



# A&WMA

THE AIR AND WASTE MANAGEMENT ASSOCIATION NEWSLETTER  
NORTHERN OHIO CHAPTER

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## Keeping Upper Management Interested in Sound Environmental Management



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Kahn Kleinman



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Let's face it. Very few businesses are scared of EPA right now. The business community views the Bush administration and the Taft administration as friends and, as a result, expects fewer inspections and less onerous penalties from the U.S. EPA and Ohio EPA. In addition, the economy is slumping, generating lower tax payments to the federal and state governments. Government services are slowing down in their activities because regulatory agencies can't hire any new people. In fact, some agencies have had their funding cut. Even in good economic times when the federal and state governments aren't so business-friendly, only a few businesses ever get inspected. The agencies simply aren't built up enough to keep up with the myriad companies, large and small, around Ohio and the rest of the country.

### Why Should Business Managers Care?

There are plenty of reasons, and all of them eventually impact the company's bottom line.

First, U.S. EPA and Ohio EPA have invested too many years and too much

regulatory angst in trying to create a fear among regulated companies that the inspectors are coming. The agencies have long followed the strategy of making an example of companies that get caught with violations. No company wants to be the example, and no company is sure that it won't be the one to get inspected. So, while enforcement is quiet now, it won't remain quiet. Once funding for

environmental enforcement picks up, we will see that these regulatory agencies will redouble their efforts to find law-breakers.

Second, even in slow economic times and during business-friendly administrations, employees have the ability to complain. More violators probably have been caught because disgruntled employees have turned them in than because EPA found a violation on its own. Don't forget: employees know everything. They know where the skeletons are buried, and they know when the employer isn't keeping them happy. If they become unhappy enough, they will exact their revenge by calling in a government inspector.

Slow enforcement at the moment probably does not indicate that enforcement will be slow from now on. As this is being written, U.S. EPA and the Bush administration are coming under fire for allegedly down-playing environmental risks from utility plants and from the World Trade Center collapse. Most likely these revelations are coming out because of next year's election. Nonetheless, the federal

*continued to page 3*

## Ohio Air Quality Research Symposium To Be Held Again in Toledo

The 2003 Ohio Air Quality Research Symposium will be held October 29, 2003 at the SeaGate Convention Center in Toledo, OH. This is the second convening of this event, coming on the heels of a very successful inaugural symposium last October.

This year's one-day symposium is funded by the Ohio Air Quality Development Authority (OAQDA) and is organized by the Air Pollution Research Group (APRG) at the University of Toledo. The cost is \$35. Registration information is posted at <http://www.eng.utoledo.edu/~akumar/apsymposium/registration.htm>.

The goal of the symposium is to increase communication and awareness among Ohio air quality researchers and professionals. Presentations will be either in oral or poster form.

Questions about the symposium may be directed to Dr. Ashok Kumar, Professor of Civil Engineering, University of Toledo at [apconfer@eng.utoledo.edu](mailto:apconfer@eng.utoledo.edu).

### Environmental Management in Lean Times

4th Annual Joint Environmental Conference

November 7, 2003 - 8:30 am - 1:30 pm

*See back cover for details*

Message from the Chairman ..... by Herb Mausser

## A Buck A Month | *Are you a member of the Northern Ohio Chapter – Air & Waste Management Association?*

### Are you sure?

If you pay annual dues to the international Air & Waste Management Association and live in Northern Ohio, you automatically are a paid member of NOC-A&WMA. Congratulations on being a part of an exemplary professional organization; please consider attending our next NOC-A&WMA Planning Committee meeting November 12; and feel free to skip to the rest of this newsletter!

If you are not an international Air & Waste Management Association member, I encourage you to consider joining, especially if your company will absorb some or all of the membership cost. Just go to [www.awma.org/members/join](http://www.awma.org/members/join) and follow the prompts.

### Now, for the rest of you! :

By reading this, you're already getting one of the benefits of Chapter membership – our twice-yearly newsletter. Articles on important air & waste technical issues; Ohio EPA regulatory updates; contact information for member consultants and environmental professionals – this newsletter is a valuable resource for anyone practicing in the environmental field. Up to now, we've mailed the newsletter out to hundreds of

people on our contact list, whether they've paid Chapter dues or not.

As much as we'd like to continue doing that, we simply can't afford it anymore. We need your support. And, at least financially, we're not asking for much.

An individual membership is a buck a month. Less than "two bits" a week. \$24.00 for TWO YEARS of membership privileges:

Beginning in January, paid members receive \$12.00 off the registration fee for the NOC-A&WMA Technical Seminars; two issues of the NOC-A&WMA newsletter each year; and, perhaps most importantly, the right to vote for the officers and directors of YOUR Chapter.

### Or, consider a Corporate Membership:

The Small Business Corporate Membership is only \$75.00/calendar year, and includes:

- One-year NOC-A&WMA membership for up to four (4) employees;
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The Standard Corporate Membership is \$250.00/calendar year, and includes:

- One-year NOC-A&WMA membership for unlimited number of employees;
- Free quarter page-size ad in two Chapter newsletters (or equivalent credit for larger ad);
- Vendor table discount at Chapter sponsored events.

I think you'll agree that the financial investment in YOUR Chapter is a small one. Of course, above all else, we would like you to consider a small investment of your time by attending Chapter events; attending Planning Committee meetings; or simply sending an e-mail or making a phone call to tell us how we can make YOUR Chapter a better one.

I or another member of the Executive Committee will contact many of you during Fall 2003. I thank you in advance for taking a few minutes of your time to give us your input and, hopefully, pledge your membership dues for 2004/2005. But no need to wait for a call! Feel free to contact me at [herbert.mausser@tri-c.edu](mailto:herbert.mausser@tri-c.edu), or simply go to <http://www.nocawma.org/app.htm> to apply for or renew your membership.

## Ohio EPA Regulatory Roundup

NOC-A&WMA thanks Kurt Princic, Environmental Manager in the NEDO Division of Hazardous Waste and Solid and Infectious Waste Management for the following Ohio EPA regulatory updates. More information about these items can be obtained from the Ohio EPA Web page ([www.epa.state.oh.us](http://www.epa.state.oh.us)) or by calling the Northeast District Office at (800) 686-6330.

### Ohio Hazardous Waste Facility Board Dissolved:

A recent amendment of Section 3734.05 of the Ohio Revised Code includes the expiration of the Hazardous Waste Facility Board as of December 31, 2004. After that date, the Director of Ohio EPA will be responsible for considering hazardous waste facility installation and operation permit applications.

### Beneficial Use of Exempt Waste Policy Rescinded:

Policy 0400.007, Beneficial Use of Non-Toxic Bottom Ash, Fly Ash and Spent

Foundry Sand and Other Exempt Wastes has been rescinded. Ohio EPA is working with the utility industry and the foundry industry to develop a regulatory-based program to manage these materials. Any questions regarding the use of these materials should still be directed to the Ohio EPA Division of Surface Water.

### Summary of New Regulatory Programs:

#### A. Rules Required for Authorization

##### 1. Rules Governing the Burning of Hazardous Waste in Boilers and Industrial Furnaces (BIF rules):

These rules designate the regulatory difference between the burning of hazardous waste for legitimate energy recovery versus burning hazardous waste for destruction in industrial furnaces and boilers. In addition, the rules establish air emission limits for the devices that use hazardous waste-derived fuels. Emission pollutants subject to stack testing and emission control are toxic

organic compounds (including dioxins), toxic metals, hydrogen chloride, chlorine gas, carbon monoxide and particulate matter.

These rules are currently effective in Ohio, and implemented and enforced by USEPA.

##### 2. Requirements for Liners and Leachate Detection Systems for Hazardous Waste Land Disposal Units:

These rules modify the existing double-liner and leachate collection and removal systems requirements for new and replacement surface impoundments, waste piles and landfills, and for lateral expansions of these units. New units and lateral expansions of existing units must have double liners consisting of a top liner designed to prevent the migration of hazardous constituents into the liner during the operating life and post-closure period, and a composite bottom liner consisting of a geomembrane and low-conductivity soil layer.

These rules are currently effective in Ohio, and implemented and enforced by USEPA.

##### 3. Expanded Public Participation Rules:

*These new rules serve to promote public continued to page 4*

# Keeping Upper Management Interested in Sound Environmental Management

*continued from page 1*

government (either the Bush administration overall or U.S. EPA by itself) may attempt to show that it is not anti-environment by stepping up enforcement efforts. While trying to look like environmentalists in the glare of the spotlight, the administration and EPA will probably make a bigger deal out of the next violators they find.

In addition, there are incentives for sound environmental management that go beyond the risk of enforcement. Some are only indirectly related to the bottom line, such as adverse public relations for being in the top 10 of the worst polluters in the county, as annually published in local newspapers, based on SARA Title III Toxic Release Inventory reports. Another example in this category is the public notice of a Notice of Violation (NOV) even when the NOV is not elevated to a violation and an enforcement action.

The more obvious examples that do affect the bottom line include cleanup costs for an accidental release. A vigilant environmental program would likely discover that a truck loading dock may be vulnerable to a release of a spill to a railroad siding. A simple earthen berm constructed by the maintenance staff during a slow period, done at minimal costs, may be all that is needed to prevent this occurrence. Cleanup of a 50-gallon spill to the railroad siding may cost in excess of hundreds of thousands of dollars, including legal costs, because the railroad, and not the plant, owns the siding.

Another obvious bottom-line example is the lost opportunity for pollution prevention. While companies often shun active pollution prevention programs because of perceived up-front costs and long return periods, a vigilant environmental program should spot some PP at minimal additional costs. This is especially true with waste. What often goes out as cleanup waste solvent is often commingled with unused solvent that was taken to the floor but never used. The company pays for the unused solvent three times, once to purchase, once to pay for the disposal and once to pay for the regulatory burden. A good environmental manager should easily spot this opportunity and work with production to implement it. A production manager may see only the purchase cost and miss this opportunity.

But the big dollar reasons for having a sound environmental management program

are not as obvious, even though they directly affect the bottom line. Moreover, their effects tend to arise during adverse economic times when companies are more likely to skim on environmental management, which many view as only a drag on the bottom line, rather than a necessary program to protect the bottom line.

In harsh times, a company will often attempt to borrow money or sell off business units. It is at that time they realize, often too late, the importance of sound environmental management. The bank or the prospective buyer will conduct appropriate inquiry. The bank will want to assess the company's liabilities, in which environmental are paramount. These liabilities include potential cleanups from past operations, as well as potential fines and environmental compliance costs for neglected current operations. The prospective buyer will also assess these same potential cleanup and compliance costs, but in the perspective of their future operating costs. If these costs are perceived as too high, the bank or the buyer may pull out. Alternately, the bank will demand a higher interest rate because of the higher risk. The buyer will demand a lower purchase price, indemnification clauses and other repugnant contract language.

Of course the bank and the buyer will hire their own environmental consultants to conduct the appropriate inquiry. Without a doubt, these consultants will find every violation alleged by the federal or state government. All alleged violations are public records, and all of them get listed in the databases that consultants use in conducting environmental site assessments.

Worse yet than the record of violations (alleged or otherwise) is a consultant's discovery of something that was previously unknown. The known is easy to handle. If the costs to remediate known contamination or to comply with environmental controls are known, the effect on the bank loan or the business sale is unfortunate, but accepted. More importantly, they can be factored in at their true costs. But with unknowns, the environmental consultant for the bank or buyer will estimate costs based on the possibility of the unknown actually occurring. These will not be realistic costs and certainly will not be best-case scenarios. The difference will likely be double or triple the eventual actual cost and will represent a significant percentage of the transaction's cost.

The unknowns also cast doubt on the credibility of the would-be seller or borrower. Discovery of an environmental issue that the seller/borrower failed to disclose makes the buyer/lender start to wonder if the seller/borrower knows as much about itself as it should or, more accusingly, whether the seller/borrower is trying to hide something. As a result, if the unknowns don't kill the deal, they certainly will act as avoidable drains on profits after the transaction, because the company will pay higher interest or realize less cash from the transaction.

Another example deals with stock price for a listed corporation. The Security and Exchange Commission requires stock exchange-listed companies to make public any significant liabilities, and companies face criminal charges for failing to do so. These include significant cleanup liability, compliance control equipment and potential fines. At first blush, it would appear that ignorance is preferred to environmental vigilance, but the opposite is true. Failure to discover non-compliance through ignorance is never a defense to an enforcement action, and is very unlikely to be a defense here. In fact, willful ignorance generally raises a civil charge to a criminal one. Moreover, companies generally are aware of the existence of environmental contamination. What they often do not know is the extent of that contamination and the costs to remediate it. In the face of these unknowns, they must publish high estimates, although not to speculative heights, in order to fulfill their SEC obligations. Adverse liability reports to shareholders have numerous ill effects that this article need not explore, since upper management probably knows them better than the authors.

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## Ohio EPA Regulatory

*continued from page 2*

participation during the permitting of hazardous waste treatment, storage or disposal facilities. The new process provides earlier opportunities for public involvement in the process and expands public access to information throughout the permitting process and the operational lives of the facilities.

These provisions are not effective in Ohio until Ohio EPA adopts them.

### 4. New Hazardous Waste Listings:

Ohio EPA plans to adopt the new hazardous waste listings given below. Except for K178, all of the listings are currently effective in Ohio and implemented and enforced by USEPA.

In Ohio, there may be one or two chemical manufacturing facilities that generate one of the newly listed hazardous wastes. Owners/operators of hazardous waste treatment, storage or disposal facilities who want to accept any of these newly listed hazardous wastes must submit a permit modification to Ohio EPA within 30 days after the effective date of the listings in Ohio.

K174: Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer.

K175: Wastewater treatment sludges from the production of vinyl chloride monomer.

K176: Baghouse filters from the production of antimony oxide.

K177: Slag from the production of antimony oxide.

K178: Residues from the manufacturing and storage of ferric chloride from acids formed during the production of titanium dioxide.

### 5. Corrective Action Management Units (CAMUs):

The CAMU rule is revised to include minimum requirements applicable to the treatment of CAMU-eligible wastes prior to disposal in a CAMU, and the design and operating standards for CAMUs. Also, as an effort to further encourage cleanups, this rule establishes alternative treatment standards for hazardous CAMU-eligible wastes that are disposed at off-site permitted hazardous waste landfills.

This rule is not effective in Ohio until Ohio EPA adopts it.

### B. Optional Rules

#### 1. Military Munitions:

These rules identify when unused conventional and chemical military munitions become a waste under the hazardous waste program and provide for the safe storage and transport of such wastes.

Unused munitions become a waste when they are abandoned or disposed of; are leaking, deteriorated or damaged to the point

they cannot be put into serviceable condition or recycled; or are declared a waste by an authorized military official.

However, waste munitions are exempt from the traditional hazardous waste rules pertaining to storage and transportation if they are stored and transported in accordance with the specific requirements given in these rules. Waste munitions are not exempt from hazardous waste treatment and disposal requirements.

Also, this rule exempts all immediate emergency response activities to threats involving munitions and explosives from regulation under the hazardous waste program. Currently, emergency response activities involving the detonation of munitions and explosives are subject to hazardous waste permitting requirements. Ohio EPA issues emergency permits under such circumstances.

#### 2. Post-Closure Permit Requirement and Closure Process:

This rule modifies the requirement for a post-closure permit to allow Ohio EPA to use

several mechanisms to impose requirements on non-permitted land disposal units requiring post-closure care in lieu of a hazardous waste permit. Such mechanisms include a post-closure plan or the use of orders.

In addition, for all facilities, the rules governing the closure of land-based units that have released hazardous constituents are modified to allow the closure of certain units to be addressed through the corrective action program. This will reduce the potential for confusion and inefficiency created by the application of two different regulatory requirements (i.e., closure and corrective action) at the same facility.

These rules are not effective in Ohio until Ohio EPA adopts them.

#### 3. Staging Piles for the Purposes of Cleanup:

Staging piles are a new type of waste management unit that can only be used for the management of remediation wastes for the purposes of implementing cleanups,



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closures and corrective action. A staging pile can only be used for the storage (which includes preparation activities such as mixing, blending and sizing) of remediation waste prior to its on-site treatment or transport off-site for treatment or disposal. Also, the use of a staging pile must be approved by the overseeing agency through either a permit, closure plan or orders, and cannot be used for longer than 2 years.

This rule is not effective in Ohio until Ohio EPA adopts it.

#### 4. Universal Waste – Mercury Lamps

These rules designate hazardous mercury lamps (e.g., fluorescent bulbs) as a universal waste. The universal waste management, collection and transportation standards are simpler, more streamlined and less stringent than the full hazardous waste requirements. However, owners/operators of mercury lamp recycling or disposal facilities are fully regulated under the hazardous waste rules and subject to hazardous waste permitting.

This rulemaking will change Ohio EPA's present interpretation that mercury lamps destined for recycling are not defined as a waste and not subject to regulation under the hazardous waste rules. Currently, in Ohio, lamp recyclers are not required to obtain a

hazardous waste storage permit, and generators and owners/operators of mercury lamp collection sites are not subject to hazardous waste management standards. However, when Ohio EPA adopts these rules, generators, collectors and recyclers will be subject to regulation under the hazardous waste rules.

These rules are not effective in Ohio until Ohio EPA adopts them.

#### 5. 180 Day Accumulation Time for Wastewater Treatment Sludges from the Treatment of Electroplating Wastewaters (F006) Destined for Reclamation:

Under this exclusion, large quantity generators of F006 may accumulate their F006 for up to 180 days without obtaining a hazardous waste storage permit, provided the generators meet certain conditions. This rule is meant to provide certain incentives to promote metals recovery from F006 rather than treatment and disposal of the waste. These conditions include:

- a. implementation of pollution prevention practices;
- b. recycling F006 by metals recovery;
- c. accumulation of no more than 20,000 kilograms of F006 at any one time; and
- d. compliance with the current

management standards for tanks, containers and containment buildings for large quantity generators.

These rules are not effective in Ohio until Ohio EPA adopts them.

#### 6. Conditional Exemption for Low-Level Radioactive Waste Mixed with Hazardous Waste:

These rules contain two conditional exemptions from the definition of hazardous waste for certain low-level mixed waste (LLMW) and naturally-occurring and/or accelerator-produced radioactive material (NARM) mixed with hazardous waste. NARM does not include hazardous waste mixed with high-level radioactive waste or transuranic waste. These wastes are currently subject to regulation under the hazardous waste rules and rules implemented by the Nuclear Regulatory Commission (NRC) (or a NRC Agreement state). The rules aim to reduce duplicative regulation of LLMW and NARM.

Currently, these rules are not effective in Ohio. However, Ohio EPA has chosen to exercise enforcement discretion and allow generators of LLMW and NARM to comply with the exemptions in the federal rules.

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## Spring Technical Conference A Huge Success

The NOC-A&WMA Spring 2003 technical conference, titled New Developments in Ohio Air Permitting, was held at the Lakeside Holiday Inn in Cleveland on May 15. Despite some concerns about coming into downtown Cleveland on a workday morning, attendees encountered minimal traffic problems and only a minor glitch in parking. Those who came early had no problem (hint!). Bob Perry greeted and registered the attendees, who enjoyed a delicious breakfast buffet sponsored by Air Compliance Testing before the conference was officially opened by Herb Mausser, NOC-A&WMA chair.

Dave Marczyly, Conference chair, then introduced the morning's presentations, which featured speakers from USEPA, Ohio EPA and private industry. Ed Fasco, Radhica Sastry and Mike Hopkins spoke for Ohio EPA, and Kaushal Gupta came in from USEPA Region V in Chicago to address USEPA's New Source Review Reform Rule. Dave, of the Environmental Design Group, led things off by relating his experiences with dealing with insignificant emission units on Title V permit renewal applications. Ed reviewed the current status of OEPA's Title V permit program and Radhica outlined the recently changed deadlines on case-by-case MACT. Mike was the featured luncheon speaker and addressed OEPA's position on addressing the new non-attainment status for ozone in Ohio. Doug Rider of Rider Environmental Associates brought everyone up to date on the new boiler MACT for small boilers. Kevin Kilroy of Smithers Oasis presented developments at the Permit Process Efficiency Committee, with which Ohio EPA is proposing changes in general air permits, permits-by-rule, and an emission-threshold permit exemption.

About 100 persons attended the conference, and the vast majority of the evaluations received from them were very positive. Respondants particularly appreciated the value – relevant information at low cost. After the event, some of the attendees took the opportunity to attend the International Science and Engineering Fair, which was being held nearby in the Cleveland Convention Center.



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### FROM THE EDITOR

The Northern Ohio Chapter Newsletter is published semiannually for members of A&WMA. Laura Lyden, newsletter editor, may be contacted at (330) 792-9999, [lalyden@truenorth.org](mailto:lalyden@truenorth.org) or TrueNorth Energy, 3711 LeHarps Rd., Youngstown, OH 44515. Membership dues include subscriptions to the newsletter. For membership information contact Cindy Ours at (440) 260-0225, or [cours@hcnutting.com](mailto:cours@hcnutting.com). The chapter may be contacted at [www.nocawma.org](http://www.nocawma.org).



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8:30 - 9:00 a.m.	Registration
Room 1	Room 2
<p>9:00 - 9:45 a.m.   <b>Health &amp; Safety Issues for Environmental Managers</b> John Petkovsek, Director of EHS The Lincoln Electric Company</p> <p>Julie Weis, Compliance Assistance Specialist U.S. Department of Labor, OSHA</p>	<p>10:00 - 10:45 a.m.   <b>Hot Topics at Ohio EPA</b> Bill Skowronski, Chief Ohio EPA, Northeast District Office</p> <p><b>EHS Resources for Small Businesses in Ohio</b> Herbert Mausser, EHST Program Mgr. Cuyahoga Community College</p>
<b>BREAK</b>	
<p>10:45 - 11:15 a.m.</p>	<p>11:15 - 12:00 p.m.   <b>Workload Reduction Through Voluntary EPA Programs</b> Mark Messersmith, Regional Program Manager OMNOVA Solutions</p> <p>Dan Haggerty, Product Stewardship Leader OMNOVA Solutions</p>
<p>12:15 - 1:30 p.m.</p>	<p><b>Lunch and Keynote Address</b> Sadhujohnston, Executive Director Cleveland Green Building Coalition</p>

**Environmental Management  
4th Annual Joint  
Environmental Conference**  
November 7, 2003  
8:30am - 1:30pm  
Trinity Episcopal Cathedral  
2230 Euclid Avenue  
Cleveland, OH 44115  
(FREE PARKING in Cathedral parking lot  
off of Prospect Avenue)

Co-Sponsored by  
Cleveland Engineering Society  
Environmental Division  
Northern Ohio Chapter  
Air & Waste Management Association  
Northeast Ohio Chapter  
of Hazardous Materials Managers

Cost: \$95 - Individual Rate  
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Student Member Rate

For more information or to register, go to  
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