Shumaker

JULY 13, 2020 | PUBLICATION

Environmental Update, July 2020 (Issue 16)

Download: Environmental Update

INDUSTRY SECTOR

Environmental & Energy

SERVICE LINE

Environmental & Energy

RELATED PROFESSIONALS

Marcus A. Miller

MEDIA CONTACT

Wendy M. Byrne
wbyrne@shumaker.com

OHIO EPA RULEMAKINGS AND ANNOUNCEMENTS

Air

Notice of Adoption of Rules – Amendments to Ohio's "Nitrogen Oxides – Reasonably Available Control Technology" Rules: The Director of the Ohio Environmental Protection Agency (Ohio EPA) has adopted the following amended rules of the Ohio Administrative Code (OAC):

Rule #	Title
3745-110-01	Definitions
3745-110-02	Applicability
3745-110-03	RACT Requirements and/or Limitations for Emissions of NOx from Stationary Sources
3745-110-04	Compliance Deadlines
3745-110-05	Compliance Methods

The rules in OAC Chapter 3745-110 are intended to assist Ohio in attaining and maintaining the national ambient air quality standard (NAAQS) for ozone by limiting the emissions of Nitrogen Oxides (NOx) from stationary industrial sources such as, but not limited to, boilers, combustion turbines, and internal combustion engines. NOx emissions are a pollutant that leads to the formation of ozone.

The Director's order of adoption was issued on **Monday, June 8, 2020**.

These amended rules became effective on **Thursday, June 18, 2020**. Additional information regarding the adopted rule language is available here.

If you have any questions regarding the amendments to Ohio's "Nitrogen Oxides – Reasonably Available Control Technology" rules, contact Mike Born at mborn@shumaker.com or 614.628.4415.

General Permits for Natural Gas and No. 2 Oil-Fired Boilers – Available for Use: Ohio EPA , Division of Air

Pollution Control (DAPC) has completed revisions to the general permits for natural gas and No. 2 oil-fired boilers. The existing general permits for boilers were updated to account for the following:

- Incorporate OAC rule 3745-31-05(A)(3)(a)(ii), which exempts boilers from Best Available Technology (BAT) requirements for each pollutant that has the potential to emit of less than 10 tons per year.
- Incorporate 40 CFR Part 63, Subpart DDDDD – National Emission Standards for Hazardous Air Pollutants (NESHAP) for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.
- Incorporate OAC rule 3745-110 — Nitrogen Oxides Reasonably Available Control Technology (RACT). Boilers with a maximum heat input capacity of less than 40 MMBtu/hr are exempt from this rule.
- Removed OAC rules 3745-21-07(B), 3745-21-08(B) and 3745-23-06(B) from the permit because the rules were rescinded.
- Incorporate the use of ultra-low sulfur No. 2 fuel oil, which reduces potential sulfur dioxide (SO2) emissions.

The revised general permits are available to use now. Information and the Model General Permits are available here.

If you have any questions regarding the General Permits for Natural Gas and No.2 Oil-Fired Boilers, contact Mike Born at mborn@shumaker.com or 614.628.4415.

Annual Review of Sulfur Dioxide (SO2) Data Requirements Rule Source Emissions – Submitted to U.S. EPA: Ohio EPA submitted to U.S. EPA the 2020 Annual Review of Sulfur Dioxide (SO2) as a part of the Data Requirements Rule for the 2010 SO2 standard [80 FR 51052] set by U.S. EPA on August 21, 2015. This rule established ongoing data review requirements including, for areas where modeling of actual SO2 emissions served as the basis for an unclassifiable/attainment designation, an annual review of emissions data and submittal of a report recommending whether updated modeling is necessary due to emissions increases. The annual emissions review is due to U.S. EPA Region 5 by July 1, annually, beginning the calendar year after the effective date of designation.

The 2020 annual review document is being submitted after a public comment period ending May 29, 2020. A copy of the final document is available for review here.

If you have any questions regarding Ohio EPA's Sulfur Dioxide (SO2) Data Requirements Rule, contact Mike Born at mborn@shumaker.com or 614.628.4415.

Supplement to Ohio's Attainment Demonstration for the Sulfur Dioxide National Ambient Air Quality Standard for the Muskingum River, OH Nonattainment Area – Submitted to U.S. EPA: Ohio EPA has submitted to U.S. EPA a supplement to Ohio's attainment demonstration for the sulfur dioxide National Ambient Air Quality Standard for the Muskingum River, OH non attainment Area. This supplement contains an updated Reasonably Available Control Measures (RACM) / Reasonably Available Control Technologies (RACT) analysis and an updated Attainment Demonstration/Control Strategy, which includes SO2 emission limits for Globe Metallurgical. Ohio EPA made a draft of this request available for comment on February 20, 2020. After considering comments, Ohio EPA submitted the final supplemental attainment demonstration to U.S. EPA on June 23, 2020. The supplement and additional documents are available here.

If you have any questions regarding the supplement to Ohio's Attainment Demonstration for the Sulfur Dioxide National Ambient Air Quality Standard for the Muskingum River, OH Nonattainment Area, contact Lou Tosi at ltosi@shumaker.com or 419.321.1397.

Water – Drinking and Groundwater

Early Stakeholder Outreach – Harmful Algal Bloom Rules: The Division of Drinking and Ground Waters (DDAGW) has reviewed rules in Chapter 3745-90 of the OAC to satisfy the five-year rule review requirements of section 106.03 of the Ohio Revised Code. The rules describe harmful algal bloom monitoring, reporting, analysis, and public notification for public water systems. DDAGW is proposing to file rules 3745-90-02 and 3745-90-07 as no change. Proposed minor revisions to OAC Rules 3745-90-01, 3745-90-03, 3745-90-04, 3745-90-05, and 3745-90-06 to include the following:
Updating definitions in 3745-90-01;

- Clarifying and updating language in Rules 3745-90-03, 3745-90-05, and 3745-90-06 for consistency;
- Ending the same day requirement for total microcystin and cyanobacteria screening in 3745-90-03(A)(1);
- Updating language to reflect all samples being analyzed at a certified laboratory in 3745-90-04(A) and (B);
- Removing the reporting violation issued in 3745-90-04(E) to public water systems and the requirement to issue a Tier 3 notification if results are not reported in accordance with 3745-89-08;
- Specify requirement that public water systems review treatment optimization plans annually and resubmit revised plans in 3745-90-05 (A).

DDAGW is particularly interested in stakeholder input on modifying compliance monitoring such that only entry monitoring would be required. The Early Stakeholder Fact Sheet is available here. The comment deadline is **Monday, July 6, 2020**.

If you have any questions regarding the Harmful Algal Bloom Rules, contact Cheri Budzynski at cbudzynski@shumaker.com or 419.321.1332.

Public Notice: Proposed Rulemaking Governing Disadvantaged Community Loan Rules: The Ohio EPA Director, under the authority of Sections 106.03 and 106.031 of the Ohio Revised Code and in accordance with Chapter 119, proposes to Original File the following rules of the Ohio Administrative Code: 3745-88-01 and 3745-88-02.

These rules address the criteria for an entity to be designated a disadvantaged community and provide requirements to receive a loan for their public water system. The purpose of this rule making is to revise the definition of Disadvantaged Assistance, change Pre-application to Nomination, remove the requirement to submit a complete application separate from the WSRLA loan application, clarify that the poverty rate in the area served by the applicant is determined by the most recent data of the U.S. Census Bureau, and clarify the percentage of capitation grant that may be available to provide subsidies to disadvantaged communities.

The Public Notice is available here. The Business Impact Analysis is available here. The comment deadline is **Wednesday, July 22, 2020. Ohio EPA will be holding a virtual public hearing on the rules on Wednesday, July 22, 2020 from 10:30 am to 11:30 am.** The virtual hearing may be accessed through Ohio EPA's website at: http://epa.ohio.gov/virtual. During the virtual hearing the public can submit written comments that will be read into the record by the hearing host.

If you have any questions regarding the proposed Disadvantaged Community Loan Rules information provided, contact Marcus Miller at mmiller@shumaker.com or 614.628.4466.

Water – Surface

Large Rivers Biological and Water Quality Survey Plan for 2020 – 2021: The Large Rivers Biological and Water Quality Survey Plan for 2020 – 2021 is now available for review and comment. Ohio EPA is seeking

comment on its plan to conduct a biological and water quality census survey of Ohio's Large River Assessment Units in 2020 and 2021. Ohio EPA has compiled a proposed list of sampling sites for the 2020 – 2021 Large Rivers Survey and is accepting comments on the proposed sampling sites. The plan Fact Sheet is available here, and the draft Quality Assurance Project Plan (QAPP) for the Biological and Water Quality Survey of Ohio's Large Rivers 2020 – 2021 is available here. The comment deadline is Wednesday July 8, 2020.

Draft General NPDES Permit for Small Discharges of Sanitary Wastewater: Ohio EPA Division of Surface Water (DSW) has issued a draft renewal of the general National Pollutant Discharge Elimination System (NPDES) permit that may provide coverage to small sanitary discharge systems in the state of Ohio. Applicants under this permit include sanitary systems from public, industrial, and commercial facilities. Key parameters limited in this permit are: Dissolved Oxygen, Carbonaceous Biochemical Oxygen Demand, Total Suspended Solids, Ammonia, Escherichia coli, Fecal Coliform, and Residual Chlorine. The Public Notice is available here, the Fact Sheet is available here, and the Draft Permit is available here. The comment deadline is **Friday, July 10, 2020**.

Draft General NPDES Permit for Small Sanitary Discharges that Cannot Meet BADCT Standards: Ohio EPA DSW has issued a draft renewal of general National Pollutant Discharge Elimination System (NPDES) permit that may provide coverage to small sanitary discharge systems in the state of Ohio. This renewal permit covers existing sanitary treatment discharges that are not currently meeting Best Available Demonstrated Control Technology (BADCT) treatment standards. The permit includes a compliance schedule requiring operators to upgrade their treatment systems to meet BADCT standards within 18 months of obtaining coverage under the permit. The BADCT standards apply to the following parameters: Dissolved Oxygen, Carbonaceous Biochemical Oxygen Demand, Total Suspended Solids, Ammonia, Escherichia coli, Fecal Coliform, and Residual Chlorine. The Public Notice is available here, the Fact Sheet is available here, and the Draft Permit is available here. The comment deadline is **Friday, July 10, 2020**.

Request for Proposals – Assistance Grants for Developing 9-Element Nonpoint Source Implementation Strategies in the Ohio River Basin Watershed: Ohio EPA is soliciting proposals for subgrants awarded under the provisions of §319 of the Clean Water Act. These funds will be awarded to applicants who propose to develop 9-Element NPS-IS plans to address causes and sources of localized impairment of water resources at the HUC-12 watershed scale and contribute to far-field impairment in the Ohio River Basin and the Gulf of Mexico that are impaired by nutrients, sediments, and other non-point source pollution. Additional information, including the RFP and application, is available here. The application deadline is **Monday, July 20, 2020**.

Draft Biological and Water Quality Report for the Southern Ohio River Tributaries: The Draft Biological and Water Quality Report for the Southern Ohio River Tributaries is now available for review and comment. The report summarizes Ohio EPA's evaluation of biological and water quality in the Southern Ohio River tributaries watershed (SORT). The draft report Fact Sheet, which summarizes Ohio EPA's findings, is available here, and the draft report is available here. The comment deadline is Thursday, July 23, 2020.

If you have any questions regarding the surface water updates above, contact Cheri Budzynski at cbudzynski@shumaker.com or 419.321.1332.

Non-Hazardous Waste

Interested Party Period: Construction and Demolition Debris (C&DD) Processing Facility Rules, OAC Chapters 3745-400, 500, and 501: Ohio EPA is seeking comments from interested stakeholders (public, local officials, industry sectors, other state agencies, consultants, and environmental organizations) who may be impacted by rule revisions for C&DD processing facilities consisting of permit to install requirements, design and

construction requirements, operation requirements, financial assurance, and final closure requirements. Division of Materials and Waste Management has also amended select multi-program and licensing rules in OAC Chapters 3745-500 and 3745- 501 to make them applicable to C&DD processing facilities. Additional information, including the Interested Party Fact Sheet, the Business Impact Analysis, and a full list of the draft rules is available here. The comment deadline is Monday, July 27, 2020.

If you have any questions regarding the C&DD Processing Facility Rules, contact Mike Born at mborn@shumaker.com or 614.628.4415.

Proposed Rule Governing Professional Engineer Certification Rules: Pursuant to the authority of Sections 3734.02 and 3734.12 of the Ohio Revised Code and in accordance with Chapter 119, Ohio EPA proposes to amend OAC 3745-27-99 which governs requirements for professional engineer certification of plans, specifications, and information. The Public Notice is available here, and the draft rule is available here. The comment deadline is Thursday, July 30, 2020.

If you have any questions regarding the professional engineer certification rules, contact Mark Mercer at mmercer@shumaker.com or 419.321.1436.

© 2026 Shumaker, Loop & Kendrick, LLP. All Rights Reserved. Privacy Policy/Disclaimer

Shumaker