



Early Stakeholder Outreach — Implementation of Water Quality Standards OAC Chapter 3745-2

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

What does OAC Chapter 3745-2 cover?

Chapter 3745-2 of the Ohio Administrative Code (OAC) contains the technical procedures used by the Agency to convert water quality standards contained in OAC Chapter 3745-1 into wasteload allocations that can be used as limits in National Pollutant Discharge Elimination System (NPDES) permits. The chapter also contains dissolved oxygen modeling and Total Maximum Daily Load (TMDL) procedures.

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The first step in the rule-making process is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created.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 will allow for early feedback before the rule language has been developed by the Agency.

What changes are being considered?

The Agency is reviewing the existing rules in OAC Chapter 3745-2 in accordance with the five year rule review requirements in Ohio Revised Code (ORC) 106.03. The following revisions are being considered at this time:

- Updates to reference citations, updates to rule format, updates to definitions for consistency with terms in ORC 6111.01 and OAC Chapter 3745-1.
- Consideration of new rule language at OAC rule 3745-2-05(A)(3) to provide for the use of alternate statistical techniques to determine background water quality if appropriate.
- Reviewing the intake credit provisions in OAC rule 3745-2-06(C) for relevancy.
- Clarifying dissolved oxygen modeling in OAC rule 3745-2-11 to take into consideration capabilities of current models.
- Update of OAC rule 3745-2-12 regarding requirements for non-conservative parameters.

Two rules within this chapter are included in a concurrent rulemaking, the reorganization of water quality standards in OAC Chapter 3745-1, and will not be included in this review. These rules are 3745-2-08, mixing zone demonstration and sizing requirements, and 3745-2-09, whole effluent toxicity provisions and water quality based effluent limit calculation procedures.

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 June 27, 2016.

Please submit input to:

Rule Coordinator
Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049
dsw_rulecomments@epa.ohio.gov

What if I have questions?

This fact sheet is available on the Division of Surface Water website at www.epa.ohio.gov/dsw. For more information about the rulemaking, please contact curt.chipps@epa.ohio.gov or melinda.harris@epa.ohio.gov.

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This rulemaking is not intended to include revisions in support of the Agency's future stream nutrient criteria. Any necessary revisions will be made in conjunction with the draft stream nutrient criteria revisions to OAC Chapter 3745-1, expected to be released for interested party review and comment in summer 2016. This rulemaking is also not intended to address revisions to requirements for TMDLs that may be necessary in response to *Fairfield Cty. Bd. of Commrs. V. Nally*, 143 Ohio St. 3d 93, 2015-Ohio-991.

Who will be regulated by these rules?

These rules contain the administrative procedures used by the Agency in developing effluent limitations for dischargers regulated under the National Pollutant Discharge Elimination System (NPDES) permitting program. The rules also describe how TMDLs are developed by the Agency. New and existing dischargers to waters of the state may be regulated by these rules, including publicly owned wastewater treatment plants, private wastewater treatment plants, industrial facilities, mining operations, etc.

What is the rulemaking schedule?

At the close of the Early Stakeholder Outreach comment period, the Agency will consider input provided by stakeholders and draft revisions to the rules. These draft revisions will be released for another comment period called Interested Party Review, which the Agency anticipates occurring in summer 2016.

What input is the Agency seeking?

Please review the existing rules in OAC Chapter 3745-2, available at: http://epa.ohio.gov/dsw/rules/3745_2.aspx. Please look for rule language that is unclear, out-of-date, inconsistent with federal or other state regulations, etc. The Agency strongly encourages interested stakeholders to provide comments on the existing rule language now, at this step in the process so that the Agency can draft revised language in response to those comments and make the draft revisions available for comment during the next rule review 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?
- What options are available for improving the existing rules?
- Are there considerations the Agency should take into account when updating the existing rules?
- Is there any information or data the Agency should be aware of when developing program concepts or 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).

Contact

For more information, contact Curt Chipps at curt.chipps@epa.ohio.gov or (614) 644-2892 or Melinda Harris at melinda.harris@epa.ohio.gov or (614) 728-1357.