

*** DRAFT – NOT FOR FILING ***

3745-506-530

Compliance monitoring program.

(A) An owner or operator conducting a self-implementing compliance monitoring program in accordance with paragraph (J)(1) of rule 3745-506-500 of the Administrative Code shall comply with the following:

(1) Create a compliance monitoring plan that contains the following:

(a) A ground water monitoring plan that conforms to paragraph (C) of this rule.

(b) Measures and procedures that ensure that the release does not threaten public health or safety or the environment, does not cause a nuisance or a health hazard, and does not cause or contribute to water pollution. The measures and procedures shall ensure the following:

(i) The concentrations of the constituents in the release that are hazardous, including parameters numbered fifteen to two hundred forty-six in Table 1 of rule 3745-506-60 of the Administrative Code, remain at or below the GWAS.

(ii) The release does not reach the facility boundary.

(iii) The release does not discharge to surface water.

(2) Submit a copy of the compliance monitoring plan that conforms to this rule to Ohio EPA and the approved board of health not later than ninety days after the date the facility enters the compliance monitoring program as part of the ground water assessment program in accordance with paragraph (J) of rule 3745-506-500 of the Administrative Code.

(3) Conduct the compliance monitoring program in accordance with the compliance monitoring plan submitted in accordance with paragraph (A) of this rule.

(B) An owner or operator conducting a director-approved compliance monitoring program in accordance with paragraph (J)(2) of rule 3745-506-500 of the Administrative Code shall comply with the following:

(1) Create and implement a compliance monitoring plan that contains the following:

(a) A ground water monitoring plan that conforms to paragraph (C) of this rule.

(b) A detailed description of how the owner or operator will maintain compliance with all terms and conditions of approval of the compliance monitoring program specified in writing by the director.

***** DRAFT – NOT FOR FILING *****

(c) Measures and procedures that ensure that the release does not threaten public health or safety or the environment, does not cause a nuisance or a health hazard, and does not cause or contribute to water pollution. The measures and procedures shall ensure the following:

(i) The concentrations of the constituents in the release that are hazardous, including parameters numbered fifteen to two hundred forty-six in Table 1 of rule 3745-506-60 of the Administrative Code remain at or below the GWAS.

(ii) The release does not cause impacts to a public water supply well or a private water supply well or spring beyond the facility boundary.

(iii) If the release is discharging to surface water, the concentrations of waste-derived constituents and C&DD-derived constituents in ground water do not exceed concentration limits in a permit for discharge to surface water obtained pursuant to paragraph (C) of rule 3745-506-510 of the Administrative Code or to exceed the biological and chemical-specific criteria contained in or developed in pursuant to Chapter 3745-1 of the Administrative Code. If a permit to discharge is issued the owner or operator shall maintain compliance with the permit to remain in compliance monitoring.

(d) Submit a copy of the compliance monitoring plan that conforms to this rule to Ohio EPA and the approved board of health not later than ninety days after the date the facility enters the compliance monitoring program as part of the ground water assessment program in accordance with paragraph (J) of rule 3745-506-500 of the Administrative Code.

(2) Conduct the compliance monitoring program in accordance with the compliance monitoring plan submitted in accordance with paragraph (A) of this rule.

(C) A ground water monitoring plan that is part of a compliance monitoring plan shall include the following:

(1) A list of the ground water monitoring wells to be sampled to monitor the effectiveness of the compliance monitoring program and a provision for ensuring that the ground water monitoring system, including any additional wells as necessary to meet the requirements of this rule, conforms to rule 3745-506-100 of the Administrative Code.

(a) At a minimum, the wells to be sampled during compliance monitoring shall include all wells that that are necessary to continue to make the semiannual determination of rate, extent, and concentration of the constituents in the release to ground water in accordance with rule 3745-506-510 of the Administrative Code.

***** DRAFT – NOT FOR FILING *****

- (b) The owner or operator shall document the design, installation, development, maintenance, and sealing of all ground water monitoring wells used. At a minimum, the documentation shall include completed boring logs, well construction diagrams, and completed well maintenance forms developed in accordance with rule 3745-506-130 of the Administrative Code.
- (2) A ground water sampling and analysis plan that conforms to rule 3745-506-200 of the Administrative Code or a reference to a previously submitted sampling and analysis plan that conforms to rule 3745-506-200 of the Administrative Code.
- (3) Provisions for establishing background ground water quality in accordance with rule 3745-506-120 of the Administrative Code if not previously established during the ground water detection program in accordance with rule 3745-506-400 of the Administrative Code or the ground water assessment program in accordance with rule 3745-506-500 of the Administrative Code.
- (4) A list of GWAS for all constituents in the release.
- (5) A data analysis plan that includes procedures necessary to conduct the data analyses required by paragraph (E) of this rule and that shall be in accordance with the following:
- (a) If statistical analysis is to be used, the statistical analysis plan shall be revised to include appropriate statistical analysis methods and procedures as necessary to comply with this rule and rule 3745-506-300 of the Administrative Code.
- (b) If statistical analysis is not used, the plan shall describe the procedures to be used to determine when a waste-derived constituents or C&DD-derived constituent concentration is elevated, including determining when a concentration is above a GWAS in accordance with paragraph (C)(2) of this rule.
- (6) Provisions for monitoring the ground water monitoring wells designated pursuant to paragraph (C)(1) of this rule in accordance with the ground water assessment program monitoring schedule applicable to the facility contained in rules 3745-506-700 to 3745-506-999 of the Administrative Code.
- (D) Ground water monitoring in the compliance monitoring program. Not later than one hundred eighty days after the last semiannual ground water assessment monitoring event conducted prior to entering the compliance monitoring program, an owner or operator shall commence ground water monitoring in accordance with the compliance monitoring program plan.

***** DRAFT – NOT FOR FILING *****

(E) Data analysis in the compliance monitoring program.

(1) An owner or operator conducting a self-implementing compliance monitoring program shall as part of the semiannual determination required by paragraph (I) of rule 3745-506-510 of the Administrative Code, conduct the following data analysis activities:

(a) Determine whether the concentrations of constituents in the release that are hazardous, including parameters numbered fifteen to two hundred forty-six in Table 1 of rule 3745-506-60 of the Administrative Code, exceed the GWAS.

(b) Determine whether the characteristics of the release have changed in any of the following ways:

(i) A waste-derived constituent or C&DD-derived constituent has entered ground water that was not previously documented in the reports required by rule 3745-506-520 of the Administrative Code.

(ii) If a release is discharging to surface water pursuant to paragraph (C) of rule 3745-506-510 of the Administrative Code.

(iii) If a release has reached the facility boundary pursuant to paragraph (D) of rule 3745-506-520 of the Administrative Code.

(2) An owner or operator conducting a director-approved compliance monitoring program shall as part of the semiannual determination required by paragraph (I) of rule 3745-506-510 of the Administrative Code, conduct the following data analysis activities:

(a) Determine whether the concentrations of constituents in the release that are hazardous, including parameters numbered fifteen to two hundred forty-six in Table 1 of rule 3745-506-60 of the Administrative Code, exceed the GWAS.

(b) Determine whether concentrations of the constituents in ground water at a monitoring well monitoring discharge to surface water exceed a concentration limit in a permit for discharge to surface water obtained pursuant to paragraph (C) of rule 3745-506-510 of the Administrative Code or exceed the biological or chemical-specific criteria contained in or developed pursuant to Chapter 3745-1 of the Administrative Code.

(c) Determine whether the characteristics of the release have changed in any one or combination of the following ways:

***** DRAFT – NOT FOR FILING *****

(i) A waste-derived constituent or C&DD-derived constituent has entered ground water that was not previously documented in the reports required by rule 3745-506-520 of the Administrative Code.

(ii) A release is discharging to surface water in a place or manner not previously determined or documented in the reports required by rule 3745-506-520 of the Administrative Code.

(iii) The release has reached the facility boundary in a place or manner not previously determined or documented in the reports required by rule 3745-506-520 of the Administrative Code.

(d) Any data analysis procedures that were specified in the terms or conditions of a director-approved compliance monitoring program and any corresponding data analysis procedures needed to execute the specified data analysis procedures.

(F) Exceedances of standards while conducting compliance monitoring.

(1) Notifications.

(a) The owner or operator shall submit written notification to Ohio EPA and the approved board of health if any of the following occur:

(i) The concentrations of a constituent in the release that is hazardous, including parameters numbered fifteen to two hundred forty-six in Table 1 of rule 3745-506-60 of the Administrative Code, exceed the GWAS in a compliance monitoring well at the facility.

(ii) The owner or operator does not maintain compliance with a permit to discharge to surface water obtained pursuant to paragraph (C) of rule 3745-506-510 of the Administrative Code or concentrations of waste-derived constituents and C&DD-derived constituents in surface water or in ground water at a monitoring well monitoring discharge to surface water exceed the biological or chemical-specific criteria contained in or developed pursuant to Chapter 3745-1 of the Administrative Code.

(iii) Failure to comply with special terms and conditions of the compliance monitoring plan approved by the director found in the data analysis plan or otherwise described in paragraph (E)(3) of this rule.

(b) The owner or operator shall submit the notification to Ohio EPA and the approved board of health not later than seventy-five days after sampling the ground water monitoring well or surface water sample in which the exceedance occurred. The notification shall indicate the ground water

***** DRAFT – NOT FOR FILING *****

monitoring well or surface water sample in which the exceedance occurred and the parameter that exceeded the GWAS or concentration limit.

(2) Demonstration of a false positive.

(a) If an owner or operator chooses to demonstrate that an exceedance of a GWAS for a hazardous parameter, a surface water permit standard or a surface water concentration limit in accordance with paragraph (E)(1) or (E)(2) of this rule was a false positive resulting from natural variation or an error in sampling, analysis or statistics, then the owner or operator shall submit a false positive demonstration for each parameter exceeding the GWAS or concentration limit to the director. The sampling and analysis and any statistical procedures used in the false positive demonstration shall be documented in the ground water or surface water sampling and analysis plan and the statistical analysis plan, as appropriate.

(b) The owner or operator shall submit the demonstration to the director and the approved board of health not later than one hundred twenty days after the date that the sample indicating the exceedance was withdrawn from the ground water monitoring well or surface water.

(c) The director may decline to act on the demonstration.

(d) The director may approve the request if the director determines that approving the demonstration is protective of public health and safety and the environment, prevents a nuisance or a health hazard, and does not cause or contribute to water pollution.

(e) Unless the director approves the false positive demonstration in writing by the end of the one hundred eightieth day after the date the sample indicating the exceedance was withdrawn, an owner or operator shall conduct a ground water corrective actions program in accordance with rule 3745-506-600 of the Administrative Code.

(G) Change in the characteristics of the release while conducting compliance monitoring. If the characteristics of the release change as described in paragraph (E)(1) or (E)(2) of this rule, the owner or operator shall re-evaluate in accordance with the paragraph (J) of rule 3745-506-500 of the Administrative Code whether the facility continues to meet the requirements for conducting compliance monitoring. The owner or operator shall comply with the following:

(1) If the facility continues to meet the requirements for self-implemented compliance monitoring in accordance with paragraph (J)(1) of rule 3745-506-500 of the Administrative Code and does not require the director's approval to conduct compliance monitoring based on the characteristics of the release, the facility may remain in the compliance monitoring program. The owner or

***** DRAFT – NOT FOR FILING *****

operator shall revise the compliance monitoring plan not later than ninety days after the date the sample was withdrawn which identified the change in characteristics of the release. The compliance monitoring plan shall reflect the new characteristics of the release, including the waste-derived constituents and C&DD-derived constituents in the release and the rate and extent of migration and the concentrations of the constituents in the release.

(2) If paragraph (J) of rule 3745-506-500 of the Administrative Code requires the director's approval to conduct compliance monitoring based on the revised characteristics of the release, the owner or operator may submit to the director a request to remain in the compliance monitoring program in accordance with paragraph (J)(2) of rule 3745-506-500 of the Administrative Code, and the following conditions apply:

(a) The request to remain in the compliance monitoring program shall include the same information as the compliance monitoring proposal pursuant to paragraph (J)(2)(d) of rule 3745-506-500 of the Administrative Code.

(b) The director may decline to act on the request.

(c) The director may approve the request if the director determines the following:

(i) The request from the owner or operator conforms to paragraph (G)(2)(a) of this rule.

(ii) Approving the request is protective of public health and safety and the environment, prevents a nuisance or a health hazard, and does not cause or contribute to water pollution.

(d) If the director approves the request, the director shall retain and distribute copies of the signed approval letter pursuant to rule 3745-500-130 of the Administrative Code.

(e) If the owner or operator does not receive written approval from the director to remain in compliance monitoring by the end of the one hundred eightieth day after the date the sample was withdrawn indicating the change in characteristics of the release, the owner or operator shall conduct a ground water corrective actions program in accordance with rule 3745-506-600 of the Administrative Code.

(f) If the owner or operator does receive written approval from the director within the time frame identified in paragraph (G)(3) of this rule, the owner or operator shall revise the compliance monitoring plan not later than thirty days after the date the director's approval was received to describe the new characteristics of the release, including the waste-derived constituents and

*** DRAFT – NOT FOR FILING ***

C&DD-derived constituents in the release and the rate and extent of migration and the concentrations of the constituents in the release.

- (H) Compliance monitoring report. The owner or operator shall semiannually complete a written report of the implementation of the compliance monitoring plan developed in accordance with paragraph (A) or (B) of this rule, including ground water monitoring, data analysis, and determinations made in accordance with paragraphs (D) and (E) of this rule. This report shall be submitted as part of the semiannual assessment activities report required by rule 3745-506-520 of the Administrative Code.
- (I) The director may determine that a compliance monitoring program is not capable of meeting the requirements of this rule or rule 3745-506-500 of the Administrative Code. If the director makes a determination under this paragraph, then the director may order, without limitation, the owner or operator to do one or more of the following:
- (1) Implement interim corrective actions in accordance with rule 3745-506-620 of the Administrative Code or enter the ground water corrective actions program in accordance with rule 3745-506-600 of the Administrative Code.
 - (2) Implement alternative measures that are practicable and consistent with the overall objective of the compliance monitoring program to control the sources of contamination.
 - (3) Submit a new compliance monitoring plan in accordance with paragraph (A) or (B) of this rule.