

Rule Summary and Fiscal Analysis (Part A)**Ohio Environmental Protection Agency**

Agency Name

Division of Surface Water (DSW)**Emily DeLay**

Division

Contact

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3745-1-29

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Wabash river drainage basin.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **6111.041**
5. Statute(s) the rule, as filed, amplifies or implements: **6111.041**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To fulfill a federal requirement to review and amend water body use designations when new information is available. This rule is being filed as new due to revisions to more than 50% of the existing rule.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule contains the water quality standards beneficial use designations for the Wabash River drainage basin. Several designation changes are proposed including, eleven water bodies currently designated warmwater habitat (WWH) are proposed to be redesignated Modified Warmwater Habitat (MWH), five water bodies currently designated WWH are proposed for redesignation to Limited Resource Water (LRW),

thirteen water body segments are proposed to receive a use designation for the first time, and twenty water body segments are proposed to be verified. These amendments are proposed as a reflection of the latest scientific information.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule contains references to the Ohio Administrative Code (OAC). While copies of these rules are generally available to the public through libraries and on-line sources, including the Ohio EPA website, Ohio Revised Code (ORC) section 121.76(A) exempts such references from the provisions of ORC sections 121.71 through 121.75.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0

This rulemaking is not expected to have an impact on the Agency's budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15.

Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The rule amendments are not expected to have any impact on the cost of compliance. The Agency identified 11 NPDES permittees that discharge to water bodies in which a revised aquatic life use designation is pending. All of the permittees discharge to a water body in which the pending aquatic life use carries less stringent chemical criteria compared to the current use designation. Costs of compliance with the currently effective rule vary among wastewater dischargers, based upon factors such as the type and quantity of pollutants discharged, the amount of dilution water available to mix with the discharge, and the amounts of pollutants in the dilution water. Rule 3745-33-07 of the Administrative Code allows the director to grant temporary variance from compliance with water quality criteria if attainment of the criteria is not feasible.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
Yes	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The rule amendments are not expected to have any impact on the cost of compliance. The Agency identified 11 NPDES permittees that discharge to water bodies in which a revised aquatic life use designation is pending. All of the permittees discharge to a water body in which the pending aquatic life use carries less stringent chemical criteria compared to the current use designation. Costs of compliance with the currently effective rule vary among wastewater dischargers, based upon factors such as the type and quantity of pollutants discharged, the amount of dilution water available to mix with the discharge, and the amounts of pollutants in the dilution water. Rule 3745-33-07 of the Administrative Code allows the director to grant temporary variance from compliance with water quality criteria if attainment of the criteria is not feasible.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Please see the response to question #2 above.

(a) Personnel Costs

Please see the response to question #2 above.

(b) New Equipment or Other Capital Costs

Please see the response to question #2 above.

(c) Operating Costs

Please see the response to question #2 above.

(d) Any Indirect Central Service Costs

Please see the response to question #2 above.

(e) Other Costs

Please see the response to question #2 above.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The rule amendments should have no impact on the Agency or local government's ability to pay.

7. Please provide a statement on the proposed rule's impact on economic development.

The rule should have no impact on economic development.

Environmental Rule Adoption/Amendment Form

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
- (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
- (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
- (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.

(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted? **Yes**

Please list each contact.

Ohio EPA invited interested parties to comment on the draft rule amendments during the period of June 21, 2017 to July 21, 2017. A list of interested parties is available upon request.

(B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered? **Yes**

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

40 CFR 131 U.S. EPA Water Quality Standards regulation.
Ohio EPA Biological and Water Quality Survey of the Wabash River Basin (1999)

(C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program? **Yes**

Is the proposed rule or rule amendment more stringent than its federal counterpart?
No

(D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? **No**