

Ohio's Regulations: A Guide for Operators Drilling Shale Oil and Gas Wells



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Cover photo from Ohio Department of Public Safety

Introduction

With almost half of Ohio sitting over shale deposits rich in natural gas, the state has had a significant increase in oil and natural gas drilling activity in the eastern Ohio shale.

This guidebook has been developed to help drilling companies better understand Ohio's regulatory requirements and the permits needed from the Ohio Department of Natural Resources, Division of Oil and Gas Resources Management (ODNR-DOGRM) and Ohio Environmental Protection Agency. This guide is only a starting point. It should not be your only source of information on the regulations or replace seeking assistance from experienced consultants and/or legal counsel to help you fully understand and achieve compliance with Ohio's laws and regulations.

Understanding the regulations and working with ODNR and Ohio EPA early in the process will help minimize permitting delays for you and ensure drilling activities are done in a manner that protects the public and environment.

Construction, Location, Design and Operation of an Oil or Gas Well

The ODNR-DOGRM regulates the location, spacing, construction, design and operation of oil and gas wells in Ohio under Chapter 1509 of the Ohio Revised Code (ORC) and Chapter 1501 of the Ohio Administrative Code (OAC). A permit from ODNR is required if you plan to construct a well site for the purpose of drilling a horizontal well and/or if you plan to drill, deepen, reopen, plug back, convert or plug a natural gas, oil, Class II injection, or enhanced recovery well. ODNR's permitting requirements also apply if approved well locations or drilling units are revised.

Certain requirements (set back distances, fees, water sampling and best management practices) vary depending on whether a well is located in an urban vs. non-urban area. For details, see [ODNR's website](#).

For all wells, there are ODNR-DOGRM notification and reporting requirements during cementing, well completion, stimulation and production. You are required to report information on the type and volume of produced and injected fluids. In addition, you must have procedures in place to prevent spills/releases and comply with other safety measures, including pipeline burial, identification and construction specifications.

Site restoration is required under ODNR's regulations for both urban and non-urban area well sites. Site grading, seeding or other measures are required to prevent erosion and sedimentation.

Once a producing well is plugged, you must remove all associated production equipment and restore the well site (grading, seeding, terracing, etc.) to prevent erosion and sedimentation.

The regulations also require a surety bond to assist in financing the restoration of a site if a well owner fails in their responsibility to act in accordance with Ohio's site restoration laws and insurance to provide for claims of property damage or bodily injury.

The ORC provides ODNR-DOGRM with authority to implement any additional regulations and permit conditions for wells and associated facilities based on site-specific conditions necessary to protect the environment and public health and safety. For more information, see [ODNR's website](#).



Ohio EPA File Photo

Water Withdrawal Notification and Use of Water from a Public Water System

Between four and six million gallons of water are typically needed to hydraulically fracture a single eastern Ohio shale well. This water usually comes from nearby lakes, rivers and public water systems.

Water Withdrawal Registration

ORC Section 1521.16 requires registration with ODNR's Division of Water Resources (ODNR-DWR) for any owner of a facility, or combination of facilities, with the capacity to withdraw water at a quantity greater than 100,000 gallons per day (about 70 gallons per minute).

The law requires registration if a facility has the capacity to withdraw 100,000 gallons per day even if a lower volume is actually withdrawn.



Photo courtesy of the Ohio Department of Public Safety

Diversion of Water from the Lake Erie Drainage Basin



Lake Erie-Ohio River Basin Drainage Divide

The Great Lakes–St. Lawrence River Basin Water Resources Compact (Great Lakes Compact), a binding agreement among the eight states that border the Great Lakes, which has been enacted into Ohio law and carries the force of Federal law, specifically prohibits any new or increased diversions of any amount of water out of the Lake Erie Basin. Therefore, no permits will be issued for the transfer of water out of the Lake Erie Basin for oil and gas operations, or other types of operations. The Lake Erie Basin includes all or part of 33 counties in Ohio located north of the Lake Erie–Ohio River Basin drainage divide.

Depending on the location and type of withdrawal, other requirements may apply. For more information, see the [ODNR-DWR website](#).

Obtaining Water from a Public Water Supply

If you intend to connect your drill site to an existing public water system, you are required to have proper containment devices at the point of connection to protect the public water system in accordance with Ohio EPA's requirements (OAC 3745-95). At a minimum, this includes a reduced-pressure principle backflow assembly at the service connection. An approved air gap separation should be maintained at the drill sight. If air gap isolation is not maintained at the drill pad, an air gap separation will be required at the service connection. For more information, see [Ohio EPA's Backflow Prevention and Cross-Connection Control fact sheet](#). If construction activities associated with installing a water line will have an impact on streams, wetlands or other waters, this may also require 401/404 authorization (see page 4).

Other Sources of Hydraulic Fracturing Fluids

If your company is exploring the use of other sources of fluids for hydraulic fracturing (for example, wastewater treatment plant effluent), contact ODNR-DOGRM to discuss applicable requirements and authorizations.

Air Permits for Emission Sources

Ohio EPA's Division of Air Pollution Control (DAPC) requires a permit-to-install and operate (PTIO) for units or activities that emit air pollutants. A drill site may have several air emission sources, including:

- dehydration systems;
- natural gas-fired and diesel engines;
- unpaved roadways;
- petroleum liquids and recovered-water storage tanks;
- natural gas-fired turbine generator sets;
- combustion devices/flares; and
- equipment/pipeline leaks.



Ohio EPA File Photo

A PTIO is required for all emission sources, unless specifically exempt under the Ohio Administrative Code (OAC). Current exemptions include:

- 1) **"De minimis" exemption ([OAC rule 3745-15-05](#))**: This applies to sources that emit less than 10 pounds per day of any air contaminant and less than one ton per year of any hazardous air pollutant (or combination of hazardous air pollutants). If you are claiming a de minimis exemption for any air emission source, you are not required to notify Ohio EPA, however you must keep records demonstrating that the source meets the exemption. If you need assistance, you may contact your local Ohio EPA district office or local air agency (LAA). They can review your de minimis calculations and put information in the file about your exemption to assist future inspectors that may be reviewing your site information.
- 2) **Permanent exemptions ([OAC rule 3745-31-03\(B\)\(1\)](#))**: This rule includes a list of emissions sources that are exempt from permitting, including small boilers, detergent-based parts washers, small storage tanks and other sources that meet certain size criteria or have minimal air emissions. You are not required to provide notification to Ohio EPA for sources that fall under this exemption.
- 3) **Permit-by-rule ([OAC rule 3745-31-03\(C\)](#))**: The permit-by-rule (PBR) covers several categories of small emission sources. You are not required to get a permit for a PBR source, but must comply with the emission limits, operational restrictions and recordkeeping specified in the rule. For sources covered under the PBR, you must file a one-page notification with Ohio EPA.

To improve its efficiency in processing air permit applications, Ohio EPA has developed model general permits for a wide variety of business sectors, including production operations at shale oil and gas well sites and multiple general permits for equipment typically installed at mid-stream compressor stations. The general permits cover a variety of emission sources found at these type of sites, including internal combustion engines, generators, dehydration systems, storage tanks and flares. They contain emissions limits, operating restrictions, monitoring and reporting requirements. Applicants meeting the qualifying criteria can apply for the general permits. Ohio EPA's review and approval process for the general permits is completed within weeks.

For sources that require an air permit, you must receive an approved permit before constructing these sources.

The first step to obtaining an air permit is to discuss the equipment you plan to install with the air permit writer located at the Ohio EPA district office or LAA having jurisdiction over the area where your drill site will be located. Your local office can help you determine if you qualify for a general permit, or if you need an individual permit, and explain the procedures in applying for a permit. You can determine which office to call by reviewing the [Ohio EPA district office/local air agency map](#). For more information on Ohio EPA's air permitting process, exemptions and electronic copies of application forms, visit the [DAPC website](#).

Construction Activities that Impact Waters of the State

If constructing a drill site will impact wetlands, streams or other waters of the state, you must obtain approval from the United States Army Corps of Engineers (USACE) under Section 401 of the Federal Clean Water Act and Ohio EPA under Section 401 Water Quality Certification (WQC). Examples of activities that require a 404/401 approval, include:

- excavating or placing fill material in a wetland, stream or lake to construct your pad site, access road, water lines, or production lines;
- stream piping, rerouting or straightening to construct the pad;
- dredging a wetland to create a pond; or
- culverting streams or filling wetlands to construct roadways, water or wastewater piping.

Depending on the extent of the impacts, your project may be authorized under a Nationwide Permit (a general permit) or an individual permit. In March 2017, USACE reauthorized the nationwide 404 permits (NWP). Included in this group is NWP 39 for "Commercial and Institutional Development" activities. NWP 39 authorizes impacts to streams and wetlands associated with oil and gas well construction up to 0.5 acres of Category 1 and 2 wetlands and 300 linear feet of streams.

If impacts exceed 0.5 acres of Category 1 or 2 wetlands, 300 linear feet of stream, or any Category 3 wetlands are impacted, you will be required to apply for and receive authorization under an individual 401 certification and 404 permit. Obtaining an individual 401 WQC can take three to six months.

In addition, isolated wetlands not covered under the jurisdiction of the federal Clean Water Act are still regulated under Ohio's isolated wetlands law. If you will impact these areas, you must also get an isolated wetland permit from Ohio EPA.



Although Ohio EPA coordinates with USACE in the 401/404 permit application processes as much as possible, the agencies each have different authority and jurisdictions. Therefore, you need to work closely with both agencies. We strongly urge you to contact USACE as early in the process as possible to determine the extent of waters of the U.S. on your site and what permits may be required.

For more about 401 WQC requirements, visit [Ohio EPA's WQC and Isolated Wetland Permits website](#). For information about 404 permits, visit the [U.S. Army Corps of Engineer's website](#).

Best Management Practices to Control Storm Water Run-off and Erosion

Oil and gas exploration and production sites are not required to obtain a permit from EPA for storm water management under the federal Clean Water Act (CWA).¹ The CWA provisions, do, however, remain enforceable if there is a discharge of any reportable quantity of material, or if a discharge from the site contributes to a violation of a water quality standard.

Although a separate storm water permit is not required, ODNR requires oil and gas well operators implement best management practices (BMPs) for sediment/erosion control as part of their horizontal well site construction and drilling authorization permits in urban areas and recommends the use of BMPs in all areas. A sediment and erosion control plan and a storm water hydraulic report must be developed and submitted as part of the application for a permit to construct a horizontal well site. Examples of BMPs include:

- installing perimeter controls, sediment basins/traps and a stabilized construction entrance;
- isolating drainage from the site to eliminate storm water run-on;
- using a stabilized entrance or wheel wash station to reduce mud on streets/roads from vehicle drag out;
- containing and properly disposing of all drilling fluids, including fluids associated with setting the casing and plugging operations; and
- inspecting the site on a regular basis (especially after wet weather events) to determine if additional stone, seed, mulch, or other measures are needed to stabilize the site.



*A sediment basin/trap can be an effective method to control runoff.
Ohio EPA file photo.*

For more information, see [ODNR's Best Management Practices for Oil and Gas Well Site Construction](#).

Managing Fluids from Oil and Gas Drilling Operations

ODNR has the exclusive authority for regulating the disposal of brine² and fluids from oil and gas drilling. The primary method of disposal is by Class II injection wells.

ODNR has regulatory authority over the design and operation of temporary storage facilities or units for fluids that are either being recycled or collected prior to disposal.

The direct discharge of brine into waters of the state is prohibited. Ohio is not authorizing the disposal of brine at municipal wastewater treatment plants (also called publicly owned treatment works or POTWs). Brine disposed of in Ohio must be sent to an ODNR-permitted Class II injection well. Where feasible, recycled flowback water may be reused in another drilling operation or other manner approved by ODNR.

¹For more information on the federal storm water exemption, go to [U.S. EPA's Oil and Gas Stormwater Permitting website](#).

²"Brine" includes all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well. (R.C. 1509.01(U)) The definition of brine includes flowback water from hydraulic fracturing.

If certain conditions are met under ODNR's laws, brine that is not from a horizontal well may be approved for road surface dust and ice control. Brine collected from a horizontal well, fluids from the drilling of a well, flowback from the stimulation of a well and other fluids used to treat a well shall not be spread on a road. For more information on road surface application, contact ODNR-DOGRM.

Companies transporting drilling-related fluids in Ohio must register with ODNR-DOGRM. Transporters are required to receive an identification number, maintain a daily log and submit an annual report to ODNR. Transporters are also required to have insurance and a surety bond. Information and forms are available at [ODNR's website](#).

Managing Drill Cuttings

Oil and gas exploration and production wastes, including drill cuttings and drilling muds, are not classified as hazardous waste under state or federal law.³ However, when drill cuttings come into contact with sources of contamination (e.g. drilling muds, oils or other contaminants) and are shipped off-site for disposal, Ohio EPA regulates these cuttings as solid waste. Solid waste must be sent to a licensed solid waste landfill for disposal.

If you want to dispose of drill cuttings at the drill site, this activity must be approved by ODNR. For more information about managing drill cuttings on the drill site, contact ODNR-DOGRM.

Ohio EPA will consider proposals to beneficially reuse drill cuttings off-site. However, anyone interested in beneficially reusing drill cuttings off-site must get prior authorization for this activity from Ohio EPA's Division of Materials and Waste Management (DMWM). For more information about the solid waste requirements or beneficial reuse options, contact Ohio EPA-DMWM.

Certain geologic formations contain low levels of naturally occurring radioactive materials (NORM) which can be carried up in the drilling process. When NORM is separated, recycled or in some other manner has its radioactivity concentrated (intentionally or unintentionally), it becomes another category of radioactive material called technologically enhanced naturally occurring radioactive material (TENORM). TENORM is the same group of NORM radionuclides, but they have been modified or technologically enhanced, resulting in a man-made radioactive concentration higher than in their natural state.

ODNR-DOGRM has sole and exclusive authority to regulate oil and gas wells and production operations within the state, including waste substances containing NORM or TENORM. The statute was finalized on Sept. 29, 2015, and can be found at [Ohio Revised Code Section 1509.02](#).

Spill Containment, Control and Release Reporting Requirements

Spill Prevention Control and Countermeasure (SPCC) Plan

If you store oil or oil products at the drill site, you could be subject to the Spill Prevention Control and Countermeasure (SPCC) regulations under 40 CFR Part 112. If you have a total aboveground storage capacity of 1,320 gallons or more, you are subject to SPCC requirements, including:

- providing adequate secondary containment for storage and transfer areas to contain any releases; and
- preparing a written SPCC plan.

Under SPCC regulations, the definition of oil and oil products is very broad and includes soluble oils, heating oil, crude oil, mineral oil, gasoline and diesel fuel.

When determining if you are subject to the rules, the total capacity of your tanks or containers must be considered, not the actual amount of oil/oil products stored. Containers less than 55 gallons in size do not need to be included in calculating your SPCC storage capacity.

³For more information, see U.S. EPA's Publication "[Exemption of Oil and Gas Exploration and Production Wastes from Federal Hazardous Waste Regulations](#)".

SPCC requirements are federal regulations, administered by U.S. EPA. Ohio EPA does provide limited support to U.S. EPA for the program, however, there are no state regulations administered specifically by Ohio EPA for this program.

For more information, see [Ohio EPA's Understanding the Spill Prevention, Control and Countermeasure \(SPCC\) Requirements fact sheet](#) or [U.S. EPA's website](#).

Spill/Release Reporting

Ohio Revised Code 3750.06 requires that companies report spills or releases involving a petroleum product (diesel fuel, gasoline, hydraulic fluid, etc.) to local, state and/or federal emergency authorities, if the spill/release exceeds reportable quantities. The reportable quantities are:

- any amount of petroleum that causes a film or sheen on a waterway; or
- any spill or release to the environment (not contained on the spiller's property) of 25 gallons or more.

**Ohio EPA's spill hotline
800-282-9378**

If you are uncertain how much was released, reporting is encouraged. Petroleum product spills of 25 gallons or more on or adjacent to a public roadway must be reported. Ohio EPA encourages reporting a spill of any amount if it directly threatens a waterway, or, if left unaddressed, can enter a waterway or storm sewer during rain or snowmelt. For more information, see the [Ohio EPA's Emergency Response Program fact sheet](#).

As of Aug. 9, 2016, the following requirements are in place for oil and gas regulated sites under ORC Chapter 1501:9-8. *If you are unsure whether your site is regulated under ORC Chapter 1501:9-8 and contact Ohio EPA's spill hotline, the notification will be forwarded to ODNR's One-Call Incident Notification.*

- responsible party shall make the verbal notification within 30 minutes of knowledge of the release to ODNR at 1-844-OHCALL1, county designated Local Emergency Planning Committee (LEPC) and jurisdictional fire department; and
- responsible party must submit the written follow-up report within 30 days to the Chief of ODNR-DOGDM and the LEPC.



Ohio EPA File Photo

Emergency Planning and Community Right-to-Know Act (EPCRA) Requirements

EPCRA requires facilities report hazardous chemicals being stored on-site. Facilities are subject to EPCRA if all the following conditions are met:

- the facility is subject to the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard;
- the facility uses, produces, and/or stores hazardous chemicals and/or extremely hazardous substances (EHS); and
- the quantity of hazardous chemicals or extremely hazardous substances stored is more than the threshold quantity (TQ).

The definition of hazardous chemicals and the list of extremely hazardous substances, along with the reporting thresholds for each are available at [Ohio EPA's SERC webpage](#). Additional information can be found at [Ohio EPA's Oil and Gas Reporting website](#) and the [Ohio State Emergency Response Commission's guidance document for oil and gas production/storage sites](#).

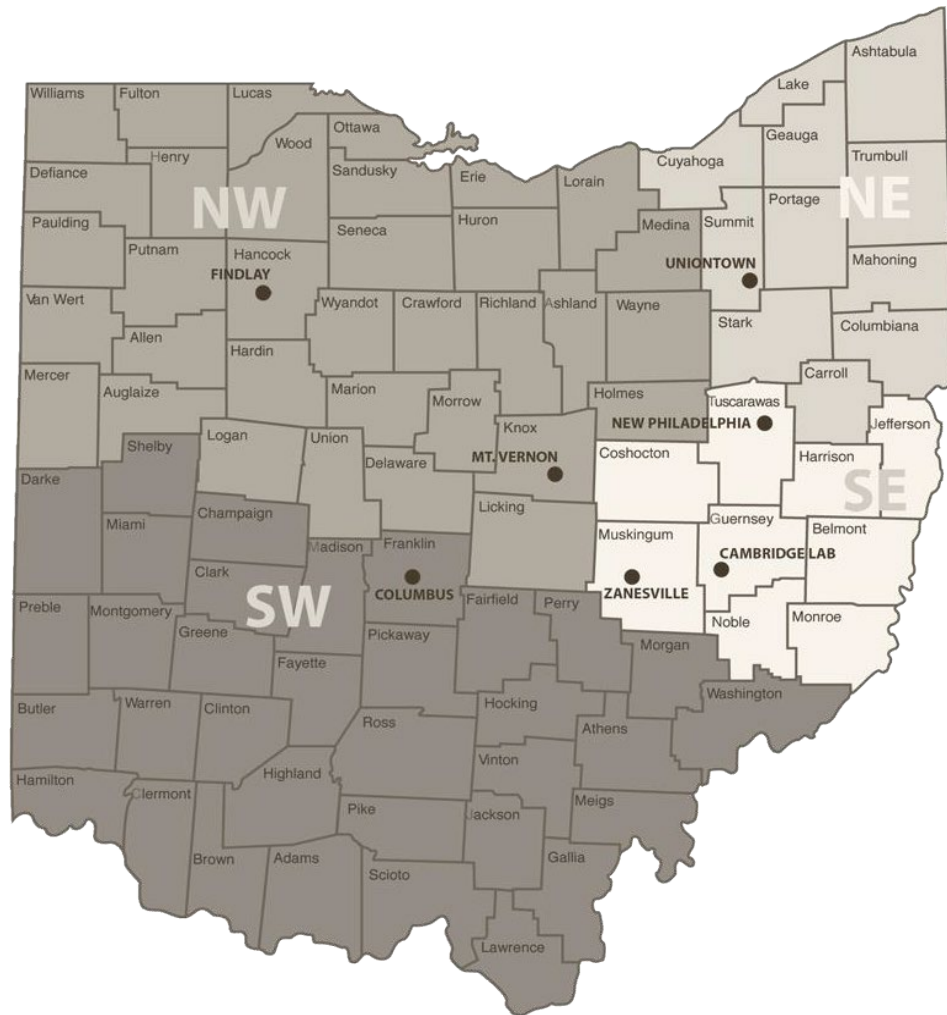
For oil and gas operations subject to EPCRA, ORC Chapter 1501:9-8 provides ODNR-DOGRM, in consultation with the emergency response commission, the authority to establish the reporting format (including an electronic database) and information necessary for purposes of responding to an emergency. This reporting will include, at a minimum, information required under EPCRA. The statute also sets the parameters under which ODNR will make information submitted and contained in the database accessible to the emergency response commission, emergency response authorities and to the public. As of July 2017, the electronic reporting program had not been established, and oil and gas well operations continued to file reports with the State Emergency Response Commission (SERC), the LEPC and the jurisdictional fire department. For more information, including updated instructions on how and where to submit the annual inventory reports, contact ODNR-DOGRM, or Ohio EPA's Division of Air Pollution Control.

Summary of ODNR and Ohio EPA Regulatory Authority Over Oil and Gas Activities

	Ohio Department of Natural Resources	Ohio Environmental Protection Agency
Horizontal oil and gas drilling in shale formations	<ul style="list-style-type: none"> ✓ Issues permits for drilling oil and gas wells in Ohio. ✓ Sets requirements for proper location, design and construction requirements for oil and gas wells. ✓ Inspects and oversees drilling, stimulation, and production activities. ✓ Requires controls and procedures to prevent discharges and releases. ✓ Requires that oil and gas wells no longer capable of production are properly plugged and abandoned. ✓ Requires registration and/or permitting for operators with the capacity to withdraw water at a quantity greater than 100,000 gallons per day. ✓ Establishes the reporting format and information necessary for purposes of responding to an emergency. ✓ Requires oil and gas regulated sites under ORC Chapter 1501:9-8 to make verbal notification through ODNR's One-Call Incident Notification (1-844-OHCALL1). 	<ul style="list-style-type: none"> ✓ Requires drillers obtain authorization for construction activity where there is an impact to a wetland, stream, river or other water of the state. ✓ Requires drillers obtain an air permit-to-install and operate (PTIO) for units or activities that have emissions of air pollutants. ✓ May be involved in emergency response activities related to spills and releases, in coordination with ODNR and other emergency response authorities.
Fluids and drill cuttings management at drilling sites	<ul style="list-style-type: none"> ✓ Sets design requirements for storage of drill cuttings and fluids at the well site. ✓ Sets standards for managing drill cuttings. 	<ul style="list-style-type: none"> ✓ Requires contaminated drill cuttings shipped off-site be taken to a licensed solid waste facility for disposal. ✓ Reviews and approves proposals for beneficial reuse of cuttings off-site.
Fluids disposal	<ul style="list-style-type: none"> ✓ Regulates the disposal of brine and other fluids. ✓ Oversees permitting and operation of Class II injection wells used to dispose of waste fluids from oil and gas drilling. ✓ Reviews specifications and issues permits for Class II injection wells. ✓ Reviews well construction and surface facility construction requirements for Class II injection wells. 	
Transporting fluids	<ul style="list-style-type: none"> ✓ Registers transporters hauling brine and other oil and gas waste fluids in Ohio. 	<ul style="list-style-type: none"> ✓ May be involved in emergency response activities related to spills and releases, in coordination with ODNR and other emergency response authorities.
Connecting the drill site to a public water supply system		<ul style="list-style-type: none"> ✓ Requires proper containment devices at the point of connection to protect the public water system.

	<i>Ohio Department of Natural Resources</i>	<i>Ohio Environmental Protection Agency</i>
Horizontal well site construction	<ul style="list-style-type: none"> ✓ Issues permits for construction of a horizontal well site. ✓ Sets requirements for proper location, design and construction requirements for horizontal wells. 	
Oil and gas brine and waste substances management	<ul style="list-style-type: none"> ✓ Authorizes the storage, recycling, treatment and processing of oil and gas brine and waste substances at locations other than well sites and at Class II injection wells. ✓ Sets requirements for proper location, design, and construction requirements for oil and gas waste facilities. 	

ODNR Division of Oil and Gas Resources Management Offices and Contacts



Central Office

2045 Morse Rd., Bldg. F-2
Columbus, OH 43229
(614) 265-6922
Fax: (614) 265-6910

Northwest Region

Mt. Vernon Office
116 East High Street
Mt. Vernon, Ohio 43050
(740) 392-4499
Fax: (740) 393-6705

Findlay Office

952 Lima Avenue
Findlay, Ohio 45840
(419) 429-8327
Fax: (419) 424-5008

Northeast Region

Uniontown Office
3575 Forest Lake Drive, Suite 150
Uniontown, OH 44685
(330) 896-0616
Fax: (330) 896-1849

Southwest Region

Zanesville Office
5880 Memory Road
Zanesville, OH 43701
(740) 588-0631
Fax: (740) 588-0659

Southeast Region

Zanesville Office
5880 Memory Road
Zanesville, OH 43701
(740) 588-0631
Fax: (740) 588-0659

New Philadelphia Office
2207 Reiser Avenue SE
New Philadelphia, OH 44663
(330) 308-0007
Fax: (330) 308-0011

Cambridge Environmental Lab
325 North 7th Street
Cambridge, OH 43725
(740) 439-5591
Fax: (740) 439-3075

[ODNR Contact Oil & Gas](#)

Ohio EPA District Offices



Central Office
Lazarus Government Center
50 W. Town St., Suite 700
P.O. Box 1049
Columbus, OH 43215
(614) 644-3020

Northwest District Office
347 N. Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461
(800) 686-6930

Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 963-1200
(800) 686-6330

Central District Office
Lazarus Government Center
50 W. Town St., Suite 700
Columbus, OH 43215
(614) 728-3778
(800) 686-2330

Southeast District Office
2195 E. Front Street
Logan, OH 43138
(740) 385-8501
(800) 686-7330

Southwest District Office
401 E. Fifth St.
Dayton, OH 45402
(937) 285-6357
(800) 686-8930

*Toll-free numbers are for citizens with questions or concerns about environmental issues.
The regulated community should use the business line for routine business.
Spills and emergencies should be reported to (800) 282-9378.*

Additional Contacts

Ohio Department of Natural Resources—Division of Oil and Gas Resources Management

2045 Morse Rd., Building F-2
Columbus, OH 43229-6693
Phone (614) 265-6922
Fax (614) 265-6910
oilandgas.ohiodnr.gov

Ohio Department of Natural Resources—Division of Water Resources

2045 Morse Road, Bldg. B
Columbus, OH 43229-6693
Water Planning Information: (614) 265-6739
Water Inventory Information: (614) 265-6742
dswr@dnr.state.oh.us
water.ohiodnr.gov

U.S. Army Corps of Engineers Offices

Huntington District	www.lrh.usace.army.mil
Buffalo District	www.lrb.usace.army.mil
Louisville District	www.lrl.usace.army.mil
Pittsburgh District	www.lrp.usace.army.mil

State of Ohio
John R. Kasich, Governor



Craig W. Butler, Ohio EPA Director
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oilandgas.ohiodnr.gov

Please contact Ohio EPA with your comments and suggestions about this guide.

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