

# Water Quality Standards (WQS) Triennial Review

September 28, 2016 Webinar



# Purpose

- Inform stakeholders
  - WQS fundamentals
  - Mandate to review rules
  - Ongoing rulemakings
  - Upcoming triennial review
- Exchange information and ideas
- Explain how to comment
- Future steps

# Who sets WQS?

- States establish standards under the CWA
- U.S. EPA must approve State standards
- U.S. EPA must propose and promulgate federal standards for States that fail to adopt standards that meet CWA requirements

# What are WQS?

- Statement of how clean we want our waters-  
three elements
  - Use Designations
    - Water supply, recreation, fish and wildlife
  - Criteria
    - narrative and **numeric criteria and values** derived from methods described in rule
  - Antidegradation
    - Keep clean water clean
- Foundation for other regulatory actions

# Numeric Criteria and Values

Derived if chemicals have well-defined dose-response curves

- Controlled laboratory tests
- Conservative safety factors to account for unknowns

Methods for both types are in Ohio rules, regulate with both

- Tier 2 values
  - One 48-hr acute test
  - Sliding scale of safety factors, criteria can be stringent
  - Values not in rule, but posted on DSW webpage
- Tier 1 criteria
  - In rule
  - Data from eight diverse families
  - Fewer safety factors
  - Resulting criteria are less stringent

# Triennial Review Explained

- Required by Clean Water Act
  - States must hold public hearings to review all their standards every three years
  - Consideration of public input on complete content of state rules
  - Ensures latest science is considered
  - Done before Ohio EPA starts drafting rule
  - Early Stakeholder Outreach through 11/14/16
- Compile a list of priority topics for rulemaking using public input, Agency knowledge of issues and most recent science

# Triennial Review of Criteria

- If State decides not to adopt new or revised criteria for which U.S. EPA has published national recommendations, then the State must explain why that decision was made
- For this triennial review Ohio must review all U.S. EPA published criteria since the year 2000

**Any questions so far?**

# Ongoing Rule Revisions – Use Designations

- Basin Rules (3745-1-08 to 30)
  - Assignment of *Beneficial Uses* to specific stream segments
  - Assignment of *Beneficial Uses* may occur elsewhere in rule to a broadly defined class of waters. Example, public water supplies are:
    - “All publicly owned lakes and reservoirs, with the exception of Piedmont reservoir”
- All 24 rules under review in four waves

**Water Quality Standards OAC Chapter 3745-1  
Beneficial Use Designation Rules  
What's the Status?**

Ohio EPA is required by state law to review its rules every five years. In 2016, the Agency is catching up on water quality standards beneficial use designation rules that are due for review. Watersheds have been grouped in waves to move through the rulemaking process. This table summarizes the various waves in different stages of review.

<b>Step in Rulemaking Process</b>	<b>Wave # / Watersheds Included</b>	<b>Comment Deadline</b>
Proposed	<b>Wave 1</b> Scioto River (OAC 3745-1-09) Grand River (OAC 3745-1-10) Southwest Ohio tributaries (OAC 3745-1-17) Huron River (OAC 3745-1-19) Rocky River (OAC 3745-1-20) Portage River (OAC 3745-1-23) Mahoning River (OAC 3745-1-25) Mill Creek (OAC 3745-1-30)	August 16, 2016 – final comment period
Interested Party Review	<b>Wave 2</b> Maumee River (OAC 3745-1-11) Sandusky River (OAC 3745-1-12) Great Miami River (OAC 3745-1-21) Portage River (OAC 3745-1-23) Muskingum River (OAC 3745-1-24)	August 23, 2016
Early Stakeholder Outreach	<b>Wave 3</b> Central Ohio tributaries (OAC 3745-1-13)	August 26, 2016
Early Stakeholder Outreach	<b>Wave 4</b> Wabash River (OAC 3745-1-29)	TBD



**More opportunities  
for public comment**

# Ongoing Rulemakings

- Re-organization of WQS rule chapter
  - Improved format for clarity; no content changes
  - Make future changes more manageable
  - See proposed rules - comments close October 5
- Rules -01 and -04
  - Consider it an advanced wave of triennial review
  - ESO comment period closes September 30

# Rule 01 – Purpose and Applicability

- Consider adding criteria covering harbor or navigation maintenance activities in support of the law banning open lake disposal by 2020
- Consider revising the language covering exceptions from WQS during the application of pesticides so that it refers to the general NPDES permit for pesticide application discharges

# Rule 04 – Criteria Applicable to all Waters

- Consider public health nuisances caused by manure
  - Mirror the existing language applied to sewage?
  - Language was first proposed in 2011
- Consider revision of the threshold bacteria counts referenced in the rule
  - Consistency with bacteria counts adopted in 2015 elsewhere in Ohio standards

**Pause for any questions?**

# Triennial Review Topics 1

- New or updated aquatic life chemical criteria
  - U.S. EPA national criteria recommendations:

- Replace current EWH, WWH, MWH, LRW with lower U.S. EPA national mussels present/salmonids absent values;
- Replace current CWH and SSH with lower U.S. EPA national mussels present/salmonids present values;



Cadmium  
Ammonia  
Chloride  
Copper  
Selenium  
Mercury



Add fish tissue-based criteria

Acrolein  
Carbaryl  
Chlorpyrifos  
Diazinon  
Nonylphenol  
Tributyltin



U.S. EPA national recommendations exist, Ohio lacks criteria (four pesticides, potential endocrine disruptor and marine paint additive)

[epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table](http://epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table)

# Triennial Review Topics 2

- New or updated aquatic life chemical criteria
  - New Ohio criteria

Fluoride

Strontium

Barium

Peracetic acid



Tier I criteria numbers are being developed to address permitting needs

# Triennial Review Topics 3

- New or updated Human Health (HH) chemical criteria; update of methodologies consistent with latest federal guidance
  - replace current criteria and add new criteria for 94 chemicals covered by U.S. EPA's 2015 publication of national recommendations.

[epa.gov/wqc/human-health-water-quality-criteria](http://epa.gov/wqc/human-health-water-quality-criteria)

# Triennial Review Topics 4

- Eutrophication standards and implementation procedures
- Antidegradation
  - update the lists of special high-quality water in the antidegradation rule (outstanding state waters and superior high-quality waters)
  - revise the way in which threatened and endangered species are referenced in the rule

# Triennial Review Topics 5

- Ohio River Standards
  - update Ohio's WQS to include most recent ORSANCO standards
- Mixing Zone Rule
  - review/revise
- Variances
  - revise to be consistent with new federal WQS procedural requirements – see next slide
  - multiple discharger variance determinations

# New federal regulations about variances

- Must be reviewed and adopted as WQS rule
  - Ohio had previously processed with NPDES
- Identify pollutant(s) and waterbody
- Identify timeframe
  - Term greater than five years requires reevaluation
- Must consider and provide for the highest attainable condition

# Triennial Review Topics 6

- Duration and Frequency
  - add language that describes the time interval and frequency of criteria exceedances
- Definitions
  - are there specific terms that need new or revised definitions?
- Analytical methods and availability of documents
  - are all regulations and method documents referenced in the rule correctly cited using the most up-to-date version of the regulation or document?

# Triennial Review Topics 7

- Beneficial use designations for water supply, recreation and aquatic life (includes biological criteria)
  - any recommendations to change or update the current set of use designation categories?

# Contacts for Questions

- Fact Sheet and presentation online at [epa.ohio.gov/dsw/dswrules.aspx](http://epa.ohio.gov/dsw/dswrules.aspx)
- Call or email:  
Dan Dudley (614) 644-2876  
[daniel.dudley@epa.ohio.gov](mailto:daniel.dudley@epa.ohio.gov)
- Chris Skalski (614) 644-2144  
[chris.skalski@epa.ohio.gov](mailto:chris.skalski@epa.ohio.gov)

# Next Steps

- Public hearing 11/9/2016
- Comment period ends 11/14/2016
- Please submit comments to:
  - [dsw\\_rulecomments@epa.ohio.gov](mailto:dsw_rulecomments@epa.ohio.gov)
  - Rule Coordinator  
Ohio EPA Division of Surface Water  
P.O. Box 1049  
Columbus, OH 43216-1049

# Future Steps

- Compile a list of priority topics for rule drafting using ESO input, Agency knowledge of issues and most recent science
- Hold interested party review
- Original filing
- Final filing
- U.S. EPA review and approval
  - Approval necessary for CWA programs



2 more public comment periods

# Questions?

# Thank You