



Early Stakeholder Outreach — Recreational Water Criteria (OAC 3745-1-07)

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 are recreational water criteria?

A goal of the Clean Water Act is to achieve fishable and swimmable conditions in water bodies, wherever attainable. This rulemaking focuses on the swimmable portion of the goal. Recreational water criteria are designed to protect human health from illness while recreating in surface waters.

Ohio has three categories of recreational uses for its surface waters: bathing waters, primary contact and secondary contact. These recreational uses are described in paragraph (B)(4) of the Ohio water quality standards. Criteria are established for each category to protect users from unsafe levels of bacterial contamination. These criteria can be found in table 7-13 of Ohio Administrative Code (OAC) 3745-1-07.

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The first step in the rule-making process is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created.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

U.S. Environmental Protection Agency revised its national recommendations for recreational water quality criteria in 2012. The revised recommendations are based on the latest research and science depicting a link between illness and fecal contamination in recreational waters. Please see the link to the U.S. EPA website at the end of this fact sheet for additional information. Ohio EPA is revising its criteria to incorporate these new recommendations. Anticipated revisions include:

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 **December 22, 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: Chris Skalski at (614) 644-2144 or chris.skalski@epa.ohio.gov.

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- Ohio’s water quality standards currently subdivide the primary contact recreation use into three separate classes. The 2012 federal recreation criteria document does not support the subcategorizations as currently found in Ohio’s water quality standards. As a result, Ohio EPA anticipates removing the primary contact recreation subdivisions and condensing them into a single primary contact recreation use. In this case, Table 7-16, containing a list of Class A primary contact waters, would no longer serve a purpose and would likely be removed in its entirety.
- In Ohio EPA’s current rule, the geometric mean for sample results is calculated over the recreation season defined as, May 1 to October 31. Ohio EPA anticipates revisions to the geometric mean averaging period to 30-days.
- Ohio EPA anticipates replacing the existing Single Sample Maximum terminology with the term “Statistical Threshold Value”. This value approximates the 90th percentile of the water quality distribution and should not be exceeded by more than 10% of samples taken within a 30-day period.

Why is the Agency considering this rulemaking at this time?

Ohio conducts a monitoring and notification program of selected public and semi-public beaches along Ohio’s Lake Erie coast. The Ohio Department of Health coordinates the state monitoring effort. Beach advisories are triggered by exceedances of the single sample maximum value of 235 E. coli colony forming units/100 ml for bathing waters. Ohio’s beach monitoring program is funded by U.S. EPA’s Beaches Environmental Assessment and Coastal Health Act (BEACH Act) grants. As a condition of the grant for federal fiscal year 2015, Ohio is required to adopt revisions consistent with the 2012 federal recreational water quality criteria by October 2016.

Who will be regulated by this rule?

The recreational water criteria, once adopted, will be implemented in Clean Water Act programs such as the National Pollutant Discharge Elimination System (NPDES) permits and Total Maximum Daily Load (TMDL) reports. Entities impacted may include facilities that discharge or wish to discharge wastewater.

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 early 2015.

What input is the Agency seeking?

Please review the existing rule, OAC 3745-1-07 available at: http://epa.ohio.gov/dsw/rules/3745_1.aspx (in particular paragraph (B)(4) on pages 7–9, table 7-13 on page 24, and table 7-16 on pages 33-35.) and U.S. EPA’s revised national recommendation, available at: <http://water.epa.gov/scitech/swguidance/standards/criteria/health/recreation/>. The Agency strongly encourages interested stakeholders to provide comments 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 an identified concept?
- Are there considerations the Agency should take into account when developing a specific concept?
- Is there any information or data the Agency should be aware of when developing program concepts or rule language?

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Ohio EPA would especially like to obtain 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 additional 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 is scheduled for Thursday, **December 4, 2014** from 2:00 to 3:00 p.m. The event address for attendees is:

<https://ohioepa.webex.com/ohioepa/onstage/g.php?d=689824894&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 following web pages:

- This fact sheet is available on the Division of Surface Water Rules and Laws web page at: <http://epa.ohio.gov/dsw/dswrules.aspx>.
- The existing rule OAC 3745-1-07 is available at: http://epa.ohio.gov/dsw/rules/3745_1.aspx.
- For additional background information on water quality standards and beneficial uses, please visit the Water Quality Standards Program web page at: <http://epa.ohio.gov/dsw/wqs/index.aspx>.
- U.S. EPA's Recreational Water Quality Criteria is available at: <http://water.epa.gov/scitech/swguidance/standards/criteria/health/recreation/>.
- For additional information on Ohio Department of Health's Beach Monitoring program, please visit: <http://www.odh.ohio.gov/odhPrograms/eh/bbeach/beachmon.aspx>.