

**NOTICE OF ADOPTION OF RULES
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**Rules Governing
Wastewater Permits to Install**

Notice is hereby given that the Director of the Ohio Environmental Protection Agency (Ohio EPA), under the authority of Ohio Revised Code Sections 6111.03, 6111.035, 6111.04, 6111.44, 6111.45, and 6111.46 has rescinded and adopted the following rules of the Ohio Administrative Code:

<u>Rule Number</u>	<u>Rule Title</u>	<u>Proposed Action</u>
3745-42-01	Definitions.	Rescind
3745-42-01	Definitions.	New
3745-42-06	General permit to install requirements.	Rescind
3745-42-06	General permit to install requirements.	New
3745-42-08	General isolation distance requirements.	Rescind
3745-42-08	Isolation distance requirements.	New
3745-42-09	Requirements for filter sand.	Rescind
3745-42-11	Holding tanks.	Rescind
3745-42-11	Holding tanks.	New

The Director's order of adoption was issued on **June 17, 2009**. These adopted rules will become effective on **September 1, 2009**. To request a copy of the rules, write to Elizabeth Bailik, Ohio Environmental Protection Agency, Division of Surface Water, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, email Ms. Bailik at elizabeth.bailik@epa.state.oh.us or call Ms. Bailik at (614) 644-2039. The adopted rules are also available on the Ohio EPA Division of Surface Water Web site at www.epa.state.oh.us/dsw.

The Director's action in this matter is pursuant to the procedural requirements of Ohio Revised Code Chapter 119 and is based upon the record of the public hearing conducted by Ohio EPA on **February 24, 2009**, and comments received during the public comment period.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

Verified Complaint Public Notice

Ohio Department of Natural Resources
Division of Forestry
Shawnee State Forest
Scioto County (73)

On June 10, 2009, a verified complaint was filed with the Director of the Ohio Environmental Protection Agency. The complaint was filed by Barbara Lund, 2635 Hamilton Road, Lynx, OH 45650. The complaint was filed against the Ohio Department of Natural Resources, Division of Forestry, 2045 Morse Road, F-1, Columbus, OH 43229, alleging violations of open burning permission #093004cds07, issued by the Portsmouth Local Air Agency on March 27, 2009, regarding open burning activities conducted by the Ohio Department of Natural Resources on or around April 24, 2009, in the Shawnee State Forest, located in Scioto County, Ohio. Further information may be obtained and agency files and records pertaining to the proceedings may be inspected and copied by contacting the Ohio Environmental Protection Agency, Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio 43216-1049, telephone number (614) 644-2270, or the Air Pollution Unit, Portsmouth City Health Dept., 605 Washington Street, Third Floor, Portsmouth, Ohio 45662, telephone number (740) 353-5156.

PUBLIC NOTICE

**Ohio EPA Issues Preferred Plan for
Fayette Tubular Site
Fayette, Ohio
Public Meeting to be held**

On June 18, 2009 Ohio EPA issued a Preferred Plan concerning the former Fayette Tubular Products (FTP) Site, located in the northwest corner of Section 20, Township 9 South, Range 1 East, Gorham Township, Fulton County, Ohio, in the Village of Fayette, approximately 45 miles west of Toledo, Ohio. The Preferred Plan provides information regarding Site history, summarizes the investigation of Site contamination, provides an analysis of the feasibility of remedial alternatives, and outlines Ohio EPA's preferred alternative for remediation.

The facility was operated continuously from 1962 through 1997, when FTP ceased operations and closed the plant. FTP manufactured air conditioning components. The preferred remedial alternative in this Preferred Plan includes: simultaneous implementation of Ohio EPA Modified Alternative S2 (Institutional Controls and Engineering Controls with Natural Attenuation) for on-Site soil, and Alternative G3 (Active In-Situ Remediation with Natural Attenuation and Controls) for shallow groundwater. Ohio EPA finds that these measures will protect public health and the environment by reducing risk to acceptable levels once the remedial action objectives have been achieved.

Ohio EPA will hold a public meeting on July 14, 2009, to answer questions and to accept comments on the Preferred Plan. The public meeting will begin at 6:30 p.m. at the Fayette Opera House, 105 Main Street, Fayette, Ohio (43521).

The public meeting will begin with an information session during which Ohio EPA will present a summary of the Preferred Plan. After the information session the public can submit oral or written comments for the record regarding the Preferred Plan. Representatives from Ohio EPA will be available following the public hearing portion of the program to answer general questions about the Site and Plan.

In addition to comments provided during the public hearing, Ohio EPA will accept written comments through July 21, 2009. Anyone may submit written comments on the Preferred Plan by writing to: Edward Onyia, Site Coordinator, Ohio EPA Northwest District Office, 347 North Dunbridge Road, Bowling Green, Ohio (43402). Comments can also be faxed to Edward Onyia at (419) 352-8468 or e-mailed to him at

Ed.Onyia@epa.state.oh.us. Ohio EPA will consider all comments before taking a final action.

Copies of the Preferred Plan have been provided to the document repository at the Normal Memorial Library, 301 N. Eagle Street, Fayette, Ohio. The Preferred Plan and related documents are available for review at Ohio EPA's Northwest District Office by calling Linda Tilse, Information Specialist, at (419) 373-3081 for an appointment.

PUBLIC NOTICE

**OHIO EPA APPROVES POST-CLOSURE PLAN FOR
FORMER XXKEM SITE**

On June 17, 2009, Ohio EPA approved a closure plan for the former XXKem Site located at 4015 Stickney Avenue in Toledo, Ohio. The EPA I.D. number for this facility is OHD980586804.

Pursuant to Ohio Administrative Code rules 3745-66-11, 12, & 18 the facility's post-closure plan submitted on October 30, 2008, was approved as outlined in the Director's June 17, 2009, correspondence. This final action was not preceded by a proposed action and is appealable to the Environmental Review Appeals Commission.

PUBLIC NOTICE

**OHIO EPA ISSUES NOTICE OF TENTATIVE DECISION TO ISSUE A VARIANCE
FROM CLASSIFICATION AS A WASTE**

On June 12, 2009, pursuant to Ohio Administrative Code (OAC) rule 3745-50-26, the director of Ohio Environmental Protection Agency (Ohio EPA) issued a grant of a variance to Envirite of Ohio, Inc. (Envirite) and AJYL Recovery Services, LLC (AJYL). Envirite is located at 2050 Central Avenue SE, Canton, Ohio 44707, US EPA ID No.: OHD980568992. AJYL is located at 1533 Allen Avenue SE, Canton, Ohio 44707, US EPA ID No.: OHD986982155. The variance applies to certain hazardous secondary materials that Envirite and AJYL will further reclaim for their metal content.

Why are Envirite and AJYL asking Ohio EPA to grant a Variance?

Without this variance, some of AJYL's activities would be regulated as hazardous waste management activities and AJYL would need a hazardous waste facility installation and operation permit. This variance allows AJYL to store and process the liquid and solid metal-bearing concentrates without obtaining a hazardous waste permit. Envirite is already a permitted hazardous waste storage and treatment facility. The variance contains the conditions under which the facilities must operate.

Can I appeal this final variance from classification as a waste?

Yes, if you are an officer of an agency of the state or of a political subdivision, acting in a representative capacity, or any person who would be aggrieved or adversely affected by this variance from classification as a waste, you have the right to appeal this decision to the Environmental Review Appeals Commission (ERAC).

If I decide to appeal this final variance, how and when must I make the appeal?

If you file an appeal, you must put it in writing no later than July 17, 2009. Your appeal must explain why you are appealing the action and the grounds you are using for your appeal. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. You must file your appeal, according to Ohio Revised Code § 3745.04 with ERAC at the following address: ***Environmental Review Appeals Commission***, 309 South Fourth Street, Room 222, Columbus, Ohio 43215. You must send a copy of the appeal to the director of Ohio EPA at the following address no later than three (3) days after you file it with ERAC: ***Chris Korleski, Director of Ohio EPA***, P.O. Box 1049, Columbus, Ohio 43216-1049.

Date of Public Notice: June 12, 2009

**PUBLIC NOTICE
NOTICE OF RECEIPT OF 401 APPLICATION**

Public notice is hereby given that the Ohio Environmental Protection Agency (Ohio EPA) Division of Surface Water (DSW) has received an application for, and has begun to consider whether to issue or deny, a Clean Water Act Section 401 water quality certification for a project to surface strip mine a 583-acre site (under the minimal degradation alternative). The application was submitted by Oxford Mining Company, 544 Chestnut Street, Coshocton, Ohio 43812. The project is located in Sections 11, 19 and 20 and Lots 1, 4, 5, 6 and 8 in Clay Township, Tuscarawas County, Ohio. The Huntington District Corps of Engineers Public Notice Number for this project is LRH-2007-874-TUS. The Ohio EPA ID Number for this project is 093517.

As required by the Antidegradation Rule, rule 3745-1-05 of the Ohio Administrative Code (OAC), three alternatives have been submitted for the project. The applicant's proposed preferred alternative, if approved, would impact 10,500 feet of intermittent stream, 2,715 of ephemeral stream (13,215' total) and 0.920 acres of jurisdictional wetlands. The applicant's proposed minimal degradation alternative, if approved, would impact 9,820 feet of intermittent stream, 2,715 feet of ephemeral stream (12,535' total) and 0.490 acres of jurisdictional wetlands. The applicant's proposed non-degradation alternative, if approved, would have no direct impacts on waters of the state.

The discharges from the activity, if approved, would result in degradation to, or lowering of, the water quality of Crooked Creek and the Tuscarawas River. Ohio EPA will review the application, and decide whether to grant or deny the application, in accordance with OAC Chapters 3745-1 and 3745-32. In accordance with OAC rule 3745-1-05, an antidegradation review of the application will be conducted before deciding whether to allow a lowering of water quality. All three proposed alternatives will be considered during the review process. No exclusions or waivers, as outlined by OAC rule 3745-1-05, apply or may be granted.

Starting June 12, 2009, copies of the application and technical support information may be inspected at Ohio EPA-DSW, Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio, by first calling (614) 644-2001. Copies of the application and technical support information can be made available upon request at Ohio EPA District Offices by calling the same number.

Persons wishing to 1) be on Ohio EPA's interested parties mailing list for this project, 2) request a public hearing, or 3) submit written comments for Ohio EPA's consideration in reviewing the application should do so in writing to Ohio EPA-DSW, Attention: Permits Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 within thirty days of the date of this public notice.