

## ***Proposed Rules – Surface Water Quality Credible Data Program (OAC Chapter 3745-4)***

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### **What is the credible data program?**

Local watershed organizations, school classes and citizen groups are all helping to identify problems and educate community residents about water quality in local streams through the collection of water quality data.

In 2003, Governor Taft signed into law House Bill 43. The law required Ohio EPA to develop a new surface water quality monitoring system and adopt rules that establish criteria for three levels of “credible data” related to surface water monitoring and assessment. The law also required that Ohio EPA define the purposes for which each level of credible data can be used.

The law specifically mentioned chemical, physical and biological water quality monitoring data concerning surface waters. The statute and the rules do not address ground water.

Ohio EPA adopted the rules in Chapter 3745-4 of the Ohio Administrative Code (OAC) in 2006.

### **Why are these rules under review?**

Section 119.032 of the Ohio Revised Code (ORC) requires Ohio EPA to review its rules every five years to determine whether they should be changed. The Agency has reviewed these rules and has identified needed changes.

### **What is credible data?**

Credible data is gathered to answer a specific question or for a specific purpose. Scientifically valid or credible data should be sufficient to answer the question being asked.

Because the same data may not be sufficient to answer more complex questions, it may not be credible in other contexts.

### **What is the purpose of the credible data rules?**

The rules establish the necessary training and experience needed to submit credible data and requirements for sample collection, analytical methods,

data assessment and quality assurance/quality control (QA/QC) procedures for each of the three levels of credible data.

Each participating data collector increases the information base used to enhance, improve and maintain water resource quality in Ohio.

The rules also define training and experience requirements for qualified data collectors (QDCs); describe sampling protocols and field methods to ensure that the data collection and interpretation are reproducible, scientifically defensible and free from pre-conceived bias; and require Ohio EPA to establish and maintain a computerized database of all credible water quality data submitted to the Agency.

### **What are credible data levels?**

The law establishes three levels of credible data based on the purpose for which the data is collected.

Level 3 credible data utilize the most stringent methods and procedures, Level 2 is less stringent than Level 3, and Level 1 employs the least stringent methods and procedures.

More specifically:

- Level 3 data is used to address specific regulatory issues cited in the statute and will be collected by the most stringent methods. It is the only data used for purposes such as setting use designations, developing statewide water quality inventories or establishing a total maximum daily load (TMDL) for water bodies.
- Level 2 data helps evaluate the effectiveness of pollution controls or is used to conduct initial screening of water quality conditions.
- Level 1 data is used to promote public awareness and education about surface waters of the state.

### **What changes are being proposed?**

The significant proposed rule changes are summarized below.

- The proposed rules expand the recognized habitat assessment skill sets to include the headwater habitat evaluation index (HHEI). Level 2 and Level 3 QDCs will

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- be able to be approved for methods specific to those small watersheds.
- The proposed rules add the Ohio River Valley Water Sanitation Commission (ORSANCO) to the list of federal environmental agencies recognized in the rule as providing credible data. This eliminates requirements for ORSANCO employees to obtain QDC status and submit study plans.
- The proposed rules include alternatives to formalized training requirements (e.g., apprenticeships and Director's consideration), a commitment to review and categorize submitted data within one year, and the authority to approve the use of updated versions of older sampling and analysis methods as part of the study plan approval process. (These revisions arose through a settlement agreement in an appeal of the 2006 rules filed by the Northeast Ohio Regional Sewer District, NEORS D).
- The proposed rules reflect an option for automatic approval of Level 1 QDCs.
- The proposed rules add an Ohio EPA Division of Environmental Services (DES) lab audit option.
- The provisions to establish credentials as a qualified data collection organization have been deleted in proposed rules.

Other changes in the proposed rules are clarifications and corrections to current rule language.

## Are there changes from the September 2010 draft rule revisions?

Yes. Changes were made to the rules in response to comments received from interested parties and a re-assessment of Agency priorities.

- The inclusion of new training and testing requirements for the chemical water quality assessment specialty has been removed from the proposed rule because the Agency lacks the resources needed to develop and administer a testing program.
- A change in the proposed rule was made to accommodate the request that the credible data program evaluate and accept historical data when sufficient justification is presented and approved via the plan of study submission.

- Settlement language negotiated with NEORS D that was inadvertently omitted from the draft rule has been added.
- Other small changes were made to further clarify the proposed rules.

## Who will be regulated by these rules?

Only individuals who voluntarily choose to submit data for consideration as credible data must qualify as a QDC and demonstrate compliance with the requirements in these rules.

## What additional information is the Agency seeking?

The Agency wants to hear from interested stakeholders who may be impacted by these rule revisions. General comments and specific factual information are welcome. The Agency is also seeking information on the costs the rule revisions would have on program participants.

## How are the amendments formatted in the proposed rules?

Text proposed for deletion is struck through; new text is underlined.

## What is the rulemaking schedule?

A public hearing on these proposed rules will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held at the **Ohio EPA Conference Center, Room B, 50 West Town Street, Suite 700, in Columbus, Ohio at 2:00 p.m. on May 24, 2011**. The purpose of the public hearing is to give interested persons the opportunity to present oral or written comments on the proposed rules.

At the close of the public comment period, the Agency will review the comments, make any necessary changes to the rules, and then adopt the rules. This is roughly a two-month process from the close of the comment period. A responsiveness summary will be prepared and sent to everyone who comments on the proposed rules. Final rules could be adopted in mid 2011.

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## **How can I comment on the proposed rules?**

Please submit your comments in one of the following ways:

By email: *dsw\_rulecomments@epa.state.oh.us*

By fax: (614) 644-2745

By postal mail:

**Rule Coordinator**

Ohio EPA, Division of Surface Water

P.O. Box 1049

Columbus, OH 43216-1049

**Comments on the proposed rules must be received  
no later than 5:00 p.m. on May 24, 2011.**

## **How can I get more information?**

Copies of this fact sheet and the proposed rules are on the Division of Surface Water website at *www.epa.ohio.gov/dsw/Home.aspx*.

For more information about the proposed rules, please contact:

Jeff Reynolds

(614) 644-3635

*jeff.reynolds@epa.state.oh.us*