



**Environmental
Protection
Agency**

**Division of Drinking and Ground Waters
Policy for Variances of Public Water System Wells**

THIS POLICY IS NOT LAW

I. PURPOSE:

This policy explains how requirements of Ohio Administrative Code (OAC) Chapter 3745-9-02(G) are to be interpreted with regards to granting variances to the requirements of OAC Chapter 3745-9, the Water Well Standards, creating a consistent protocol for variance requests.

II. BACKGROUND:

OAC rule 3745-9-02(G) gives the director of Ohio EPA the authority to grant variances from the requirements of OAC Chapter 3745-9. Further, OAC rule 3745-9-02(G) requires that variance applications document the following:

- Contamination of the ground water will not occur as a result of construction and operation of the well.
- The public health and welfare will not be endangered from contaminants because of unsatisfactory location, protection, construction, operation or maintenance of the well, subject to requirements of the Safe Drinking Water Act (SDWA).

Applicability to Public Water Systems:

For new or proposed wells, this policy details how variance requests for proposed wells will be evaluated.

For found systems, this document addresses existing wells which were not, or cannot be verified, located, constructed or maintained in accordance with the Water Well Standards.

III. POLICY:

- A. *When is a variance required?*

1. When a public water system's well siting or construction will not or does not meet one or more requirements of the water well standards established in OAC Chapter 3745-9.
2. When compliance by other means cannot be reasonably attained in accordance with OAC 3745-9-02(G).
3. When the well owner and Ohio EPA have exhausted all other possibilities.

A variance can only be approved when the public health is not at risk. This may include mitigation by means such as enhanced treatment, or demonstrations through additional sampling that, over time, verify a potentially unsanitary condition does not exist or does not pose a risk to the public health or ground water resources.

B. When is a variance not granted?

1. When compliance with OAC 3745-9-02(G) cannot be demonstrated.
2. Regulated activities that are specifically prohibited within the sanitary isolation radius.
3. The director cannot grant a variance under OAC Chapter 3745-9 from another Agency's rules.
4. Conditions that can be rectified and must be addressed prior to plan approval, such as the ground not sloping away from the well casing or the well cap not being vented.
5. Material requirements for a new well when the required materials are available.
6. For conditions DDAGW does not have a record of or cannot be verified, such as unknown well construction details. For example, we may be able to determine casing depth, but it may not be practical to determine the original annular space or type of grout in the absence of a well log as the investigation may damage the well.

C. Who can request a variance?

The owner, administrative contact or other designated representative of the PWS are the only persons authorized to request a variance.

D. What documentation is required?

The PWS's request for a variance must include a written and detailed explanation of the requested variance and sufficient demonstration of compliance with OAC 3745-9-02(G). The request for variation shall clearly document the following:

1. Contamination of the ground water will not occur as a result of construction and operation of the well.
2. The public health and welfare will not be endangered from contaminants because of an unsatisfactory well location, inadequate protection from damage, well construction, or the operation and maintenance of the well.

The demonstration of compliance with OAC 3745-9-02(G) should include at a minimum and as applicable:

- a. The rule(s) or cited standards [i.e., OAC 3745-9-05(X)(XX) or ASTM 1234] the applicant is requesting relief from.
- b. The current condition of the well or well site.
- c. Actions taken to bring the well into compliance.
- d. Why achieving compliance is not possible.
- e. Any relevant communications.
- f. Maps or diagrams.
- g. Hydrogeologic information from investigations or assessments.

Variance requests may be specific to a single well or several wells used by the PWS. The amount of information required to make a variance determination will depend upon what is being requested.

Variance requests are to be submitted electronically to the corresponding district office (DO) assigned to the system via a Variance Application form available on the Ohio EPA website at the following link:

[Engineering | Ohio Environmental Protection Agency](#)

E. What are the review criteria? What is the variance request compared against?

The documentation included in the variance request must adequately demonstrate that the criteria in OAC rule 3745-9-02(G) are met.

Variances from engineering-based or well construction standards should be based on design or engineering standards comparable to the water well standards in OAC Chapter 3745-9. This includes standards from AWWA or ANSI-NSF, current policies and guidance, and standard

operating procedures recognized by Ohio EPA. Although outside standards may exist for other uses of a material or product, they may not meet the standards required by Ohio EPA for use in PWS wells. As noted earlier, this may not be feasible for a found system's well.

Variations from siting criteria should be based on minimizing the potential that a contaminant adversely affects the public health because of unsatisfactory location.

F. Conditioned Variances

Conditions may be included when granting a variance to ensure an unsanitary condition does not exist or will not develop over time, and to confirm that the presumed level of sanitary risk does not pose a threat to human health.

G. Variance Revocation and Amendment

The Director may revoke or require amendments to a variance if information indicates the conditions which were used to approve the variance have changed and/or now create an unacceptable level of risk to public health and welfare or spread contamination.

IV. APPLICABLE REFERENCE DOCUMENTS

- OAC Chapter 3745-9.
- eDoc ID 2772433 : Criteria for Approving Public Water Supply Wells with Detectable Levels of a Contaminant Policy. This policy is to remain a separate document and only be incorporated via reference.
- eDoc ID 1361432: Activation Procedure for New, Existing, or Found Public Water Systems and Wells and New Test Hole/Wells
- Recommended Standards for Water Works (or Ten States Standards).
- Guidelines for Design of Small Public Water Systems (or the Greenbook).

V. HISTORY

The Division of Drinking and Ground Waters first issued this document on 12/13/16.