



Draft Rules – Stormwater Rules (OAC chapter 3745-39)

What does OAC Chapter 3745-39 cover?

The Stormwater National Pollutant Discharge Elimination System (NPDES) permit program rules are found in Ohio Administrative Code (OAC) Chapter 3745-39. The first three rules in the chapter pertain to small municipal separate storm sewer systems (MS4s). The fourth rule in the chapter contains the regulations for all other stormwater discharges subject to NPDES permit requirements (medium and large MS4s, industries and construction sites).

Rule OAC 3745-39-01 contains the applicability of rules of procedure and definitions for the chapter. Rule OAC 3745-39-02 contains the objectives of the Ohio EPA stormwater management program for small MS4s. Rule OAC 3745-39-03 contains Ohio EPA NPDES requirements for small MS4s. Rule OAC 3745-39-04 contains requirements for industries, including construction activities, and large and medium MS4s.

What step is this in the rulemaking process?

This step in Ohio EPA's rulemaking process, required by Ohio Revised Code (ORC) 121.39, 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.

Which rules are under review?

This rulemaking includes all four existing rules in chapter 3745-39.

What types of changes are being considered?

The Agency is reviewing the existing rules in OAC Chapter 3745-39 in accordance with the five-year rule review requirements in Ohio Revised Code (ORC) 106.03. The following revisions are being considered at this time:

3745-39-01

- Changing the word "storm water" to "stormwater" throughout the rule to be consistent with Ohio EPA's current Style Manual.
- For definitions of Large MS4 and Medium MS4 changed 2010 census to 1990 census to be consistent with federal rule.
- Included "public park district" as an example of a MS4.
- Update of definition for "surface waters of the state" to reference definition found in rule 3745-1-02.
- Update of references and cross references with other rules.

3745-39-02

- Changing the word "storm water" to "stormwater" throughout the rule to be consistent with Ohio EPA's current Style Manual.

3745-39-03

- Changing the word "storm water" to "stormwater" throughout the rule to be consistent with Ohio EPA's current Style Manual.
- Updates to be consistent with USEPA's June 7, 2023 final rule to clarify designation criteria for Small Municipal Separate Storm Sewer Systems (MS4s) following the Census Bureau's discontinued practice of publishing the location of "urbanized areas" along with the 2020 Census and future censuses.

3745-39-04

- Changing the word "storm water" to "stormwater" throughout the rule to be consistent with Ohio EPA's current Style Manual.

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- Updates to make the formatting more user friendly by breaking up large paragraphs into lists.

Where does the new information come from?

Revisions to the rules come from changes to Ohio EPA's current Style Manual, updates of references and cross references with other rules and to be consistent with USEPA's June 7, 2023 final rule to clarify designation criteria for Small MS4s. For additional information on USEPA's June 7, 2023 final rule please see: [epa.gov/npdes/final-phase-ii-rule-clarification-related-census-bureau-urban-area-designation-criteria](https://www.epa.gov/npdes/final-phase-ii-rule-clarification-related-census-bureau-urban-area-designation-criteria)

How will the draft rules affect the regulated community?

The draft rules are not expected to have any additional impact to stakeholders as a result of these rule revisions as no requirements are changing.

What additional information is the Agency seeking?

The Agency is seeking comments from interested stakeholders (public, local officials, National Pollutant Discharge Elimination System [NPDES] permit holders, industry sectors, other state agencies, consultants, and environmental organizations) who may be impacted by these draft rule amendments. 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 Impact Analysis form, which is being released with these draft rules 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.

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 rules. The Agency will then file proposed rules with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State. Ohio EPA expects to file the proposed rules in mid-to-late 2024.

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 rules.

How can I comment on the draft rules?

Please submit your comments in one of the following ways:

- By email: dsw_rulecomments@epa.ohio.gov
- By postal mail:
Rule Coordinator
Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

Comments on the draft rules must be received no later than 5 p.m. on August 22, 2024.

How can I get more information?

Information is available on the Ohio EPA Division of Surface Water website:

- Copies of this fact sheet, CSI form, and the draft rules at: epa.ohio.gov/divisions-and-offices/surface-water/regulations/interested-party-review.

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- The existing rules are available here: epa.ohio.gov/divisions-and-offices/surface-water/regulations/effective-rules.
- For additional information on the Stormwater Program, please visit the web page at: epa.ohio.gov/divisions-and-offices/surface-water/permitting/stormwater-program.

Contact

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