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Ohio Hazardous Waste Notifier

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DHWM Finalizes Ecological Risk Assessment Guidance

Ohio EPA, Division of Hazardous Waste Management (DHWM) finalized its *Guidance for Conducting RCRA Ecological Risk Assessments* on March 28, 2003. The document was developed in response to an identified need for state-specific guidance for an acceptable method for conducting Resource Conservation and Recovery Act (RCRA) ecological risk assessments.

Ecological risk assessments are performed to demonstrate compliance with the "Closure performance standard" in Ohio Administrative Code (OAC) rules 3745-55-11 and 3745-66-11, which states that "the owner or operator shall close his facility in a manner that: (A) minimizes the need for further maintenance; and (B) controls, minimizes, or eliminates, to the extent necessary to protect human health and *the environment* [Emphasis added]..." Additionally, federal rulemaking noted that "some form o[f] ecological risk assessment will generally be necessary at all corrective action facilities... ." ("Advanced Notice of Proposed Rulemaking" (61 Federal Register 19432, May 1, 1996)). Thus, DHWM's guidance can be applied to both RCRA closures and corrective actions.

The guidance uses a four-tiered decision-making process to assess the ecological risk at a site. The tiers are categorized as a scoping level, a screening level, a baseline risk assessment and a field baseline assessment. This approach uses concepts from various U.S. EPA ecological risk assessment guidance documents, but is more streamlined than U.S. EPA's approach. Additionally, Scientific Management Decision Points (SMDPs) occur throughout the process in DHWM's *Guidance for Conducting RCRA Ecological Risk Assessments*. SMDPs allow a facility to exit the risk assessment process when the facility has demonstrated that the site meets appropriate risk levels or when the facility has chosen to remediate the contamination down to the appropriate risk levels.

The scoping level is designed to utilize available information to determine if a thorough ecological investigation should be performed at the site. A scoping level assessment should be performed for all closures and corrective actions. The purpose of this level is to answer two questions: "do important ecological resources exist at or in the locality of the site," and "has there been a release or suspected release of ecological stressors?" If either factor is absent, the ecological assessment terminates. If both factors are present or potentially present, the investigation moves to the next tier.

The screening level begins with a site characterization. This is used to determine the full nature and extent of contamination. Following sampling, the detected concentrations are compared against background values and toxicity-based screening values to determine if further investigation is warranted. Impacted surface water bodies are evaluated using the chemical and biological criteria specified in OAC rule 3745-1. Constituents that exceed toxicity-based screening values and background concentrations, are not in full attainment of the aquatic life habitat use designation, or are persistent, bioaccumulative and toxic (PBT) compounds are carried forward to the third tier if a remedial alternative is not pursued.

The baseline risk assessment follows typical risk assessment methodologies to quantitatively evaluate the potential for ecological risk at the site. This level utilizes generic receptor species to represent different guilds of ecological receptors (e.g. the mallard duck is used to represent the guild of aquatic avian herbivore). This tier also evaluates the potential risk to identified threatened and endangered species present or potentially present at the site.

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AA, BB, CC

There is a major set of hazardous waste rules that Ohio EPA has not yet adopted that you may be required to comply with under the federal hazardous waste program.

The rules are the organic air emission standards for process vents, equipment leaks and tanks, surface impoundments and containers. These rules are often referred to as "AA, BB, CC" due to their location in the federal hazardous waste rules (40 CFR part 254 subparts AA, BB and CC, and 40 CFR part 265 subparts AA, BB and CC).

Under the standards of AA, BB, CC, large quantity generators (LQGs) and owner/operators of treatment storage and disposal facilities (TSDs) need to monitor and control the release of air emissions from volatile organic hazardous wastes. These requirements do not apply to small quantity generators (SQGs) or conditionally exempt small quantity generators (CESQGs).

Subpart AA: Process Unit Vents

These standards apply to process vents on units (including recycling units) used to manage hazardous waste that has an annual average total organic concentration of 10 parts per million by weight (ppmw) or greater. The requirements include: identification of affected vents, emission rate determination, installation of emission control equipment (if applicable), documentation, recordkeeping and monitoring.

Specifically included are process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, air/steam stripping operations and condensors.

Subpart BB: Equipment Leaks

These standards apply to air emissions due to volatile organic leaks from valves, pumps, compressors, pressure relief devices, sampling connection systems and open ended valves or lines on units used to manage hazardous waste. If you manage hazardous waste that contains an organic concentration of at least 10 percent by weight, then the BB standards apply to you. In short, the requirements you will need to comply with include: identifying affected equipment, performing monthly inspections and developing a monitoring and recordkeeping system. Also, leaks found in systems must be repaired promptly.

Subpart CC: Tanks, Surface Impoundments and Containers

These standards impact a large number of TSD facilities and LQGs who generate or manage organic hazardous wastes. If the hazardous waste contains greater than 500 ppmw volatile organics, then the CC standards apply to the management of that waste in containers, tanks and surface impoundments.

You will need to control the volatile organic air emissions from containers, surface impoundments and tanks by using either engineering controls, vapor collection systems and/or management approaches or a combination of these. Also, you must comply with monitoring, inspection, record keeping and documentation requirements.

For additional information regarding AA, BB, CC standards, please contact Pam Blakley of U.S. EPA's Region 5 at (312) 886-4447.

Risk Assessment Guidance

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If an unacceptable risk level is calculated in the baseline risk assessment, a facility can choose to remediate the contamination or continue with a field demonstration of the calculated risk. Field studies are used to verify or refute the unacceptable risk level calculated in the baseline risk assessment. If the field baseline demonstrates that stressors have caused adverse ecological effects, then remediation is performed.

For additional information about Ohio EPA DHWM's *Guidance for Conducting RCRA Ecological Risk Assessments*, or to download a copy, please visit: *http://www.epa.state.oh.us/dhwm/ecorisk.html.*

Ask the Inspector:

Q. Can I Use Used Oil as a Dust Suppressant on Roads or Driveways?

A. On October 20, 1998, new rules became effective that prohibit the use of used oil as a dust suppressant (see Ohio Administrative Code (OAC) rule 3745-279-12 (B)). Since this prohibition became effective, Ohio EPA, Division of Hazardous Waste Management has received numerous complaints from concerned citizens and businesses regarding continued use of used oil as a dust suppressant, as well as, inquiries regarding the use of alternative dust suppressants. Ohio EPA wants you to be aware that some materials cannot be used as a dust suppressant. A few examples of prohibited dust suppressants include: used oil, dust suppressants which contain used oil, hazardous wastes or material contaminated with hazardous waste and/or dioxin. Businesses that are not familiar with Ohio's hazardous waste and used oil rules run the risk of selecting a prohibited dust suppressant.

Used oil that is not managed safely can pose a threat to humans and the environment. Improperly disposing of used oil (i.e., using used oil as a dust suppressant) can also lead to contamination of drinking water, surface water, ground water, and soils. Due to this risk of contamination, coupled with the possible liability that may incur for causing the application of prohibited dust suppressants, Ohio EPA cautions you to use care when selecting a dust suppressant.

As a helpful guide, Ohio EPA suggests you ask your dust suppressant supplier the following questions prior to selecting a dust suppressant:

1) Is this dust suppressant a used oil?

2) Is this dust suppressant produced from used oil or does it have a component of used oil in it?

3) Would this dust suppressant normally be considered a waste or be produced from a waste?

4) Could this dust suppressant be considered a hazardous waste or have hazardous waste components in it?

5) How is the dust suppressant produced?

6) Have you ever asked Ohio EPA if your dust suppressant is prohibited from use as a dust suppressant?

If your dust suppressant supplier cannot answer these types of questions, ask the supplier to contact the dust suppressant producer for the answers to your questions.

In addition to those questions, you should also use caution in selecting a dust suppressant when you find the following information during your research:

1) The supplier claims its product is Ohio EPA approved. Ohio EPA does not approve any products for dust suppression use;

2) If the price for the dust suppressant is nearly the same as used oil (normally permissible dust suppressant alternatives are more expensive);

3) The supplier/producer of the dust suppressant is unwilling to give out information regarding the material; and

4) The producer of the dust suppressant sells only to very localized markets.

Finally, remember you may be subject to enforcement action and costs associated with cleanup if it is discovered that your business has applied used oil or hazardous waste as a dust suppressant.

For a list of alternative dust suppressant suppliers, see *http://www.epa.state.oh.us/dhwm/pdf/DustSuppressantSuppliers.pdf*.

If you have any further questions regarding the regulatory prohibition on the use of used oil as a dust suppressant, please contact the Division of Hazardous Waste Management at one of Ohio EPA's district offices.

Central District Office
(614) 728-3778
Northeast District Office
(330) 963-1200
Northwest District Office
(419) 352-8461
Southeast District Office
(740) 385-8501
Southwest District Office
(937) 285-6357

Q. May I throw fluorescent lamps in the dumpster?

A. As with any waste, fluorescent lamps must first be evaluated to determine if they are a hazardous waste. Fluorescent lamps that do not meet the definition of a hazardous waste may be discarded with the regular garbage. To determine if your lamps are a hazardous waste, you must use process knowledge and/or analytical test results. Ohio Administrative Code (OAC) rule 3745-51-24 lists the constituents of concern and the levels at which fluorescent lamps are considered hazardous waste.

Fluorescent lamps that are considered to be hazardous waste cannot be disposed of in solid waste

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landfills. Businesses that generate hazardous waste fluorescent lamps have the option of recycling or ensuring proper disposal at a permitted hazardous waste disposal facility. Note: In Ohio, hazardous waste lamps (including hazardous fluorescent lamps) will be managed under the Universal Waste Rule (UWR) within the next year. The UWR requirements can be found in OAC Chapter 3745-273. For information on how this will alter the current fluorescent lamp management requirements, please see the related article included in this *Notifier* issue.

Q. We need to repair a leak in the wall of our product storage tank. Before repairs can begin, we must clean the tank. We will move the product to another tank and then clean the tank by rinsing it several times. The tank will be returned to service as a product tank once the repairs are complete. Since the product is designated a U-code listed hazardous waste when disposed, will all of the wash residues generated from the tank cleanout be listed hazardous waste?

A. The hazardous waste U-code listing for the discarded product will apply to all wash residues and rinsate that contain detectable amounts of the product. Under the hazardous waste rules, there is no regulatory minimum constituent concentration level at which a listed hazardous waste mixture is no longer defined as the listed hazardous waste unless the generator is granted a delisting by U.S. EPA for the waste mixture according to 40 CFR 260.22.

The listed wash residues will need to be stored, transported, treated and disposed of according to the hazardous waste rules. If you decide to discharge the residues to your on-site wastewater treatment system, please be aware that this activity needs to be in accordance with the Clean Water Act requirements and that the residues (e.g., wastewater treatment sludges) generated will also carry the hazardous waste listing of the discarded product.

Note: The above approach does not necessarily apply to the closure of a hazardous waste storage tank.

Who Can Answer My Questions About Hazardous Waste Management?

Where Can I Go For Help?

The salesman offered you a recycling service that makes the hazardous waste you are sending for treatment exempt from the hazardous waste rules. Are you wondering if the salesman is giving you accurate information? *We're* here to help you with the answer.

You want to get rid of a bunch of old computers at your office. You've heard that old computers are hazardous because they contain lead and you want to know how to properly handle them. You don't know anything about computers and wonder if there is anyone who can come to your monthly lunch meeting and give your association the lowdown on the subject. *We're* here to help you by providing a presentation on that very subject...or on any other hazardous waste subject.

So, who is this "we" we're talking about? *We* are the Regulatory Services Unit within Ohio EPA, Division of Hazardous Waste Management. You might remember us as the Technical Support Unit. We are ready at our phones and computers to answer your phone calls and e-mails about Ohio's hazardous waste regulations. We can tell you how to determine if your waste is exempt from regulation. We can show you the applicable regulations for the management of your waste. We're available to customize a presentation addressing the **hazardous waste issues** of importance to you - for your company, your customers, your association or trade group meeting or for your government entity. To request a presentation, contact Jeff Mayhugh at (614) 644-2917 or *jeff.mayhugh@ epa.state.oh.us*. We also develop fact sheets, guidance and policy documents regarding subjects that are the source of frequent questions.

If we can't answer your question, chances are we know who can and we'll provide you with the proper contacts.

If you need help with any of these services, please give us a call at (614) 644-2917 or e-mail *jeff.mayhugh@epa.state.oh.us*.

How will the Universal Waste Rule (UWR) Change the Way I Manage My Hazardous Waste Lamps?

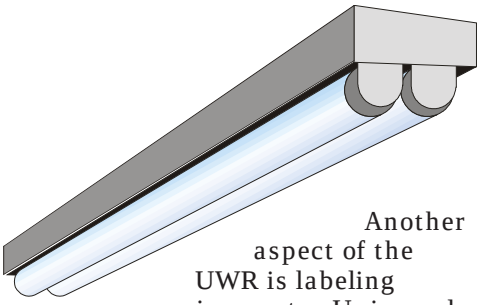
Currently, Ohio EPA considers lamps that do not meet the definition of a hazardous waste to be solid waste and used lamps meeting the definition of hazardous waste are considered to be by-products exhibiting a characteristic of hazardous waste (otherwise known as: characteristic by-products). When recycled by being reclaimed, characteristic by-products are not waste and thus not subject to hazardous waste regulations. When disposed, characteristic by-products become subject to all applicable hazardous waste regulations.

In early 2004, hazardous waste lamps (waste lamps that are hazardous due to exhibiting one or more of the characteristics of hazardous waste) will be added to Ohio's Universal Waste Rule (UWR) found in Ohio Administrative Code (OAC) Chapter 3745-273. "Lamps" are the bulb or tube portion of an electric lighting device and examples can include; fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium and metal halide lamps. Under the UWR, hazardous waste lamps being discarded will no longer be categorized as characteristic by-products, they will be considered "spent materials" (see OAC rule 3745-51-02) and would remain hazardous wastes when recycled. However, managing fluorescent lamps under the UWR will ease certain regulatory requirements otherwise imposed on generators of spent materials. The following information briefly describes how to manage your fluorescent lamps under the UWR.

Facilities handling universal waste (UW) can fall under three categories; small quantity handler (accumulates less than 5,000 kilograms of UW at any time), large quantity handler (accumulates over 5,000 kilograms of UW at any time), and destination facilities (facilities who recycle, conduct treatment, or dispose of UW). Small and large quantity handlers ***are not*** required to have a hazardous waste installation and operation permit. Destination facilities ***are*** required to have this permit. A Conditionally Exempt Small Quantity Generator (CESQG) (generates ≤ 100 kg of hazardous waste per month) has the option of handling its UW under the UWR or under the CESQG requirements found in OAC rule 3745-51-05. CESQGs must still ensure delivery of their hazardous waste to a permitted facility.

Note: UW should not be counted when making quantity determinations for hazardous waste generator categories (i.e., Small Quantity Generators (SQGs), Large Quantity Generators (LQGs)).

Crushing fluorescent lamps is prohibited under the UWR *except* at permitted destination facilities. Fluorescent lamps must be packaged to minimize breakage and the packaging must be designed to contain potential releases due to breakage during storage and transportation. Some examples of acceptable packaging include double or triple-ply cardboard containers with closed lids or the packaging in which new replacement lamps are shipped from the manufacturer. In the event of a broken, damaged, or leaking fluorescent lamp, Ohio EPA will allow these broken lamps to be sent to permitted recycling facilities. Acceptable storage of these broken lamps would include a 55-gallon steel drum or a closed wax fiberboard drum.



Another aspect of the UWR is labeling requirements. Universal waste fluorescent lamps must be labeled or clearly marked with the words "Universal Waste Fluorescent Lamps." Additionally, each container or outer container must be labeled with the date the fluorescent lamps became a waste; the date when it was received from another handler; or some other method that identifies when the waste was received or generated. The containers should never be labeled "Hazardous Waste." Both small and large quantity handlers of UW may accumulate their fluorescent lamps on-site for up to one year. If greater than one year accumulation is required, the handler must prove that the accumulation is necessary to facilitate proper recovery, treatment, or disposal.

All universal waste handlers must ensure delivery of their hazardous waste fluorescent lamps to another UW handler or a permitted destination facility as defined in OAC rule 3745-273-06(B). UW transporters are not required to obtain a hazardous waste identification number but all applicable DOT regulations must be followed. In most cases, this means facilities can continue to use their current transporters.

For information on the proposed rule changes, go to: *http://www.epa.state.oh.us/dhwm/IPDR/subject%20page.htm.*

Cessation of Regulated Operations

Abandoned industrial sites often become attractive playgrounds for children and shelter for vagrants. Unfortunately, sometimes previous operators and owners of these abandoned facilities may have left behind harmful chemicals that they stored, used or treated as part of their operation. If someone releases these harmful chemicals into the environment, they may cause an imminent or substantial threat to public health or the environment. In addition, a release of dangerous chemicals could hinder future development because the site may need to be cleaned to meet appropriate standards before an occupant may utilize it. Environmental contamination could lead to a long and expensive cleanup.

In 1996, Ohio passed a law to address certain businesses in the state that close, sell or move to ensure that a facility is free from hazardous substances before the business vacates the property. This law, codified in Ohio Revised Code Chapter 3752 and Ohio Administrative Code Chapter 3745-352, created the Cessation of Regulated Operations (CRO) program. Cessation of regulated operations means the discontinuation or termination of regulated operations or the finalizing of any transaction or proceeding through which those operations are discontinued. Ohio EPA's Division of Hazardous Waste Management administers the CRO program.

Ohio's CRO law applies to businesses required to file a chemical inventory report under the Emergency Planning and Community Right-to-Know Act (EPCRA). Public utilities, oil/gas production operations, and underground storage tanks regulated by the State Fire Marshal's Bureau of Underground Storage Tank Regulation (BUSTR) are exempted from the CRO program. Many facilities that generate, treat, store or dispose of hazardous waste may be subject to CRO when they cease regulated operations.

The CRO law defines regulated operations as the production, use, storage, or other handling of regulated substances.

If an operator fails to comply with the CRO requirements, a fiduciary that has not exercised actual and direct control over the use, generation, transportation, treatment, storage, or disposal of regulated substances at the facility may be responsible for complying with certain requirements. If the owner has abandoned the facility, the first mortgage holder may have legal requirements. In addition, an indentured trustee for debt securities or a receiver appointed by the court may be required to perform certain activities under the CRO program if an owner or operator fails to comply. In general, these types of entities will need to submit a notice to Ohio EPA, the local emergency planning committee (LEPC) and local fire department. These entities will need to secure the facility until certain activities occur, such as they no longer hold an interest in the property or all regulated substances have been removed.

For further information, please see Ohio EPA's CRO Compliance Manual at *http://www.epa.state.oh.us/dhwm/cro/CRO_Manual.pdf* or call Ralph McGinnis at (614) 644-3065 or e-mail him at: *ralph.mcginnis@epa.state.oh.us*.

Environmental Consulting Firms: What are my liabilities?

A consultant managing hazardous waste in Ohio must manage it in accordance with Ohio's hazardous waste laws. Consultants working under contract to another company are also obligated to comply with all applicable environmental regulations. For example, Ohio law prohibits the establishment of hazardous waste treatment, storage or disposal facility without a permit. Additionally, Ohio law prohibits any person from transporting hazardous waste or causing hazardous waste to be transported to a facility not operating under a hazardous waste permit.

In the case where a consultant has unlawfully treated, stored or disposed of hazardous waste, they are considered to be the operator of a hazardous waste facility. Furthermore, a consultant can be considered to be a generator or co-generator of hazardous waste in some circumstances and thus be equally responsible for the proper management under the regulations for hazardous waste generators (Ohio Administrative Code (OAC) Chapter 3745-52).

In cases where consultants have mismanaged wastes or have otherwise failed to comply with the hazardous waste laws, Ohio EPA will take the appropriate measures. These measures may include escalated enforcement against the consultant and/or the facility to ensure satisfaction of regulatory obligations at those sites. The escalated enforcement action may also require the consultant to pay a civil penalty settlement. A consultant's failure to comply with the hazardous waste laws and regulations raises serious concerns with Ohio EPA in regard to the consultant's commitment to complying with its environmental regulatory obligations.

Ohio EPA recognizes that these scenarios are not the norm and appreciates that most environmental consulting firms are committed to managing their environmental affairs in a professional and responsible manner. If you have questions regarding regulatory interpretations or for more information please contact DHWM's Regulatory Services Unit at (614) 644-2917.

Land Disposal Restrictions

(A very brief overview)

A common hazardous waste management practice is to dispose of hazardous waste in land-based units; however, the disposal of hazardous waste in land-based units has the potential to threaten human health and the environment through ground water contamination. As a result, in 1984, Congress added the Hazardous and Solid Waste Amendments (HWSA) to strengthen the Resource Conservation and Recovery Act (RCRA). HWSA provided the basic framework for the Land Disposal Restrictions (LDR) by requiring U.S. EPA to evaluate all listed and characteristic hazardous wastes to determine which wastes should be restricted from land disposal. Today, most hazardous wastes must be treated to meet waste-specific standards prior to disposal in permitted hazardous waste landfills or surface impoundments.

The LDR program requires treatment to meet specific standards for hazardous waste destined for land disposal. Treatment standards are based on the performance of available technologies that best minimize the mobility or toxicity of the hazardous constituents. These treatment standards ensure hazardous waste is properly treated to destroy, immobilize, or reduce the toxicity of hazardous chemical components before disposal, thereby providing environmental protection.

The LDR program's three major components address hazardous waste disposal, hazardous waste dilution and hazardous waste storage. These prohibitions restrict how hazardous wastes subject to the LDR requirements are managed.

Disposal Prohibition

The disposal prohibition is the most fundamental aspect of the LDR program. It addresses treatment standards, variances, alternative treatment standards and notification requirements. The disposal prohibition states that before a hazardous waste can be land disposed, the generator must meet the treatment standards specific to that hazardous waste.

Dilution Prohibition

When a hazardous waste's treatment standard is expressed as a numeric concentration level, it is often easier and less expensive to dilute the hazardous waste in water or soil in order to reduce the concentration of the hazardous constituents. This type of activity does not reduce the toxic chemicals that could be released to the environment, and is inconsistent with the LDR program. The dilution prohibition ensures that your hazardous wastes are properly treated and not simply diluted in concentration by adding large amounts of water, soil, or non-hazardous waste to achieve compliance with the regulations.

Storage Prohibition

Prior to treatment, a hazardous waste is usually stored in containers, tanks, or containment buildings. These storage units are not intended for the long-term management of waste and therefore are not required to provide the same level of protective measures. To prevent indefinite storage and potential environmental hazards, the storage prohibition was initiated.

LDRs apply at the point of generation. A generator must determine whether waste is a listed and/or a characteristic hazardous waste and determine what LDR requirements apply from the list in Ohio Administrative Code (OAC) rule 3745-270-40. Generators of characteristic hazardous waste must determine the underlying hazardous constituents [see OAC rule 3745-270-09(A)].

OAC rule 3745-270-02(A)(9) defines underlying hazardous constituents as any constituent listed in the "Universal Treatment Standard" table in OAC rule 3745-270-48. Although these constituents are not what cause the waste to exhibit a characteristic, they can pose environmental hazards nonetheless. The underlying hazardous constituents must be treated in order to meet the contaminant-specific levels referred to as the universal treatment standards (UTS).

Before a hazardous waste can be land disposed, it must meet specific treatment standards. Treatment standards, located in the "Treatment Standards for Hazardous Waste" table in OAC rule 3745-270-40, are arranged by hazardous waste code. Concentration-based treatment standards appear in the table as numeric values. Treatment standards that require the use of a specific technology are expressed as a five-letter code. These specified technologies are described in OAC rule 3745-270-42.

While the LDR program generally applies to all persons who generate, transport, treat, store and dispose of restricted hazardous wastes, there are exclusions from the LDR requirements [see OAC

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Land Disposal Restrictions
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rule 3745-270-01(E)]. The following hazardous wastes are not subject to the LDR program:

• wastes generated by Conditionally Exempt Small Quantity Generators (CESQGs);

• waste pesticides and pesticide container residues disposed of by farmers on their own land;

• wastes identified or listed as hazardous for which Ohio EPA has yet to promulgate land disposal prohibitions or treatment standards; and

• de minimis losses of characteristic wastes to wastewaters.

Generators that send their hazardous waste off-site for treatment must send a one time notification with the initial shipment of their hazardous waste to the TSD facility. The required notification information is listed in table 1, column A, of OAC rule 3745-270-07. As long as the hazardous waste and TSD do not change, no further notification is required. If a generator is treating their hazardous waste to meet the LDR requirements, they must develop and follow a waste analysis plan (WAP).

The WAP must be kept on-site and include all information necessary to treat the hazardous waste.

Treatment facilities must send similar notifications along with the shipment of treated wastes to disposal facilities and must test their hazardous wastes in accordance with their WAP [see table 2 in OAC rule 3745-270-07(B)]. A certification normally accompanies the notification indicating the their hazardous waste meets treatment standards and may be land disposed.

For more information on the LDR program, treatment standards or technologies, please contact the Regulatory Services Unit of Ohio EPA, Division of Hazardous Waste Management at (614) 644-2917.

Ohio EPA Pollution Prevention Supplemental Environmental Project Update

As of March 4, 2003, Ohio EPA has completed 111 pollution prevention (P2) Supplemental Environmental Projects (SEPs) in Ohio EPA enforcement settlements since 1991. SEPs are environmentally beneficial projects that a company agrees to undertake when settling an enforcement action. P2 SEPs generally require a company to reduce waste generation beyond what is required by law, and require a P2 assessment or project in exchange for a penalty reduction. P2 SEPs make Ohio's environmental enforcement more effective and help achieve greater environmental gain.

Of the 111 P2 SEPs completed, 47 are from the hazardous waste program, 41 from air pollution, 12 from surface water and 11 from other environmental programs (drinking water, toxic release inventory, etc.). During federal fiscal year 2002, Ohio EPA incorporated 15 P2 SEPs into Agency enforcement settlements. This includes six in the air pollution program, five from hazardous waste, three from surface water and one from the toxic release inventory program.

Some examples of P2 SEP activity include: a door and glass manufacturer agreed to complete a pollution prevention study to identify source reduction and recycling opportunities in lieu of paying $15,000 towards the penalty for an air violation; a musical instruments manufacturer eliminated the use of trichloroethylene as a cleaning agent as part of a Toxic Release Inventory settlement; and an electroplater agreed to install conductivity controls and complete other activities to reduce wastes from the plating line in lieu of paying a $13,100 penalty as part of a hazardous waste settlement.

The Office of Pollution Prevention (OPP) works with Ohio EPA divisions and the Ohio Attorney General's Office (AGO) to incorporate P2 SEPs into current and upcoming settlement negotiations. OPP recently updated its Web site for P2 SEP information. The P2 SEP Web site includes guidance and case studies to facilitate Agency SEP use. OPP works with Agency enforcement staff to identify cases where P2 SEPs are appropriate, develop language for orders, provide technical information and attend settlement meetings.

OPP regularly reviews reports from companies or organizations that are performing P2 SEPs and makes recommendations to them directly or through the responsible divisions. OPP also maintains a database to track Agency P2 SEP use and results and develops case studies that document the successful incorporation of P2 SEPs into enforcement settlements. The case studies are used to encourage the use of P2 SEPs within the Agency and as examples of successful P2 projects for the business community.

Ohio EPA is committed to increasing the use of P2 SEPs in enforcement settlements which benefit the environment, the violating company and the Agency.

For more information regarding P2 SEPs, please contact Ohio EPA, OPP at (614) 644-3469, use the Office's Web mail at p2mail@epa.state.oh.us or visit the Office's Web site at *www.epa.state.oh.us/opp.*

Written by Mike Kelley, Chief, Office of Pollution Prevention

Public Participation

Ohio law requires that Ohio EPA adopt hazardous waste rules that are equivalent to the federal hazardous waste rules unless otherwise specified by Ohio law. As a result, there are very few Ohio hazardous wastes rules that do not have a direct federal counterpart regulation.

Ohio EPA's Division of Hazardous Waste Management (DHWM) posts summaries of proposed federal rules on our Web site at: *http://www.epa.state.oh.us/dhwm/fedregs.html* to assist you in understanding proposed Federal hazardous waste rules, or for a general overview of proposed rules. Ohio EPA regularly submits comments to U.S. EPA regarding proposed rules. If we've submitted comments to U.S. EPA, you can review them through the Web site link.

If you want to make a difference in Ohio EPA's hazardous waste rules, we encourage you to participate in the hazardous waste rulemaking process at the federal level.

DHWM will not comment on your behalf. You may comment on your own directly to U.S. EPA, or, if you belong to a trade association, you may want to comment through them. Many associations compile comments from members and submit them to U.S. EPA on behalf of that commercial or industrial sector.

How do I Find Out What Rule Changes U.S. EPA is Working On?

To learn about the hazardous waste rules U.S. EPA is developing or planning to change, you can review the Unified Agenda (also known as the Regulatory Agenda). The Unified Agenda is a comprehensive report that describes all the regulations each federal agency is working on. This report is published twice a year in the *Federal Register* and is available online at *http://www.epa.gov/fedrgstr/unified.htm.*

Also, U.S. EPA has a listserv for each of its regulatory programs. Whenever U.S. EPA publishes a notice in the *Federal Register* regarding the specific regulatory program, an e-mail notice is sent to the persons on that listserv. The *Federal Register* is the official daily publication for rules, proposed rules, and notices of all federal agencies and organizations, as well as executive orders and other presidential documents. You can subscribe to U.S. EPA's listserv at *http://www.epa.gov/fedrgstr/.*

DHWM also has an electronic news service that will notify you of proposed and final hazardous waste rules published by U.S. EPA. You can subscribe to our service at *http://www.epa.state.oh.us/dhwm/listserv.html.*

What Should I Consider as I Prepare My Comments to U.S. EPA?

You may find the following suggestions, taken directly from U.S. EPA guidance, helpful for preparing your comments.

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by U.S. EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and *Federal Register* citation related to your comments.

How do I Submit My Comments to U. S. EPA?

You can submit your comments to U.S. EPA either in person, by mail or electronically using E-docket.The E-docket can be found online at *http://www.epa.gov/edocket.* You can also use E-docket to view public comments submitted by others.

Each *Federal Register* notice will clearly explain the specifics of how and when to submit comments. Also given in the *Federal Register* notice are the special procedures you need to follow if you submit confidential business information as part of or in support of your comments.

Want to Give it a Try?

This summer, U.S. EPA will be proposing new hazardous waste rules regarding the regulation of solvent-contaminated rags and wipers. Many different types of industries and businesses can be affected by this rule. So sign up for the *Federal Register* listserv, DHWM's listserv, or visit DHWM's Web page for the rule's proposal, give it a read and let U.S. EPA know what you think by commenting on the rule.

Ohio Hazardous Waste

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