



Early Stakeholder Outreach — Water Quality Standards

Ohio EPA prepares early stakeholder outreach fact sheets to ensure stakeholders are brought into the review process as early as possible and to promote additional input and discussion before development of interested party draft rules.

What does OAC Chapter 3745-1 cover?

Ohio Administrative Code (OAC) Chapter 3745-1 contains Ohio's standards for water quality. Water quality standards are state regulations or rules that protect lakes, rivers, streams and other surface water bodies from pollution. These rules contain: beneficial use designations such as warmwater aquatic life habitat, public water supply and primary contact recreation; numeric levels and narrative statements (water quality criteria) protective of the beneficial use designations; and procedures for applying the water quality criteria to wastewater discharges.

Why are these rules being sent out for Early Stakeholder Outreach?

The first step in the rule-making process is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created. In response to EO 2011-01K, Ohio EPA has added an additional step to ensure stakeholders are brought into the rule process as early as possible. This additional interested party notification and request for information allows for early feedback before the rule language has been developed by the Agency.

What changes are being considered?

The Agency is considering a reorganization of the content in OAC Chapter 3745-1; specifically the existing content in rules OAC 3745-1-07 and 3745-1-33 through 3745-1-39. Portions of existing content would be moved into new rules in OAC Chapter 3745-1 (3745-1-33 to 3745-1-43). It is important to emphasize that the existing rule language would be moved from one rule to another without any substantive changes. Please see the table on page 3 for additional details regarding initial ideas the Agency has on the reorganization. The Agency is considering one revision to rule 3745-1-05 as part of this rulemaking (described below).

Why is the Agency considering the rule reorganization?

A couple of reasons. Rule 3745-1-07 contains a lot of information (36 pages) and our experience is that it can be difficult for both Ohio EPA staff and external stakeholders to readily find information about the various designated uses and applicable water quality criteria as currently arranged. This reorganization of content should make the rules easier to use. It will also set the stage for future revisions in actual rule content that may be considered as part of the Agency's Water Quality Standards program triennial review of the rules, scheduled for 2016, and in subsequent rulemakings.

How can I provide input?

The Agency is seeking stakeholder input on the rules. When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- explain how you arrived at your estimate for potential burdens, benefits or costs;
- provide specific examples to illustrate your views; and
- offer alternatives.

Written comments will be accepted through close of business on September 28, 2015.

Please submit your comments in one of the following ways:

- By email:
dsw_rulecomments@epa.ohio.gov
- By fax: (614) 644-2745
- By postal mail: Rule Coordinator, Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, OH 43216-1049

What if I have questions?

For more information about the rulemaking, please contact: Dan Dudley at (614) 644-2876 or daniel.dudley@epa.ohio.gov.

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What changes are being considered in rule 3745-1-05?

The only actual content change being contemplated in this rulemaking is a new exemption from the antidegradation rule that would apply to new NPDES permits for coal surface mining activities occurring on remining sites if the applicant demonstrates that there would be a net reduction in pollutant loading (comparing premining to post mining reclamation).

Who will be regulated by these rules?

Water quality standards are used in the implementation of Clean Water Act programs such as the National Pollutant Discharge Elimination System (NPDES) permits, Section 401 Water Quality Certifications and Total Maximum Daily Load (TMDL) reports. Potentially impacted entities may include facilities that discharge or plan to discharge wastewater or entities seeking permission to physically impact water bodies .

What is the rulemaking schedule?

At the close of the Early Stakeholder Outreach comment period, the Agency will consider input provided by stakeholders and then draft the reorganization of the rules. The draft rules will be released for another comment period called Interested Party Review, which the Agency anticipates occurring in fall 2015.

What input is the Agency seeking?

Please review the existing rules in OAC Chapter 3745-1, available at: http://epa.ohio.gov/dsw/rules/3745_1.aspx. The Agency strongly encourages interested stakeholders to provide comments now; at this early step in the rulemaking process so that the Agency can incorporate revisions based on comments and make the draft revisions available for comment during the next rule step.

The following questions may help guide you as you develop your comments.

- Is the general regulatory framework proposed the most appropriate? Should the Agency consider any alternative framework?
- Is there any information or data the Agency should be aware of when developing rule language?

Ohio EPA would especially like to hear information regarding the following from stakeholders who may be impacted by the new program.

- Would this regulatory program have a positive impact on your business? Please explain how.
- Would this regulatory program have an adverse impact on your business? If so, please identify the nature of the adverse impact (for example, license fees, fines, employer time for compliance).

How can I get more information?

Additional information is available on the Ohio EPA Division of Surface Water website:

- This fact sheet is available on the Division of Surface Water website at www.epa.ohio.gov/dsw/dswrules.aspx.
- For additional background information on water quality standards, please visit the Water Quality Standards Program web page at: www.epa.ohio.gov/dsw/wqs/index.aspx.

The existing rules in OAC Chapter 3745-1 are available at: www.epa.ohio.gov/dsw/rules/3745_1.aspx.

Contact

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Summary of draft reorganization of Water Quality Standards Program Rules, OAC Chapter 3745-1.

The rules in shaded rows would be part of the reorganization rulemaking.

- Orange shading indicates rescinded rule with the content moved to another rule number in Chapter 3745-1.
- Blue shading indicates rules containing existing rule language that would be moved to other rules.
- Green shading indicates the one rule that would include new content as described earlier in this fact sheet.

Rule Number	Revised/New Rule Title	Draft Organization
3745-1-01 to -04	Purpose and Applicability Definitions Analytical methods and references Criteria applicable to all waters	None
3745-1-05	Antidegradation	None; New exemption added for coal remining sites that demonstrate no net increase in pollutant loading.
3745-1-06	Mixing Zones	None
3745-1-07	Beneficial use designations.	Rule will contain definitions of the beneficial use designations only. Water quality criteria for the protection of the uses will be moved to new rules 33, 35 and 37.
3745-1-08 to -32	Listing of designated uses by major river drainage basin Lake Erie Standards Ohio River Criteria	None
3745-1-33	Water quality criteria for the lake Erie drainage basin.	Rescind rule. Rule content will be moved as follows: <ul style="list-style-type: none"> • Human health “drinking” criteria to new rule 33; • Human health “nondrinking” criteria to rule 34; • Wildlife criteria to rule 35.
3745-1-33	Water quality criteria for water supply use designations.	New rule using existing language. Will contain: <ul style="list-style-type: none"> • Human health “drinking” water supply criteria from rules 33 and 34; • Agricultural water supply criteria from rule 07.
3745-1-34	Water quality criteria for the Ohio river drainage basin.	Rescind rule. Rule content will be moved as follows: <ul style="list-style-type: none"> • Human health “drinking” criteria to rule 33; • Human health “nondrinking” criteria to new rule 34; • Wildlife criteria to rule 35.
3745-1-34	Human health criteria one route exposure [fish consumption]	New rule using existing language. Will contain: <ul style="list-style-type: none"> • Human health “non-drinking” criteria from rules 33 and 34.
3745-1-35	Site-specific modifications to criteria and values	Rescind rule. Rule content will be moved to rule 39.
3745-1-35	Aquatic life and wildlife criteria	New rule using existing language. Will contain: <ul style="list-style-type: none"> • Aquatic life, biological and temperature criteria from rule 07. • Wildlife criteria from rule 33.
3745-1-36	Methodologies for development of aquatic life criteria and values	Rescind rule. Rule content will be moved to rule 40.
3745-1-36	Reserved	New rule, for future nutrient criteria under development.

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3745-1-37	Methodology for deriving bioaccumulation factors	Rescinded rule. Rule content will be moved to rule 41.
3745-1-37	Water quality criteria for recreation use designations.	New rule using existing language. Will contain: <ul style="list-style-type: none"> Bacteria criteria and aesthetic criteria (MBAS, oil & grease and phosphorus) from rule 07.
3745-1-38	Methodologies for development of human health criteria and values for the lake Erie drainage basin	Rescinded rule. Rule content will be moved to rule 42.
3745-1-38	Reserved	New rule. Will likely contain future variances from WQS.
3745-1-39	Methodology for development of wildlife criteria for the Lake Erie drainage basin	Rescind rule. Rule content will be moved to rule 43.
3745-1-39	Site-specific modifications to criteria and values	New rule using existing language. Content of rescinded rule 35 moved here.
3745-1-40	Methodologies for development of aquatic life criteria and values	New rule using existing language. Content of rescinded rule 36 moved here.
3745-1-41	Methodology for deriving bioaccumulation factors	New rule using existing language. Content of rescinded rule 37 moved here.
3745-1-42	Methodologies for development of human health criteria and values for the lake Erie drainage basin	New rule using existing language. Content of rescinded rule 38 moved here.
3745-1-43	Methodology for development of wildlife criteria for the lake Erie drainage basin	New rule using existing language. Content of rescinded rule 39 moved here.
3745-1-50 to 54	Wetland definitions Wetland narrative criteria Wastewater discharge criteria Wetland use designation Wetland antidegradation	None