



Early Stakeholder Outreach — Water Quality Standards Purpose and Criteria applicable to all waters (OAC Rules 3745-1-01 & -04)

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.

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The first step in the rule-making process is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created.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

What changes are being considered?

The Agency is considering the section of rule OAC 3745-1-01 which deals with certain types of limited exceptions from meeting the State Water Quality Standards (WQS). Topics under review in rule OAC 3745-1-04 include sampling protocols used to determine the identification of a public health nuisance in surface waters and the interpretation of narrative criteria applicable to all surface waters. Additional information is provided in the side panel.

Why are these changes being considered?

Rules OAC 3745-1-01 and 3745-1-04 are past due their assigned 5-year rule review date. Regarding rule OAC 3745-1-01, a law enacted in 2015 (ORC 6111.32) established certain requirements with regard to the disposal of dredge material in Lake Erie. The current exception language in rule OAC 3745-1-01 needs to be modified to be consistent with this State law. A different exception in the current rule has become obsolete because the application of pesticides to surface water is now regulated by the National Pollutant Discharge Elimination System (NPDES) permit program. The Agency proposed changes in rule OAC 3745-1-04 in 2011 that were later withdrawn. We are re-considering the merits of these changes at this time.

Rule content under review.

The Agency seeks input on all aspects of the current rule and specifically requests feedback on the following subject matter.

- Add criteria covering harbor or navigation maintenance activities in support of the law banning open lake disposal by 2020. (ORC 6111.32, see <http://codes.ohio.gov/orc/6111.32v1>).
- Revise the language covering exceptions from WQS during the application of pesticides so that it refers to the general NPDES permit for pesticide application discharges, see http://www.epa.ohio.gov/dsw/permits/GP_Pesticide.aspx).
- In rule OAC 3745-1-04 there is language dealing with the identification of public health nuisances caused by raw or poorly treated sewage. The Agency has reviewed its complaint investigation practices for manure spills is seeking input regarding if similar language should be added to define public health nuisances associated with manure releases to surface waters.

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Who is regulated by these rules?

Water quality standards are used in the implementation of Clean Water Act programs such as the 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. In addition, the specific changes under consideration would impact persons using pesticides on or near water and persons seeking authorization to open lake dispose dredge material under Section 401.

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 2016.

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 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 new or amended rule language?

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

- Does this program have a positive impact on your business? Please explain how.
- Does this 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?

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 <http://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.

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

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 30, 2016.

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 daniel.dudley@epa.ohio.gov or (614) 644-2876.