



Proposed Rules – Surface Water Quality

Water Quality Standards (OAC Chapter 3745-1)

What are water quality standards?

Water quality standards are state regulations or rules that protect lakes, rivers, streams and other surface water bodies from pollution. The rules are in Chapter 3745-1 of the Ohio Administrative Code (OAC). These rules contain: beneficial use designations; numeric levels and narrative statements (water quality criteria) protective of the use designations; procedures for applying the water quality criteria to wastewater dischargers and Antidegradation procedures.

Which water quality standards rules are under review at this time?

The Agency is proposing a reorganization of the content in OAC Chapter 3745-1, which will include the movement of existing rule content without any substantive changes, except in rule OAC 3745-1-05. Please see the paragraph below for additional information. Specifically, the Agency is proposing revisions to the following existing rules:

- 3745-1-01 Purpose and applicability.
- 3745-1-02 Definitions.
- 3745-1-05 Antidegradation.
- 3745-1-06 Mixing zones.
- 3745-1-07 Water use designations and statewide criteria.
- 3745-1-26 Cuyahoga river drainage basin.
- 3745-1-31 Lake Erie standards.
- 3745-1-32 Ohio river standards.
- 3745-1-33 Water quality criteria for the lake Erie drainage basin.
- 3745-1-34 Water quality criteria for the Ohio river drainage basin.
- 3745-1-35 Site-specific modifications to criteria and values.
- 3745-1-36 Methodologies for development of aquatic life criteria and values.
- 3745-1-37 Methodology for deriving bioaccumulation factors.
- 3745-1-38 Methodologies for development of human health criteria and values for the lake Erie drainage basin.
- 3745-1-39 Methodology for development of wildlife criteria for the lake Erie drainage basin.
- 3745-2-08 Mixing zone demonstration and sizing requirements.
- 3745-2-09 Whole effluent toxicity provisions and water quality based effluent limit calculation procedures.

What changes are being proposed?

The Agency is proposing a reorganization of OAC Chapter 3745-1 for a couple of reasons. Rule 3745-1-07 contains a lot of information and our experience is that it can be difficult for both Ohio EPA staff and external stakeholders to readily find information about the various designated uses and applicable water quality criteria as currently arranged. This reorganization of content should make the rules easier to use. It will also set the stage for future revisions in actual rule content that may be considered as part of the Agency's Water Quality Standards program triennial review of the rules, scheduled for 2016, and in subsequent rulemakings.

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Also included as part of this reorganization of water quality standards is a transfer of water quality standards rule requirements in other rule chapters (OAC Chapter 3745-2 and 3745-33) into OAC Chapter 3745-1. After this rulemaking, all of Ohio's water quality standards will be in one rule chapter, OAC Chapter 3745-1.

Please see the following summary of proposed revisions:

3745-1-01 Purpose and applicability.

- Update of cross references (references to other rules or portions of rules that are being reorganized).

3745-1-02 Definitions.

- Update of cross references. Inclusion of seven applicable definitions from OAC 3745-2-02 for terms used in rule language copied from Chapter 3745-2, Implementation of Water Quality Standards.

3745-1-05 Antidegradation.

- Update of cross references.
- New exemption from Antidegradation rule requirements for NPDES permits for coal surface mining activities occurring on remining sites where no individual section 401 water quality certification is required and the Agency determines that the proposed discharge meets the criteria for modified effluent limits for a pollution abatement area as that term is defined under 40 C.F.R. 434.70.
- Revision of section 401 water quality certification alternatives analysis requirements to be consistent with the changes considered in the draft Section 401 program rules.

3745-1-06 Mixing zone demonstration and sizing requirements.

- Addition of mixing zone demonstration and sizing requirement provisions from OAC 3745-2-08.

3745-1-07 Beneficial use designations and biological criteria.

- Rescinding existing rule. New rule will contain definitions of the beneficial use designations and biocriteria only. Water quality for the protection of the uses is moved to new rules 3745-1-33, 3745-1-35 and 3745-1-37.

3745-1-26 Cuyahoga river drainage basin.

- Update of cross references.

3745-1-31 Lake Erie standards.

- Update of cross references.

3745-1-32 Ohio river standards.

- Update of cross references.

3745-1-33 Water quality criteria for water supply use designations.

- Rescinding existing rule. Human health drinking criteria stays in new rule 3745-1-33, human health nondrinking criteria are moved to new rule 3745-1-34, wildlife criteria are moved to new rule 3745-1-35. New rule will contain human health drinking water criteria from existing rules 3745-1-33 and 3745-1-34 and agricultural water supply criteria from existing rule 3745-1-07.

3745-1-34 Human health criteria for one route exposure [fish consumption].

- Rescinding existing rule. Human health drinking criteria is moved to new rule 3745-1-33, human health nondrinking criteria stays in new rule 3745-1-34, wildlife criteria is moved to new rule 3745-1-35. New rule will contain human health nondrinking criteria from existing rules 3745-1-33 and 3745-1-34.

3745-1-35 Aquatic life and wildlife criteria.

- Rescinding existing rule. Content is moved to new rule 3745-1-39. New rule will contain aquatic life and temperature criteria from existing rule 3745-1-07 and wildlife criteria from existing rule 3745-1-33.

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3745-1-36 Methodologies for development of aquatic life criteria and values.

- Rescinding existing rule. Content is moved to new rule 3745-1-40. New rule is reserved for nutrient criteria in the future.

3745-1-37 Water quality criteria for recreation use designations.

- Rescinding existing rule. Content is moved to new rule 3745-1-41. New rule will contain bacteria and aesthetic criteria (MBAS, oil & grease and phosphorus) from existing rule 3745-1-07.

3745-1-38 Methodologies for development of human health criteria and values for the lake Erie drainage basin.

- Rescinding existing rule. Content is moved to new rule 3745-1-42. New rule will contain requirements for variances from existing rule 3745-33-07.

3745-1-39 Site-specific modifications to criteria and values.

- Rescinding existing rule. Content is moved to new rule 3745-1-43. New rule will contain content of existing rule 3745-1-35.

3745-1-40 Methodologies for development of aquatic life criteria and values.

- New rule will contain content of existing rule 3745-1-36.

3745-1-41 Methodology for deriving bioaccumulation factors.

- New rule will contain content of existing rule 3745-1-37.

3745-1-42 Methodologies for development of human health criteria and values for the lake Erie drainage basin.

- New rule will contain content of existing rule 3745-1-38.

3745-1-43 Methodology for development of wildlife criteria for the lake Erie drainage basin.

- New rule will contain content of existing rule 3745-1-39.

3745-1-44 Whole effluent toxicity provisions.

- New rule will contain content of paragraph (A) of existing rule 3745-2-09.

3745-2-08 Mixing zone demonstration and sizing requirements.

- Rescinding existing rule. Content is moved to rule 3745-1-06.

3745-2-09 Whole effluent toxicity provisions and water quality based effluent limit calculation procedures.

- Paragraph (A) is being deleted. Content is moved to new rule 3745-1-44.

Are there changes from the April 2016 draft rule revisions?

Minor edits were made to the rules in response to comments received from interested parties.

Who will be regulated by these rules?

Water quality standards are used in the implementation of Clean Water Act programs such as the National Pollutant Discharge Elimination System (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. The majority of this rulemaking does not change existing requirements and should have no additional impact on stakeholders.

Proposed revisions to the Antidegradation rule OAC 3745-1-05 may reduce time and resources necessary to prepare NPDES permit applications for coal remining projects that meet the specified criteria in the proposed rule.

What additional information is the Agency seeking?

The Agency wants to hear 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 and additions. General comments and specific factual information are welcome.

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How are the amendments formatted in the proposed rules?

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

What is the rulemaking schedule?

A public hearing on the proposed rule will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held at the Ohio EPA Conference Center, Room B, 50 West Town Street, Suite 700, in Columbus, Ohio at 10:30 a.m. on October 5, 2016. The purpose of the public hearing is to give interested persons the opportunity to present oral or written comments on the proposed rules.

At the close of the public comment period, the Agency will review the comments, make any necessary changes to the rules, and then adopt the rules. This is roughly a two-month process from the close of the comment period. A responsiveness summary will be prepared and sent to everyone who comments on the proposed rules. Final rules could be adopted in fall 2016.

How can I comment on the proposed rules?

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

Comments on the proposed rules must be received no later than 5:00 p.m. on October 5, 2016.

How can I get more information?

- Copies of this fact sheet and proposed rule are on the Division of Surface Water website at: 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.

For more information about these proposed rules, please contact:

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