



Early Stakeholder Outreach — Beneficial Use Designation Rules (OAC Chapter 3745-1)

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 3745-1 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.

What are beneficial use designations?

A goal of the Clean Water Act is to achieve fishable and swimmable conditions in water bodies, whenever attainable. The fishable and swimmable goals equate to the warmwater habitat (WWH) and primary contact recreation (PCR) use designations in Chapter 3745-1 of the OAC. The use designations are defined in rule 3745-1-07 of the OAC and are briefly discussed below. The water quality criteria and values protective of the designated uses are found within Chapter 3745-1 of the OAC.

Beneficial use designations are the water quality goals for lakes, rivers, streams and other water bodies. Designations include such uses as aquatic life habitats (warmwater, coldwater, etc.), recreation (bathing waters, primary contact, secondary contact) and water supplies (public, agricultural, industrial).

Beneficial use designations are assigned to specific water bodies in Chapter 3745-1 of the OAC. Each of the 23 major drainage basins or watersheds in the state is assigned a rule in Chapter 3745-1. Specific water quality criteria are associated with each beneficial use and are the minimum specific target conditions to be maintained in the water bodies. Together the uses and criteria may be the basis for limits in wastewater discharge permits and conditions in Section 401 water quality certifications. Changes to the beneficial use designations are adopted as water quality standard rule revisions.

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 **November 24, 2014**.

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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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 is intended to promote early feedback before the rule language has been developed by the Agency.

What changes are being considered?

Ohio EPA is considering amendments to five rules that address beneficial use designations. See the table at the end of this fact sheet for a listing of the specific rules and watersheds.

State law and the federal Clean Water Act require Ohio EPA to periodically update rules to reflect the latest scientific information. The Agency is evaluating information regarding beneficial use designations for selected water bodies in five of the 23 major drainage basins in the state. Three broad types of changes will be considered:

- Changing beneficial use designations for specific water bodies;
- Adding water bodies that are currently undesignated to the rules; and
- Verifying existing beneficial use designations already listed in the rules.

Changes, additions and verifications of existing beneficial use designations are based upon the findings of biological, habitat and water quality surveys. Other available pertinent information is also consulted, including information and comments from interested persons.

No changes are under consideration for an additional five of the 23 major drainage basins in the state, as indicated in the table at the end of this fact sheet.

Where does the new information come from?

The new information supporting the changes under consideration comes from water body surveys. Ohio EPA has an ongoing 5-year basin monitoring schedule that rotates monitoring efforts across the state. The monitoring program consists of surveying the chemical, physical and biological characteristics of selected water bodies throughout the state each year, following the 5-year basin cycle. The purposes of these surveys include determining the present health and uses of the water bodies and predicting the potential health and uses of the water bodies if additional pollution controls were imposed. The rule revisions, incorporating the results of water body surveys conducted in the past several years, reflect the Agency's responsibility to assign beneficial water uses.

For information on the current conditions of Ohio water bodies and trends in water quality, see the Ohio EPA Integrated Water Quality Monitoring and Assessment Report. It is available on the web at <http://epa.ohio.gov/dsw/tmdl/OhioIntegratedReport.aspx>.

Who will be regulated by these rules?

Beneficial use designations are one component of the water quality standards 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 these 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 revisions to the rules. These draft revisions will be released for another comment period called Interested Party Review, which the Agency anticipates occurring in late 2014 – early 2015.

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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, and the draft revisions the Agency is considering in the table at the end of this fact sheet. The Agency strongly encourages interested stakeholders to provide comments now; at this early step in the rulemaking 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 an identified concept?
- Are there considerations the Agency should take into account when developing a specific concept?
- Is there any additional information or data the Agency should be aware of when developing the draft rules?

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?

During this early stakeholder comment period, the Agency will be holding a webinar to provide additional information on the rule revisions being considered and answer any questions to help inform stakeholder comments. The webinar has been scheduled for November 6, 2014 from 1:00 to 2:00 p.m. The event address for attendees is:

<https://ohioepa.webex.com/ohioepa/onstage/g.php?d=682252659&t=a>. You will need speakers or headphones connected to your computer to hear the audio portion of the webinar. You will be able to ask questions during the webinar using the chat feature in WebEx.

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 and beneficial uses, 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.
- The biological and water quality studies upon which the rule revisions are based are available at: www.epa.ohio.gov/dsw/document_index/psdindx.aspx.

Early Stakeholder Outreach — Use Designations

Table 1. Summary of Use Designation Revisions Under Consideration

Pg #*	Water Body Segment	Existing Designated Uses**	Changes Under Consideration
Hocking River Drainage Basin, OAC 3745-1-08			
No known changes			
Ashtabula River Drainage Basin, OAC 3745-1-14 (2011 survey)			
2	Hubbard Run	WWH, AWS, IWS, PCR	Designate CWH in lieu of WWH
2	Unnamed tributary at Hubbard Run RM 0.20	None	Designate CWH, AWS, IWS, PCR
2	Unnamed tributary at Ashtabula River RM 16.98	None	Designate WWH, AWS, IWS, PCR
2	Unnamed tributary at West Branch RM 3.50	None	Designate WWH, AWS, IWS, PCR
2	East Branch of East Branch Ashtabula River	None	Designate WWH, AWS, IWS, PCR
2	Unnamed tributary at East Branch RM 1.35	None	Designate WWH, AWS, IWS, PCR
2	Unnamed tributary at RM 0.80 to the unnamed tributary of East Branch at RM 1.35	None	Designate WWH, AWS, IWS, PCR
Little Beaver Creek Drainage Basin, OAC 3745-1-15			
2	Island Run	WWH, AWS, IWS, PCR	Remove – stream is in Pennsylvania
2	Honey Creek	None (previously listed)	Designate WWH, AWS, IWS, PCR (*)
3	Harman Run	None (previously listed)	Designate WWH, AWS, IWS, PCR (*)
Southeast Ohio River Tributaries Drainage Basin, OAC 3745-1-16 (2008 survey)			
17	Unnamed tributary at Kyger Creek RM 8.44	None	Designate MWH-MA, AWS, IWS, PCR
Southeast Ohio River Tributaries Drainage Basin, OAC 3745-1-16 (2010 survey)			
4	Ellisonville Creek	None	Designate WWH, AWS, IWS, PCR
5	Kimble Creek	None	Designate WWH, AWS, IWS, PCR
5	Sawmill Run	None	Designate WWH, AWS, IWS, PCR
5	Chandlers Run	None	Designate WWH, AWS, IWS, PCR
6	Osburn Run	LWH, AWS, IWS, PCR	Designate LRW-AMD in lieu of LWH
6	Little Storms Creek (upper trib at RM 9.23)	None	Designate WWH, AWS, IWS, PCR
East Fork Little Miami River Drainage Basin, OAC 3745-1-18 (2012 survey)			
2	Unnamed tributary at East Fork RM 2.40	None	Designate WWH, AWS, IWS, PCR
3	Unnamed tributary at Stonelick Creek RM 10.61	None	Designate WWH, AWS, IWS, PCR
3	Unnamed tributary at Backbone Creek RM 1.36	None	Designate WWH, AWS, IWS, PCR
4	Unnamed tributary at Cloverlick Creek RM 7.48	None	Designate WWH, AWS, IWS, PCR
5	Dodson Creek	EWH, AWS, IWS, PCR	Designate WWH in lieu of EWH
5	Unnamed tributary at Dodson Creek RM 4.52	None	Designate WWH, AWS, IWS, PCR
5	Unnamed tributary at South Fork Dodson Creek RM 0.37	None	Designate WWH, AWS, IWS, PCR

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Pg #*	Water Body Segment	Existing Designated Uses**	Changes Under Consideration
6	Unnamed tributary at East Fork RM 78.45	None	Designate WWH, AWS, IWS, PCR
Little Miami River Drainage Basin, OAC 3745-1-18 (2011 survey)			
9	Unnamed tributary at Anderson Fork RM 9.26	None	Designate WWH, AWS, IWS, PCR
9	Glady Run – headwaters to Hedges Road (RM 4.0)	WWH, AWS, IWS, SCR	Designate PCR in lieu of SCR
10	Unnamed tributary at Little Miami River RM 96.26	None	Designate WWH, AWS, IWS, PCR
10	Unnamed tributary at North Fork RM 5.60	None	Designate WWH, AWS, IWS, PCR
10	Gilroy Ditch	WWH, AWS, IWS, PCR SCR (The current use in OAC 3745-1-18 is SCR.)	Designate PCR in lieu of SCR
Rocky River Drainage Basin, OAC 3745-1-20			
No known changes			
Chagrin River Drainage Basin, OAC 3745-1-22			
No known changes			
Cuyahoga River Drainage Basin, OAC 3745-1-26			
No known changes			
Black River Drainage Basin, OAC 3745-1-27 (2012 survey)			
2	Ridgeway ditch (Black River RM 10.18)	None	Designate WWH, AWS, IWS, PCR
2	Alexander ditch aka Brentwood tributary (East Branch Black River RM 5.89)	None	Designate WWH, AWS, IWS, PCR
2	Unnamed tributary at East Branch Black River RM 22.65	None	Designate WWH, AWS, IWS, PCR
2	Crow Creek	WWH, AWS, IWS, PCR	Designate PCR in lieu of SCR
2	Center Creek (East Branch Black River RM 28.65)	None	Designate WWH, AWS, IWS, PCR
2	Unnamed tributary at East Branch Black River RM 39.06	None	Designate CWH, AWS, IWS, PCR
2	Unnamed tributary at East Branch Black River RM 41.41	None	Designate CWH, AWS, IWS, PCR
2	West Branch Black River – Parsons Road (RM 7.85) to U.S. Route 20 (RM 14.39)	SRW, WWH, AWS, IWS, PCR	Remove SRW; replace with GHQW
2	West Branch Black River – at RM 14.42	SRW, WWH, AWS, IWS, PCR, PWS	Remove SRW, replace with GHQW
3	Kelner Ditch (West Branch Black River at RM 8.61)	None	Designate WWH, AWS, IWS, PCR
3	Wellington Creek – Findley State Forest boundaries (RM 14-.69 – 16.60)	SRW, WWH, AWS, IWS, PCR	Remove SRW; replace with GHQW

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Pg #*	Water Body Segment	Existing Designated Uses**	Changes Under Consideration
3	Unnamed tributary at Charlemont Creek RM 0.51	None	Designate WWH, AWS, IWS, PCR
3	Powdermaker Ditch	None	Designate WWH, AWS, IWS, PCR
3	Heider Ditch	None	Designate WWH, AWS, IWS, PCR
3	Gable Ditch	None	Designate WWH, AWS, IWS, PCR
Vermilion River Drainage Basin, OAC 3745-1-28			
No known changes			

* Indicates approximate page number that the water body would appear on within the amended rule.

**As currently indicated in OAC 3745-1-08 through OAC 3745-1-32.

Table 2. Summary of Existing Use Designations Recommended for Verification

Pg #*	Water Body Segment	Existing Designations Recommended for Verification**
Ashtabula River Drainage Basin, OAC 3745-1-14 (2011 survey)		
2	Strong Brook	IWS, PCR
2	Hubbard Run	AWS, IWS, PCR
2	Ashtabula Creek	WWH, AWS, IWS, PCR
Southeast Ohio River Tributaries Drainage Basin, OAC 3745-1-16 (2010 survey)		
2	Munn Run	AWS, IWS, PCR
2	Dry Run	AWS, IWS, PCR
2	Frederick Creek	AWS, IWS, PCR
2	Long Run	AWS, IWS, PCR
3	Holland Fork	AWS, IWS, PCR
3	Bucklick Creek	AWS, IWS, PCR
4	Sugarcamp Creek	AWS, IWS, PCR
4	Lick Run	WWH, AWS, IWS, PCR
4	Little Pine Creek	WWH, AWS, IWS, PCR
5	Hales Creek	WWH, AWS, IWS, PCR
5	Brushy Fork	WWH, AWS, IWS, PCR
5	Olive Creek	WWH, AWS, IWS, PCR
5	Negro Creek	WWH, AWS, IWS, PCR
5	Painter Creek	WWH, AWS, IWS, PCR
5	Patton Run	WWH, AWS, IWS, PCR
5	Ginat Run (Ginat Creek)	WWH, AWS, IWS, PCR
6	Little Storms Creek (lower trib at RM 1.8)	AWS, IWS, PCR

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Pg #*	Water Body Segment	Existing Designations Recommended for Verification**
6	Little Ice Creek	AWS, IWS, PCR
7	Saliday Creek	WWH, AWS, IWS, PCR
Southeast Ohio River Tributaries Drainage Basin, OAC 3745-1-16 (2008 survey)		
17	Bell Lick Run	AWS, IWS, PCR
Little Miami River Drainage Basin, OAC 3745-1-18 (2011 survey)		
8	Turkey Run	WWH, AWS, IWS, PCR
9	Grog Run	WWH, AWS, IWS, PCR
9	Grassy Run	WWH, AWS, IWS, PCR
Black River Drainage Basin, OAC 3745-1-27 (2012 survey)		
3	West Branch – headwaters to Parsons Road (RM 14.39)	WWH, AWS, IWS, PCR
3	Elk Creek	WWH, AWS, IWS, PCR

* Indicates approximate page number that the water body would appear on within the amended rule.

**As currently indicated in OAC 3745-1-08 through OAC 3745-1-32.

Index of Acronyms Used

RM = River Mile. The river mile is a point location describing the lineal distance from the downstream terminus (i.e., mouth) and moving in an upstream direction.

The following acronyms for designated uses are used in this table. Designated uses are defined in OAC 3745-1-07.

AWS = Agricultural Water Supply

CWH = Coldwater Habitat

EWB = Exceptional Warmwater Habitat

GHWQ = General High Quality Water

IWS = Industrial Water Supply

LRW-AMD = Limited Resource Water – Acid Mine Drainage

LWH = Limited Warmwater Habitat

MWH-MA = Modified Warmwater Habitat – Mine Affected

PCR = Primary Contact Recreation

PWS = Public Water Supply

SCR = Secondary Contact Recreation

SRW = State Resource Water

WWH = Warmwater Habitat