



Early Stakeholder Outreach — Variances from water quality standards for point sources (OAC 3745-1-38)

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 3745-1-38 cover?

Ohio Administrative Code (OAC) rule 3745-1-38 covers variances from water quality standards for point sources. The rule details requirements for variance eligibility, time frames, application procedures and the approval process. Rule 3745-1-38 also includes the requirements for coverage under the multiple discharger variance for mercury.

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The first step in the rule-making process is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created.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?

In August 2015, U.S. EPA finalized revisions to the federal WQS variance requirements found in 40 CFR 131.14. To remain consistent with federal rule, the Agency is considering updating OAC rule 3745-1-38 to incorporate requirements that would reflect those written in the revised federal WQS. The Agency is also considering the following changes to OAC 3745-1-38:

- Update of the multiple discharger mercury variance conditions.
- Addition of a multiple discharger ammonia variance for lagoon systems.

Who will be regulated by this rule?

This is a voluntary program that allows regulated facilities discharging to waters of the state from a point source to apply for regulatory relief and flexibility if they can not comply with water quality standards based effluent limits. Examples of regulated entities include publicly owned wastewater treatment plants, semi-public facilities such as mobile home parks or industrial facilities such as chemical manufacturing plants.

What is the rulemaking schedule?

The Agency is planning to release a draft version of these rules for interested party review and comment in autumn of 2020.

How can I provide input?

The Agency is seeking stakeholder input on the rule. 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 August 31, 2020 .

Due to COVID-19 the Agency is taking preventative safety measures and staff are not currently in the office to receive hard copies via fax or postal mail. Therefore, please submit your comments electronically by sending an email to: dsw_rulecomments@epa.ohio.gov

What if I have questions?

For more information about the rulemaking, please contact Ashley Ward by email at Ashley.Ward@epa.ohio.gov

Early Stakeholder Outreach — Variances Rule

What input is the Agency seeking?

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

- Are there considerations the Agency should take into account when drafting this rule?
- Is there any information or data the Agency should be aware of when developing program concepts or rule language?
- Will this regulatory effort have a positive impact on your business? Please explain how.
- Will this regulatory effort 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: www.epa.ohio.gov/dsw/dswrules.aspx
- The existing variance language is available in rule 3745-1-38, here: <https://www.epa.ohio.gov/portals/35/rules/01-38.pdf>
- For additional background information on the NPDES Permit Program, please visit the NPDES web page at: <https://epa.ohio.gov/dsw/permits/index>