



## Draft Rule – Recreational Water Criteria

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### *Water Quality Standards (OAC Chapter 3745-1)*

#### **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. This rulemaking only involves recreational water criteria.

#### **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.

#### **What step is this in the rulemaking process?**

This step in Ohio EPA's rulemaking process is called Interested Party Review. During this step, the Agency makes available draft rules for interested parties for review and comment. This step occurs after the Early Stakeholder Outreach comment period.

#### **What changes are being considered?**

The U.S. Environmental Protection Agency revised its national recommendations for recreational water quality criteria in November 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. Revisions include:

- 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 is removing the primary contact recreation

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subdivisions and condensing them into a single primary contact recreation use. Table 7-16, containing a list of Class A primary contact waters, will no longer serve a purpose and will 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 is revising the geometric mean averaging period to 30-days, consistent with the federal guidelines.
- Ohio EPA is 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 November 2015.

### How will the changes affect controls placed on water pollution?

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 municipal wastewater.

Overall, the regulated community, i.e. those dischargers that have received coverage under an NPDES permit with bacteria limits or monitoring, will not experience a change in permit requirements. However, dischargers to Class B and Class C primary contact recreation waters will have a change in effluent limitations. It is anticipated that 30-day average limitations will change from 161 colony counts per 100ml and 206 colony counts per 100 ml, respectively, to 126 colony counts per 100 ml. This will likely occur during the typical five year permit renewal process.

### What additional information is the Agency seeking?

The Agency is seeking comments from interested stakeholders (public, local officials, and National Pollutant Discharge Elimination System [NPDES] permit holders, industry sectors, other state agencies, consultants and environmental organizations) who may be impacted by these rule revisions. General comments and specific factual information are welcome. In addition to the draft rule amendments, Ohio EPA is also seeking comments and feedback on the draft Common Sense Initiative (CSI) Business Regulation Impact Analysis form, which is being released with this draft rule during interested party review.

### How are the amendments formatted in the draft rules?

Text that is considered for deletion is identified in strikeout font; new text is underlined.

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### What is the rulemaking schedule?

At this time, the Agency is soliciting input on these draft rule revisions. Ohio EPA is required by section 121.39(D) of the Revised Code to contact potentially affected parties prior to adopting rule changes.

At the close of the draft rule comment period, the Agency will review the comments and make necessary changes to the rule. The Agency will then file a proposed rule with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State.

At that point, another comment period, including one or more public hearings, will be scheduled. After the close of the comment period, the Agency will review the comments, make any necessary changes and then adopt the final rule. The final rule could be adopted by fall 2015 and effective in spring 2016.

### How can I comment on the draft rule?

Please submit your comments in one of the following ways:

- By email: [dsw\\_rulecomments@epa.ohio.gov](mailto:dsw_rulecomments@epa.ohio.gov)
- By fax: (614) 644-2745
- By postal mail:

**Rule Coordinator**

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**Comments on the draft rule must be received no later than 5:00 p.m. on April 15, 2015.**

### How can I get more information?

- Copies of this fact sheet, CSI form and the draft rules are on the Division of Surface Water website at [www.epa.ohio.gov/dsw/dswrules.aspx](http://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](http://www.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>.

For more information about this draft rule, please contact:

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