Ohio Administrative Code (OAC) Chapter 3745-560.
- d. "Exceptional Quality Biosolids" means sewage sludge that meets the pathogen reduction requirements, vector attraction reduction requirements, and pollutant concentration limits specified in OAC Rule 3745-40-04.
- e. "Excess Shingle Sand" means mineral sand that leaks, spills, or otherwise falls to the floor during the roof shingle manufacturing process at the CertainTeed roof shingle manufacturing operation in Milan, Ohio. Excess Shingle Sand does not include any material that is a hazardous waste as defined by ORC Chapter 3734, OAC Rule 3745-50-10(A), or OAC Rule 3745-51-03.
- f. "Fill" means material placed on the ground in order to fill an existing depression or hole in the ground, create mounds, or otherwise artificially change the grade or elevation of the property.
- g. "Structural Fill" means material used to create a stable base that both meets the applicable engineering specifications for and is used as engineered fill, mechanically stabilized earthen walls, or granular fill.
- h. "Soil Blend" means a mixture of Excess Shingle Sand with soil, or with a combination of soil and either Compost Product or Exceptional Quality Biosolids, such that the resulting mixture does not exceed 50% Excess Shingle Sand by volume. Soil Blends neither include nor are commingled with solid

waste other than Excess Shingle Sand, construction and demolition debris, pulverized debris, sludge other than Exceptional Quality Biosolids, slag, unfinished compost, or contaminated soil. Soil Blends are nonputrescible, homogeneous, and relatively uniform in texture.

- i. “Waters of the state” has the same meaning as in section 6111.01(H) of the Revised Code.
2. This LAMP Permit authorizes the land application of Excess Shingle Sand as an ingredient in a Soil Blend only when the Excess Shingle Sand and Soil Blend are managed in accordance with this LAMP Permit. The Soil Blend may only be used as a topsoil product; as Bioretention Soil; as a component in Structural Fill; or as Fill. This LAMP Permit shall not be construed to authorize any other use of Excess Shingle Sand. All other Excess Shingle Sand land applications must be separately approved by Ohio EPA.
3. Documentation submitted to Ohio EPA by CertainTeed on October 22, 2018, including totals analysis and generator knowledge information, demonstrated the Excess Shingle Sand from the CertainTeed roof shingle manufacturing operation in Milan, Ohio is not a hazardous waste.
4. Barnes Nursery may land apply Soil Blends pursuant to this LAMP Permit only when the storage and blending of the Excess Shingle Sand and the storage and land application of the Soil Blend are conducted in accordance with the conditions of this LAMP Permit. Approval of this LAMP Permit does not constitute an assurance that storage, blending, or use of Excess Shingle Sand in accordance with the approved LAMP Permit will comply with all Ohio laws and regulations.
5. Barnes Nursery is responsible for identifying and obtaining any additional authorizations necessary to land apply a Soil Blend as described in this LAMP Permit. Except for the applicable solid waste provisions of ORC Chapter 3734 and rules adopted thereunder exempted by this LAMP Permit, issuance of this LAMP Permit to Barnes Nursery neither relieves Barnes Nursery of the duty to comply with nor authorizes Barnes Nursery to conduct activities in violation of any applicable federal, state, or local laws, ordinances, or regulations.
6. Barnes Nursery shall ensure that the Excess Shingle Sand intended for land application under this LAMP Permit is analyzed at a minimum annually in accordance with this LAMP Permit. When collecting and analyzing samples pursuant to this LAMP Permit, Barnes Nursery shall ensure the following requirements are satisfied:
 - a. The samples collected shall be representative of the Excess Shingle Sand intended for land application under this LAMP Permit;
 - b. The sample(s) are analyzed for the constituents listed in Table 1 and constituents added pursuant to Condition Number 9;
 - c. The reported detection limit for the analysis shall be below the limit specified for each constituent in Table 1 or set for constituents added pursuant to Condition Number 9; and

- d. The analytical methods employed generate reliable constituent results in units consistent with the units in Table 1 and the units of the limits set in accordance with Condition Number 9.
7. Barnes Nursery shall not make available or distribute for land application any Soil Blend that contains Excess Shingle Sand that contains constituents at levels that exceed any of the constituent concentration limits specified in Table 1 of this LAMP Permit or any constituent concentration limit for any additional constituent that Ohio EPA has identified to Barnes Nursery, in writing, as requiring testing. Analysis submitted to Ohio EPA by CertainTeed on October 22, 2018 demonstrated that no constituents in the samples analyzed exceeded the Table 1 limits.
8. If there is a substantial change in either the generation process or the raw materials used to create the Excess Shingle Sand, this LAMP Permit does not authorize Barnes Nursery to utilize the Excess Shingle Sand generated after the substantial change until it receives written concurrence from Ohio EPA in accordance with this condition. Barnes Nursery may provide to Ohio EPA the results of an analysis of representative samples of the Excess Shingle Sand generated after the substantial change that was conducted in accordance with the analysis requirements set forth in Condition Number 6. Upon receipt of written concurrence from Ohio EPA that the results submitted in accordance with this condition demonstrate that the Excess Shingle Sand generated after the substantial change does not contain constituents at levels that exceed any of the constituent concentration limits specified in Table 1 or any constituent concentration limits identified pursuant to Condition Number 9, Barnes Nursery may utilize the Excess Shingle Sand in accordance with this LAMP Permit. For the purposes of this LAMP Permit, a substantial change in the raw materials is any change that may result in higher concentrations of the constituents listed in Table 1 or constituents added pursuant to Condition Number 9.

Table 1: Constituent Limits

Constituents ¹	Totals Analysis (mg/kg)
Arsenic	41
Barium	15,000
Beryllium	160
Boron	16,000
Cadmium	39
Copper	1,500
Lead	300
Mercury	10
Manganese	1,800
Molybdenum	75
Nickel	420
Selenium	100
Thallium	0.78
Zinc	2,800

9. Ohio EPA reserves the right to add constituents to Table 1 and set limits for those newly added constituents as it deems necessary to protect human health or the environment, without modifying these Orders, by providing 30-days written notice to Barnes Nursery.
10. Ohio EPA's jurisdiction is limited to determining whether land applying the material is unlikely to harm the environment. Ohio EPA has no jurisdiction over the stability, safety, or durability of the material and is not making a determination on the appropriateness of the material for any particular use. Prior to using the material, the Permittee should check with a structural engineer or other professional, as appropriate, to determine whether the material is suitable in each specific instance it is used.
11. Barnes Nursery may land apply Excess Shingle Sand as an ingredient in a Soil Blend pursuant to this LAMP Permit only if both the Excess Shingle Sand and the Soil Blend are managed in accordance with all of the following Best Management Practices:
 - a. Minimizing the exposure of the Excess Shingle Sand and the Soil Blends to rain, snow, snowmelt, and runoff throughout the storage, blending, and staging (including loading and unloading, cleaning, and maintenance operations);
 - b. The use of grading, berming, or curbing to prevent runoff of the Excess Shingle Sand and the Soil Blends and divert run-on away from storage areas;

¹ Limits for Barium, Beryllium, Boron, Mercury, Manganese, and Thallium are US EPA Regional Screening Levels; Residential Soil. Those for Arsenic, Cadmium, Copper, Lead, Molybdenum, Nickel, Selenium, and Zinc are US EPA 40 Code of Federal Regulations Part 503 Pollutant Concentrations (Table 3 of 503.13).

- c. Providing and maintaining a 50-foot undisturbed vegetative buffer around surface waters of the state and directing storm water to vegetated areas to increase sediment removal and maximize storm water infiltration;
- d. Locating all Excess Shingle Sand and Soil Blend storage areas at least 300 feet from occupied buildings unless a reduction in this distance is approved, in writing, by the land owner and, if applicable, the resident of the occupied building;
- e. Locating all Excess Shingle Sand and Soil Blend storage areas at least 300 feet from wells and surface waters used for drinking water or watering livestock and at least 100 feet from other surface waters of the state as defined in ORC Section 6111.01(H);
- f. Unless otherwise provided in a permit issued under ORC Chapter 6111, creating surface water diversions to catch any solids in runoff and to divert runoff away from waters of the state at each site where Excess Shingle Sand or Soil Blends are stored on land;
- g. Taking measures to control fugitive dust and other air emissions that may result from activities authorized through this LAMP Permit;
- h. Not storing Excess Shingle Sand or Soil Blends in areas that are either over or within a sensitive groundwater area, including any of the following:
 - i. Karst terrain;
 - ii. A sand and gravel pit;
 - iii. A limestone or sandstone quarry;
 - iv. A drinking water source protection area with less than ten feet of low permeability clayey glacial till between the bottom of the fill material and the ground water;
 - v. An aquifer designated on an Ohio Department of Natural Resources Ground Water Resources map for the county in which the storage or blending will take place as capable of yielding one hundred gallons-per minute or more, which has less than ten feet of separation between the Excess Shingle Sand or Soil Blend and the ground water.

12. Except for storage conducted as authorized by Condition Number 11, Barnes Nursery shall obtain a permit to install and any other applicable authorization from Ohio EPA Division of Surface Water prior to storing or blending Excess Shingle Sand or Soil Blends.

RECORD KEEPING AND REPORTING CONDITIONS

13. Barnes Nursery shall maintain the following for a minimum of five years after the land application of a Soil Blend pursuant to this LAMP Permit, and shall make the records available to Ohio EPA upon request:

- a. Records of the annual volume of Excess Shingle Sand received for land application;
 - b. Records of the total annual volume of Soil Blend land applied, together with a notation indicating how much of that total volume was used for each method of land application, *i.e.*, how much was used as a topsoil product, as Bioretention Soils, as a component in Structural Fill, and as Fill;
 - c. Records of the location(s) where Excess Shingle Sand and Soil Blends were stored or blended;
 - d. All laboratory reports of all sampling results and analyses;
 - e. Documentation demonstrating that the Excess Shingle Sand is not a hazardous waste as defined by ORC Section 3734.01, OAC Rule 3745-50-10(A), and OAC Rule 3745-51-03.
14. Not later than April 1st of each year Barnes Nursery shall submit to Ohio EPA an annual report. Barnes Nursery shall send the annual report to the address listed in Condition Number 15 of this LAMP Permit, and shall include the following information for the previous calendar year:
- a. Volume of Excess Shingle Sand land applied as an ingredient in a Soil Blend under this LAMP Permit during the previous calendar year;
 - b. Volume of Excess Shingle Sand stored for land application under this LAMP Permit as of the date of the annual report; and
 - c. All results of sampling analyses of Excess Shingle Sand land applied as an ingredient in a Soil Blend under this LAMP Permit.
15. Barnes Nursery shall submit the annual report to one of the following addresses:

For mailings, use the post office box number:

Ohio Environmental Protection Agency
Division of Materials and Waste Management
Attn: Beneficial Use Unit
P.O. Box 1049
Columbus, Ohio 43216-1049

or

For deliveries to the building:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
Attn: Beneficial Use Unit
50 West Town Street
Columbus, Ohio 43215

GENERAL OPERATING CONDITIONS

16. Barnes Nursery shall not land apply a Soil Blend pursuant to this LAMP Permit in any area described in ORC Section 3734.02(M), including within the boundaries of a state park, a state park purchase area, any unit of the national park system, any property that lies within the boundaries of a national park or recreation area that is located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system.
17. Barnes Nursery shall conduct all activities authorized or required by this LAMP Permit only in a manner that neither creates a nuisance nor adversely affects public health or safety or the environment. The Director may revoke this LAMP Permit if the Director determines that a nuisance condition or a threat to human health, safety, or the environment exists. Immediately upon the effective date of any written notification from the Director of revocation of this LAMP Permit, Barnes Nursery shall cease land application under this LAMP Permit. The Director may require Barnes Nursery to remove the Excess Shingle Sand or Soil Blend, remediate the site, or to take other action as appropriate to eliminate the nuisance or threat.
18. Barnes Nursery shall conduct all activities in compliance with all federal, state, and local laws, ordinances, and regulations pertaining to environmental protection, including but not limited to the control of air pollution, leachate, and storm water run-on and run-off and protection of groundwater and surface water.
19. Excess Shingle Sand is a solid waste and would require Barnes Nursery to obtain a permit and license under ORC Chapter 3734 and the rules promulgated thereunder for disposal. The Director has determined that granting an exemption from certain applicable solid waste provisions of ORC Chapter 3734 to use Excess Shingle Sand under the conditions specifically authorized in this LAMP Permit is unlikely to adversely affect public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G), Barnes Nursery is hereby exempted from the applicable solid waste provisions of ORC Chapter 3734 and the rules adopted thereunder except as specifically stated in Condition Number 20 for Soil Blends land applied in compliance with all of the conditions of this LAMP Permit.
20. Barnes Nursery shall collect and remit all applicable solid waste management district disposal and generation fees levied under ORC Sections 3734.57(B) and 3734.573 and any applicable host community fee levied under ORC Section 3734.57(C).
21. Nothing in this LAMP Permit shall be construed as a waiver from the requirements of ORC Chapter 3734 or the regulations promulgated thereunder, except as expressly provided herein. This LAMP Permit shall not be interpreted to release Barnes Nursery from responsibility under ORC Chapters 3704, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery 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.
22. Barnes Nursery shall not cause pollution or place or cause to be placed any Excess Shingle Sand where it causes pollution to any waters of the state, except in accordance with an effective National Pollutant Discharge Elimination System permit. Any unauthorized discharge to waters of the state shall be reported to Ohio EPA within 24 hours of discovery.

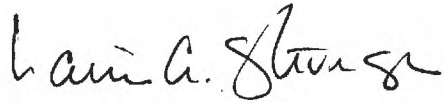
23. Barnes Nursery shall provide written notice to Ohio EPA within seven days of discovering noncompliance with this LAMP Permit.
24. The Director may add, delete, or change any conditions of this LAMP Permit to protect human health or safety or the environment.
25. Barnes Nursery shall furnish to the Director, or an authorized representative of Ohio EPA, within 30 days of receiving a written request, any information that the Director or an authorized representative of Ohio EPA requests to determine compliance with this LAMP Permit.
26. This LAMP Permit and the authorization to land apply Excess Shingle Sand as an ingredient in a Soil Blend shall expire at midnight on the expiration date shown above. In order to receive authorization to land apply Excess Shingle Sand under this LAMP Permit beyond the above date of expiration, Barnes Nursery shall submit such information and forms as are required by Ohio EPA not later than 180 days prior to the above date of expiration.
27. Barnes Nursery shall allow any authorized representative of Ohio EPA to enter upon any property where Barnes Nursery stores or blends Excess Shingle Sand, stores or land applies a Soil Blend, conducts other activities under this LAMP Permit, or retains records pursuant to this LAMP Permit, for any of the following purposes:
 - a. To inspect and copy records that must be kept pursuant to this LAMP Permit.
 - b. To collect samples; perform monitoring; take photographs; perform measurements, surveys, and other tests; and inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by this LAMP Permit.
 - c. For all other purposes for which Ohio EPA has rights of access or inspection authority under applicable law.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
30 East Broad Street, 4th Floor
Columbus, Ohio 43215

Questions concerning this LAMP Permit should be directed to Ohio EPA's Beneficial Use Unit at (614) 644-2621.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie A. Stevenson". The signature is written in a cursive, flowing style.

Laurie A. Stevenson
Director

LS/PC