

Ohio Hazardous Waste

# Notifier

A Publication of Ohio EPA, Division of Hazardous Waste Management

## Acetylene Cylinder Determination Superseded

Ohio EPA will now consider spent acetylene cylinders to be empty containers if they are at or near atmospheric pressure. The Winter 2001 Notifier contained an article titled, "Acetylene Cylinder Management and Disposal," (<http://www.epa.state.oh.us/dhwm/pdf/winter2001notifier.pdf>) which addressed the subject of acetone remaining in acetylene cylinders. The Winter 2001 article, the October 3, 2000, Ohio EPA letter that the article addressed, and the June 1, 2001, follow-up letter to Cylinder Processors, Inc. (CPI) have been superseded by a letter from Ohio EPA, Division of Hazardous Waste Management (DHWM) to the Compressed Gas Association, Inc. (CGA), dated March 6, 2002. In this letter, DHWM conveyed U.S. EPA's conclusions on acetylene cylinders and asked CGA to disregard the conclusions DHWM presented in our June 1, 2001, and October 3, 2000, letters to CPI.

As a result of conversations with the CGA, Ohio EPA asked U.S. EPA headquarters for its interpretation. U.S. EPA stood by the determination made in a document entitled "Hotline Question and Answer with Matt Straus." This document was not previously available to Ohio EPA. In that document, U.S. EPA concluded that the entire cylinder, including the filler and acetone residue, is a solid waste when the user decides it is not fit for further use. The document

states that no listings apply to the cylinder. Furthermore, if the cylinder exhibits a characteristic of hazardous waste, the empty container regulations of 40 CFR part 261.7 (Ohio Administrative Code rule 3745-51-07) govern when the cylinder is empty. Under this rule, the cylinder is empty when the pressure in it approaches atmospheric pressure. The empty container rule provides that any hazardous waste remaining in an empty container is not subject to regulation as a hazardous waste.

Despite DHWM's new determination, we believe that recovery of acetone and recycling of steel cylinders will conserve valuable resources. We are aware of two companies that provide acetone recovery services. In addition, there is a considerable amount of steel in the cylinder that can be recycled.

In our discussions with the CGA, no information has been provided that demonstrates that the acetone contained in the cylinder will not be released to the environment after disposal. Therefore, we still believe that the acetone remaining in the cylinder may be released from the cylinder when it is disposed. Such a release may pose a threat to human health and the environment. We also believe that there is a potential for harm to anyone who improperly manages scrap acetylene cylinders before they have been properly emptied of acetone.

If you have questions regarding acetylene cylinder management or disposal, please contact Rose Connelly or Jeff Mayhugh at (614) 644-2917.



## Batteries, Batteries, Batteries!



If it's rechargeable, it's recyclable. That's the simple message of the Rechargeable Battery Recycling Corporation (RBRC). RBRC is a non-profit public service organization that operates the "Charge Up to Recycle" program in the United States and Canada. Its mission is to conserve the environment and preserve natural resources by diverting small rechargeable batteries for recycling from our nation's solid waste stream.

Types of rechargeable batteries they now can handle include: nickel metal hydride (Ni-MH), lithiumion (Li-ion), Small Sealed Lead (Pb) and nickel cadmium (Ni-Cd).

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## Ohio EPA Provides Low-Level Mixed Waste Generators and Facilities Increased Flexibility

On May 16, 2001, U.S. EPA finalized its regulatory proposal to provide increased flexibility to facilities that manage low-level mixed waste (LLMW) and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. The rules became effective on November 13, 2001.

Since Ohio is planning to adopt these rules in 2003, the Division of Hazardous Waste Management (DHWM) has decided to allow generators and facilities to comply with the provisions in the federal rules (40 CFR §§ 266.210 through 266.260 and 266.305 through 266.360) until Ohio adopts these rules.

Here is a letter from the chief of DHWM concerning this issue: <http://www.epa.state.oh.us/dhwm/pdf/LLMixed.waste.pdf>

Here is a Web address for additional information regarding the federal rulemaking: <http://www.epa.gov/epaoswer/hazwaste/radio/>

Here is the Web address for the Federal Register notice: <http://www.epa/gpve/fedrgstra/EPA-WASTE/2001/May/Day-16/f11408.pdf>

If you have any question concerning these requirements, please call Jeff Mayhugh at (614) 644-2980.



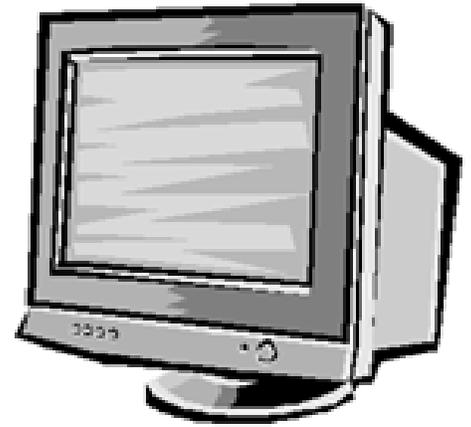
## Ask the Inspector

**Q:** I have heard that discarded computer monitors can be hazardous waste. Is this true? If it is, then how should my company dispose of them?

A device called a cathode ray tube (CRT) is the major component of computer monitors, televisions and other devices that provide the user with images. CRTs that produce colored images contain between four and eight pounds of lead. Lead is a toxic heavy metal and is hazardous when released into the environment. Because a CRT contains so much lead, it will likely exhibit the hazardous characteristic of toxicity for lead.

Ohio's hazardous waste rules provide that a waste that exhibits the characteristic of toxicity for certain hazardous constituents is a hazardous waste and must be stored, transported, treated and disposed of in compliance with certain hazardous waste management standards. Ohio's hazardous waste law specifies the toxicity characteristic leaching procedure (TCLP) to determine if a waste exhibits the characteristic of toxicity. OAC rule 3745-51-24 describes this characteristic. This analytical method simulates how a waste could leach toxic constituents listed in this rule into a landfill over time. This rule lists a leachable concentration of 5 ppm for lead.

If you intend to discard your old computer monitors, you must first determine if they are hazardous waste. If they are hazardous waste, you must manage them according to all applicable hazardous waste rules. As an alternative to disposal, Ohio EPA encourages the recycling of waste when possible. Ohio EPA considers computer monitors to be characteristic byproducts or commercial chemical products when recycled. Ohio Administrative Code rule 3745-



51-02, Table 1, provides that byproducts or commercial products exhibiting a characteristic of hazardous waste that are reclaimed (recycled) are not wastes as long as the recycling does not involve them being placed on the ground or being burned for energy recovery.

The Division of Hazardous Waste Management's Web site lists companies that accept computers and monitors for recycling. Some of these companies refurbish computers and components, while others only collect and then send computers and components to other facilities that recycle them.

[www.cpa.most.org.pl/computer.html](http://www.cpa.most.org.pl/computer.html)  
[www.pcmag.com/article](http://www.pcmag.com/article)  
[www.svtc.org/cleancc/pubs/ppc-ttv1.pdf](http://www.svtc.org/cleancc/pubs/ppc-ttv1.pdf)  
[www.epa.state.oh.us/dhwm/lamrecycler.html](http://www.epa.state.oh.us/dhwm/lamrecycler.html)

States and U.S. EPA are concerned that the number of CRTs improperly disposed of will increase dramatically in the next few years. On June 12, 2002, U.S. EPA published a proposed CRT management rule to help streamline the management of CRTs. If you want to see how they propose to regulate CRTs, go to: <http://www.epa.gov/epaoswer/hazwaste/recycle/electron/crt.htm>.

If you want to learn more about CRTs, go to: [www.ees.ufl.edu/hompp/townsend/research/crt/crtmain.htm](http://www.ees.ufl.edu/hompp/townsend/research/crt/crtmain.htm).

## Q: Where Do All These Hazardous Waste Rules Come From?

Ohio EPA bases most of its hazardous waste rules on U.S. EPA's hazardous waste rules. We do this for two reasons. One, Ohio EPA wishes to maintain a hazardous waste program that is authorized by U.S. EPA. To be authorized, U.S. EPA requires that Ohio EPA adopt hazardous waste rules at the state level that are equivalent to and no less stringent than the federal hazardous waste rules. And two, Ohio law requires that Ohio EPA adopt hazardous waste rules that are consistent with and equivalent to the hazardous waste rules adopted by U.S. EPA. Ohio's law allows our hazardous waste program to be different than the federal program in a few areas.

When Ohio EPA proceeds with rulemaking to adopt hazardous waste rules, we have very little latitude or statutory authority to change the requirements of the rules from those of their federal counterpart rules. We encourage you to comment during our rulemaking process, but we usually cannot make substantive rule changes. The best time for you to participate in the hazardous waste rulemaking process and suggest substantive changes to a rule is when U.S. EPA proposes the rule. You can learn what hazardous waste rules U.S. EPA has out for public comment by checking the ***Federal Register***.

The ***Federal Register*** is a daily publication of federal agency documents having general public interest such as proposed and final rules, presidential proclamations and executive orders. It can be accessed online at <http://www.epa.gov/fedrgstr>.

Or, you may subscribe to U.S. EPA's Waste listserver which will notify you by e-mail when a notice, proposed rule, or final rule regarding hazardous waste is published in the ***Federal Register***. You can subscribe

to the listserver at the following Web address: <http://www.epa.gov/fedrgstr/subscribe.htm>.

## Q: How Do I know that I've Adequately Evaluated My Waste?

If you are going to discard any material from your business, Ohio Administrative Code (OAC) rule 3745-52-11 requires you to determine if the waste is a hazardous waste. As the generator, you are in the best position to evaluate the waste because you have knowledge of the manufacturing activity and the raw materials used in the process that generated the waste.

The waste evaluation rule provides step-by-step instructions on how to evaluate your waste. These include:

1. **Determining if your hazardous waste is excluded from regulation** as defined by OAC rule 3745-51-04. To determine if your hazardous waste is an excluded hazardous waste, you need to compare your hazardous waste to the descriptions found in OAC rule 3745-51-04. For example, shredded circuit boards being recycled are excluded provided they are free of mercury switches, mercury relays, nickel-cadmium batteries and lithium batteries and they are stored in a manner consistent with the management requirements of the rule.
2. **Determining if the waste is defined as a listed hazardous waste** in OAC rules 3745-51-30 to 3745-51-33. U.S. EPA has identified certain materials to be "listed" hazardous waste. To determine if your waste is a listed waste, you need to review the list

of hazardous wastes found in OAC rules 3745-51-31 to 3745-51-33. For example, if your waste consists of spent cyanide plating bath solutions from electroplating operations, your waste would meet the listing description for "F007" hazardous waste.

3. **Determining if the waste exhibits a hazardous characteristic** identified in OAC rules 3745-51-21 to 3745-51-24, if the criteria above do not apply. You can determine if your waste exhibits a characteristic of a hazardous waste using either knowledge of the hazardous characteristic in light of the process activity and raw materials used, or by analyzing a representative sample of the waste. When you choose to analyze the waste, the analysis must be done according to the methods found in OAC rules 3745-51-20 to 3745-51-24. You could choose to use a combination of generator knowledge and laboratory analysis by determining which hazardous waste characteristics the waste could not exhibit, then sampling and analyzing the waste for the hazardous waste characteristics that could be present. Whether you use knowledge or analysis to evaluate the waste, you must maintain documentation to support your claim that the waste is nonhazardous. Examples of documentation when you use knowledge can include material safety data sheets (MSDS) and product information for process materials.

OAC rule 3745-52-40(C) requires that you maintain records to document a waste evaluation for three years from the date you manifest the waste off site. You may be asked during a hazardous waste inspection to produce this documentation.

## Ask the inspector

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Failure to accurately evaluate your waste is considered to be a violation of OAC rule 3745-52-11. If you have concerns about your waste evaluation, Ohio EPA is available to help you. Discuss it with your district office inspector, or contact the Regulatory and Information Services Section at (614) 644-2917.

### Q: What Category of Generator am I? Are there any hazardous waste rules that apply to me if I don't generate very much hazardous waste?

Different regulations apply to generators who generate different amounts of hazardous waste in a calendar month. There are three categories of generators in Ohio. All three must comply with some regulations ranging from simply evaluating their waste (to determine if it is hazardous) and making sure it gets to a permitted hazardous waste facility, to complying with detailed waste management regulations.

You must include all of the hazardous waste that you generate, except hazardous waste that is exempt, when determining your generator category.

Since your generator category is based on the total weight of hazardous waste you generate in a calendar month, and the specific regulations you must meet are determined by your generator category, you must accurately determine how much the hazardous waste weigh, in kilograms. You can do this simply by weighing the hazardous waste. If this is not possible, then you must use the density of the waste. If you don't

know the density of your waste, you can use the density of water to get a rough estimate. The density of water is 8.34 pounds/gallon. There are 2.2 pounds per kilogram. It is more accurate to use the density of the waste itself.

You must determine the total weight of the hazardous waste generated each calendar month in order to know which generator category you are in that month. Your waste generation rate for any particular month may vary enough that you will be subject to different hazardous waste generator classifications and therefore different hazardous waste generator rules from month to month.

If you generate less than 100 kilograms (220 pounds) of hazardous waste, or no more than one kilogram of acutely hazardous waste in a calendar month, you are considered to be a conditionally exempt small quantity generator (CESQG) for that waste. As a CESQG, you are subject to the requirements of (OAC) rule 3745-51-05.

There are only a few hazardous waste rules that apply to you as a CESQG. These rules require that you evaluate the waste you generate in accordance with OAC rule 3745-52-11 and ensure delivery of hazardous waste to an off-site permitted treatment, storage or disposal (TSD) facility as required by OAC rule 3745-51-05(G)(3).

If you ever generate between 100 and 1,000 kilograms of hazardous waste in a calendar month or if you accumulate quantities of hazardous waste on site in excess of 1,000 kilograms (if you are a CESQG), then you would be considered a small quantity generator (SQG) and would need to comply with the SQG rules referenced at OAC rule 3745-52-34(D).

A SQG may accumulate up to 6,000 kilograms of hazardous waste generated on site for 180 days or fewer without an Ohio hazardous waste permit. A SQG may accumulate hazardous waste on site for up to 270 days or fewer if that waste will be transported to a permitted TSD facility located 200 or more miles away. SQGs must have an emergency coordinator who can respond during an emergency. They must familiarize employees with proper waste handling and emergency procedures, and they must comply with the additional requirements set forth in OAC rule 3745-52-34(A)(2), 3745-52-34(A)(3) and 3745-52-34(D).

If you generate more than 1,000 kilograms (2,200 pounds) of hazardous waste or more than one kilogram of acutely hazardous waste in a month, you are considered a large quantity generator (LQG). LQGs may accumulate any quantity of hazardous waste on site for up to 90 days and must comply with OAC rule 3745-52-34(A). This rule references many requirements, some of which are manifesting, employee training, contingency planning, labeling and dating and inspections of areas where hazardous waste is stored.

A complete listing of the requirements for the different categories of generators is not provided in this article. If you want to learn more, go to the Web site at <http://www.epa.state.oh.us/dhwm/welcome.html> or call (614) 644-2917. While you're on the Web site, you can download the hazardous waste rules by choosing Laws & Regulations, then selecting Ohio Administrative Code (OAC). To read all DHWM hazardous waste rules that may apply to you, go to our website at <http://www.epa.state.oh.us/dhwm/welcome.html>.



## Corrective Action Memorandum of Agreement with U.S. EPA

**A**ccording to U.S. EPA's national database, there are 620 facilities in Ohio considered by Ohio EPA and U.S. EPA Region 5 to be subject to facility-wide Resource Conservation and Recovery Act (RCRA) Corrective Action requirements.

### How did these facilities become subject to RCRA Corrective Action requirements?

Section 3004(u) of the RCRA statute states as follows: "... Permits issued after the date of the Hazardous and Solid Waste Amendments of 1984 by the administrator or a state shall require corrective action for all releases of hazardous waste or

### Batteries, Batteries, Batteries! *continued from page 1...*

As today's consumer becomes more mobile, demand increases for cordless electronic products. The rechargeable batteries to run all of those products eventually need replacing; this is where RBRC steps in. RBRC operates via a network of collection locations. They currently have the support of more than 38,000 participants. Participants include numerous national retailers, marketers of rechargeable batteries, communities, businesses and power tool manufacturers.

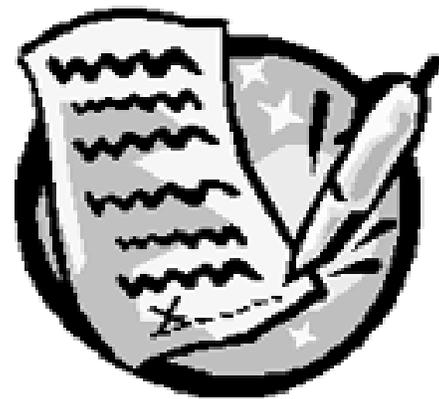
For more information on RBRC and a collection location nearest you, contact RBRC's help line at 1-800-8-BATTERY or [www.rbrc.com](http://www.rbrc.com). Recycle, don't throw it away!



constituents from any solid waste management unit at a treatment, storage or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action."

If your facility at one time treated, stored or disposed of hazardous waste in a hazardous waste management unit – actions which subject a facility to permitting and closure requirements – the facility is subject to corrective action requirements. Even though most of the 620 facilities did not seek a final Part B permit for their treatment, storage or disposal activity, and instead chose to complete closure of their hazardous waste management unit(s), the facility remains subject to corrective action requirements.

Facilities who did seek and receive Part B permits were required by their permit to investigate actual and potential releases from their solid waste management units and, if necessary, implement corrective actions to address the releases. U.S. EPA Region 5, and to some extent Ohio EPA, have also relied on their respective administrative order authorities to impose facility investigation, and, if necessary, corrective action requirements. The facilities who have the greatest potential to negatively impact human health and the environment from their past waste management activities were the first to be required to fulfill their RCRA corrective action obligations. With increased effort by both U.S. EPA Region 5 and Ohio EPA over the past several years to move the investigations and cleanups at these facilities to completion more quickly, both agencies are now beginning to make plans to require the remaining



facilities who are subject to corrective action requirements to fulfill their obligations.

Ohio EPA and U.S. EPA Region 5 have a mutual goal of ensuring that facilities subject to RCRA corrective action requirements pose no threat to human health and the environment. Facilitating the re-use of these RCRA facilities, where that is a possibility, in order for their full economic potential to be realized, is also a goal of both agencies. In order to achieve these goals, and in recognition of the fact that limited resources are available to both agencies to require and oversee corrective action work, U.S. EPA Region 5 is supportive of allowing facilities to meet the requirements of state voluntary cleanup programs to fulfill their RCRA corrective action obligations.

Subsequent to U.S. EPA Region 5 and Ohio EPA entering into the Superfund Memorandum of Agreement for Ohio EPA's Brownfields and Voluntary Action Program (VAP) MOA track in July, 2001, U.S. EPA Region 5 stated its intent to enter into an agreement with Ohio EPA specifically for facilities subject to RCRA corrective action requirements. This agreement would express U.S. EPA's intent to not use its RCRA authorities to require corrective action as long as a facility that is eligible for the VAP (the facility is not required by a federal or state order or permit to perform corrective action) successfully fulfilled its obligations by meeting the regulatory requirements of Ohio's VAP. To qualify for the VAP, a

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# Authorization Update

## What is authorization?

RCRA authorization is the process by which U.S. EPA delegates its authority for primary enforcement and permitting to Ohio EPA. It is sometimes called “primacy” in other programs. RCRA authorization is accomplished for Ohio through the state’s development of Authorization Revision Applications (ARAs), which demonstrate that the state’s program meets the requirements for approval by U.S. EPA, in other words, the state’s program is consistent and equivalent to the federal program portion.

ARAs contain a series of documents that may include an updated program description; a Memorandum of Agreement among Ohio EPA, the Hazardous Waste Facility Board, and U.S. EPA Region 5; references to the rules for which authorization is being sought; an attorney general’s statement that attests to the legal adoption of the rules; and documentation of Ohio’s capability to implement and administer the Ohio program. With U.S. EPA Region 5’s review and approval of the ARA, the state is delegated the authority, or “authorized,” for a particular rule. Authorized state rules operate in lieu of the corresponding federal rules. Authorization can only be granted for effective state rules, and does not affect compliance regulatory requirements.

## What effect does authorization have on me?

Authorization neither alters the requirement to comply with any state rule nor does it create new state or federal requirements. Authorization does mean that any action taken by the state has the same force and effect as an action taken by U.S. EPA. The authorized portion of the state’s program is implemented in lieu of federal implementation of the program. Ohio EPA, instead of U.S. EPA, becomes the primary regulatory agency for regulated entities in Ohio

for as much of the RCRA program as possible. Since authorization delegates primary enforcement and permitting authorities from U.S. EPA to Ohio EPA, the effect is found mostly in the context of permitting and enforcement.

In the enforcement context, once an applicable state rule becomes effective, you must comply with it, regardless of whether or not the state rule is authorized. However, until the rule is authorized, U.S. EPA may also enforce only its version of the rule and the state may enforce only its version of the rule. This is sometimes called dual regulation. Once the state rule becomes authorized, Ohio EPA becomes the primary enforcer of the rule, but U.S. EPA always reserves the right to enforce an authorized state rule if it is not satisfied with how the state enforced the rule. For federal rules that apply to you that have yet to become effective in the state, you should carefully read all components of the Federal Register notice for the final rule to understand how and when that rule will be implemented and enforced. Ohio EPA can help you with that.

In the permitting context, authorization might cause you to modify both your state hazardous waste management permit and your federal RCRA permit. When applicable state rule provisions become effective, you should ask for those provisions to be added to your state hazardous waste management permit through the permit modification procedures found in the hazardous waste rules. When the state rule provisions become authorized, you should ask U.S. EPA to have the corresponding federal rule provisions removed from your federal RCRA permit. You can accomplish this by using the federal permit modification procedures, which in this context, are sometimes referred to as early termination procedures. If authorized state rule provisions appear in both your state hazardous waste management permit and your federal RCRA permit, you are still regulated by both U.S. EPA and Ohio EPA, unless you make a

request to U.S. EPA, and U.S. EPA grants your request to eliminate the duplication.

## What’s going on in authorization now?

In June, Ohio EPA submitted a final authorization application (ARA 5) to U.S. EPA Region 5. ARA 5, when approved, will authorize a portion of Ohio’s rules promulgated since 1993, including the rules containing EPA hazardous waste numbers F037, F038, K141-K145, K147, K148, and K156-K161. We expect U.S. EPA Region 5 to act quickly on Ohio’s ARA 5 request for authorization, because it uses several pre-review and process streamlining techniques that have been successfully used by other Region 5 states.

## What is the next step in authorization of ARA 5?

U.S. EPA Region 5 will consider Ohio’s final authorization application. When U.S. EPA and Ohio EPA have worked out any remaining application details, U.S. EPA will publish its authorization decision in the Federal Register. The Federal Register notice will contain the details of providing public comment on their decision, who to contact in U.S. EPA Region 5 for more information, and the effective date of authorization (presuming it is granted). Please see the article titled “Where do all these hazardous waste rules come from?” in this edition of the “*Notifier*” to find out how to access the Federal Register on the Web.

## What happens after ARA 5 is authorized?

The Division of Hazardous Waste Management is already working on ARA 6, which we intend to submit in draft form to U.S. EPA Region 5 in

## Authorization Update *continued from page 6...*

September. It will request authorization for almost all the provisions of the Ohio hazardous waste management rules that are currently effective, not yet authorized, and not contained in ARA 5. This includes our land disposal restrictions (federal Phases I-IV), universal waste management standards, used oil management standards, and a number of other provisions including EPA hazardous waste numbers F032, F034, F035, and K169-K172.

## How do I learn more about authorization?

For more information about anything in this article, contact Kit Arthur by phone at (614) 644-2932 or e-mail at [Kit.arthur@epa.state.oh.us](mailto:Kit.arthur@epa.state.oh.us)

## Corrective Action *continued from page 5...*

facility must not be under a federal or state order or permit to perform corrective action. Ohio EPA does not yet know the extent to which U.S. EPA Region 5 will require Ohio EPA to review and approve of investigation and cleanup documents prepared pursuant to the VAP requirements.

Ohio EPA's Division of Hazardous Waste Management (DHWM) is interested in your opinion on these questions: 1.) Should Ohio EPA enter into such an agreement with U.S. EPA Region 5 for RCRA facilities subject to corrective action requirements? and 2.) Would you take advantage of such an opportunity to undertake corrective action via the VAP? If you would like to anonymously register an opinion or find out whether your facility is on the list of facilities subject to RCRA corrective action, please go to [www.epa.state.oh.us/dhwm/questions.htm](http://www.epa.state.oh.us/dhwm/questions.htm). If you should have any questions, please contact Dave Sholtis at (614) 644-2937.

# Administering An Effective Compliance Assurance Program

**T**wo important components of the division's compliance assurance program include the use of inspections to make sure companies are applying the hazardous waste rules properly, and a strong enforcement program. A third component is compliance assistance/education outreach. We also believe that timely enforcement provides a deterrent to non-compliance and helps to level the playing field for those who have not allocated the resources necessary to comply with the hazardous waste rules.

During hazardous waste inspections in which violations are noted, many times our inspectors are asked, "Will Ohio EPA be taking an enforcement action against my company?" While not all inspections that reveal violations result in an enforcement action, we do expect companies who are violating the hazardous waste rules to abate the violations as soon as possible. We evaluate the results of each inspection to determine if an escalated enforcement action is warranted. In general, we will take an enforcement action against companies who we determine to be in substantial non-compliance with the hazardous waste law and rules.

Generally, a company would be in substantial non-compliance if its facility:

- has caused actual exposure or the likelihood of exposure to hazardous waste or hazardous waste constituents;
- is a chronic or recalcitrant violator of the hazardous waste rules; or
- deviates substantially from the terms of a permit, order, agreement or from the hazardous waste law or rules.



Examples of substantial non-compliance that resulted in an enforcement action in the past two or three years include:

- Illegal storage of hazardous waste, e.g., greater than 90 days for a large quantity generator;
- Illegal disposal of hazardous waste, e.g., causing hazardous waste to be transported and disposed of at a facility that does not have a permit to manage hazardous waste;
- Chronic violations of the hazardous waste rules, e.g., repeat personnel training, inspection and container management violations over a five-year period; and
- Large quantity generators substantially deviating from the hazardous waste rules, e.g., no personnel training, contingency plan and inspections of its hazardous waste accumulation area(s).

If you are interested in more details about our division's enforcement program, please feel free to contact Harry Sarvis at (614) 644-3519 or e-mail him at: [harry.sarvis@epa.state.oh.us](mailto:harry.sarvis@epa.state.oh.us)

## Rule-making Update

**D**HWM is currently drafting rules to address a number of changes to the federal RCRA rules. This rules package, known as the MegaSet, will contain more than over 360 rules, and will, for the most part, catch up Ohio's RCRA rule-making backlog.

### What's in the package?

This rules package addresses 40 Federal Registers with a wide range of RCRA subjects. The larger federal concepts addressed in this package are Boilers and Industrial Furnaces (BIFs), Liners and Leak Detection Systems, Military Munitions, Post-Closure Permitting (the Enforceable Documents rule), HWIR Contaminated Media, Universal Waste Lamps, the NESHAP Combustors rule (MACT 2, or the Fast Track rule), Low Level Mixed Waste, the HWIR Identification rule, and Corrections to the CAMU rule (New CAMU). There are several waste listings addressed in this package as well: Chlorinated Aliphatics (K174, K175), and Inorganic Chemical Manufacturing Wastes (K176, K177, and K178). In addition, this package contains numerous non-substantive rule amendments to update rule cross-references and correct word choice and sentence structure.

There are no state-specific requirements in this rules package. It is intended to make Ohio rules equivalent to the federal rules, and not to make anything more stringent than the federal counterpart rules. A complete list of all the Federal Registers addressed in this rule-making will be provided when the draft rules are posted in draft on the DHWM Web site.

### What's not in the package?

The following federal subjects are not addressed in this rule-making: Permit as a Shield; Organic Air Emissions Subparts AA, BB, and CC; and Imports and Exports- Implementation of the Organization for Economic Cooperation and Development Council (OECD) Decision. Compliance with these federal rules is required in Ohio at this time; they are enforced by U.S. EPA.

### When can we see these draft rules?

These draft rules are scheduled to be released for interested parties review late this summer. When the draft rules are completed and the director has approved their release, a letter will be sent to everyone on the DHWM rule-making interested parties mailing list. That letter will be posted on the DHWM Web site, as will the draft rules.

### How do we get these draft rules?

Recipients of the interested parties letter will not automatically receive a copy of the rules, but the letter will indicate how to get the rules from the DHWM Web site, and how to get a paper copy if necessary. When the interested parties letter is sent, the draft rules will be posted on the DHWM Web site in the "Laws and Regulations" section under an icon called "Draft MegaSet Rules." You will be able to download the rules as a PDF or a series of files, from the Web site. We will also have a limited number of paper copies available.

### How do we find what we're looking for when we have the rules?

The interested parties letter will contain a detailed list of what Ohio rules are changed to address which federal subjects, so if you're tracking a particular federal subject, you can use that list to determine which Ohio rules to look at. (When you download the draft rules files, a file containing the interested parties letter with this information will be included.) In addition, each rule will contain a page providing very detailed information about the location, nature, and reason for the amendments in that rule. And you can always call us and ask for help - we'll walk you through the package and help you find whatever you're looking for.

### When and how do we provide comments on the draft rules?

The interested parties comment period will be open for 60 days; the comment period closing date will be identified in the letter. You may send your comments by mail, e-mail, or fax, to Kit Arthur (see specifics below). Please feel free to call with questions as you're looking through the draft rules and developing your comments.

### What's the rule-making process after interested parties comment on the drafts?

After the interested parties comment period on the draft rules, we will consider the comments received, and change the rules as appropriate.

Then after the director approves them, the rules will be proposed. Rule proposal, also called original filing, puts the rules into another public comment period that includes a public hearing at Ohio EPA, and a public hearing held by the Joint Committee on Agency Rule Review. After public comments have been collected and considered, and the proposed rules have been changed as appropriate, the rules again will be provided to the director for review and approval by signature. Then the rules are adopted. The effective date will probably be about 90 days after adoption.

Please note that the interested parties letter goes out to our mailing list only once in the rule-making process, at the beginning when the rules are draft. We will put the rule-making public notices and the rules themselves on our Web site again (at proposal and again at adoption), but we will not automatically mail interested parties another letter about the rules later in the rule-making process or upon its completion. You may call us any time to find out the status of the rules package.

## When will we need to comply with these state rules?

The effective date for the rules is targeted for autumn 2003. Compliance with state rules is required on the effective date of the state rule. (However, most of the requirements that will be new to the Ohio rules in this package are already effective on the federal level because they were adopted under the Hazardous and Solid Waste Amendments to RCRA, so compliance with the federal counterpart rules is required already.) Updates to the target dates regarding this rules package will be provided in future editions of the Notifier.

## How do we get on the interested parties mailing list, or get more information about these rules?

For more information on anything in this article, or to add or update your information on the DHWM rule-making interested parties mail-

ing list, contact Kit Arthur in DHWM's Regulatory Services Unit by at phone (614) 644-2932, e-mail [kit.arthur@epa.state.oh.us](mailto:kit.arthur@epa.state.oh.us), or fax (614) 728-1245. Please include your phone number in all correspondence.

## We're Here to Help

**T**he 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 what the salesman is telling you is correct? We're here to help you with the answer.

The retailers in your strip mall heard that burned out fluorescent lamps are hazardous because they contain mercury and want to know how to properly handle them. You don't know anything about fluorescent lamps and wonder if there is anyone who can come to your monthly lunch meeting and give your retailers association the low-down on the subject. We're here to help you by providing a presentation on that very subject.

If you subscribe to the old adage that you should never believe anyone who tells you that "the check is in the mail" or that "they're from the government and they're here to help" you probably don't believe what I've written so far. We can't help you with the check or the mail, but we want to prove that, even though we're from the government, we *are* here to help you.

We are the Regulatory Services Unit within the Regulatory and

Information Services (RIS) Section in the Division of Hazardous Waste Management. You might remember us as the Technical Support Unit. There are seven of us in RIS and we are ready at our phones and computers to answer your phone calls and e-mails about Ohio's hazardous waste regulations.

We will answer your questions about the promulgation and application of Ohio's hazardous waste regulations. We can tell you how to determine if your waste is exempt from regulation. We can show you the regulations that are applicable to the management of your waste. We can do presentations for interested groups concerning the proper management of their hazardous waste and how they can comply with the hazardous waste regulations. We also develop guidance and fact sheets about subjects that are the source of frequent questions. If we can't answer your question, chances are we know who can and will provide you with the proper contacts.

If you need our help with any of these services, please give us a call at (614) 644-2917 or e-mail us at [jeff.mayhugh@epa.state.oh.us](mailto:jeff.mayhugh@epa.state.oh.us). Remember, we are here to help.

# Notifier

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## DHWM Adopts New Notification Form

**B**eginning November 12, 2002, DHWM will be using a new Ohio EPA notification form that replaces EPA Form 8700-12, the federal "Notification of Regulated Waste Activity." The official title of the new form is "RCRA Subtitle C Site Identification," otherwise referred to as the Site ID Form.

The reason DHWM is no longer using the federal form is that U.S. EPA redesigned its form and dropped some fields that are required for Ohio EPA's agency database, which contains information on all the sites that we regulate. Adoption of the Site ID Form for notification coincides with U.S. EPA's version 2 release of RCRA Info, the national database that tracks RCRA information. Because of the overlap between EPA 8700-12, the Part A, and the Identification and Certification (IC) Form in the Hazardous Waste Report, U.S. EPA combined the common elements into the Site ID Form to reduce the burden and to obtain more frequent updates from the sites we regulate.

Some of you may be familiar with the Site ID Form because it replaced the IC Form in the 2001 Annual Report. Sites that wish to update the information associated with an EPA ID can do this using the Site ID Form as part of the annual report submission or as a stand-alone form at any time the information changes. You do not have to obtain a separate notification booklet because of the multi-purpose nature of the Site ID Form.

The new Site ID Form and notification instructions are available on DHWM's Web page at <http://www.epa.state.oh.us/dhwm/notiform.html>. Please contact Tammy McConnell by phone at (614) 644-2922 or e-mail [tammy.mcconnell@epa.state.oh.us](mailto:tammy.mcconnell@epa.state.oh.us) if you have any questions. 