



Ohio Administrative Code

Rule 3745-2-03 Application of biological survey data to development of water quality-based effluent limitations.

Effective: April 4, 2024

(A) Applicability.

The provisions of this rule apply to waterbodies designated warmwater habitat, exceptional warmwater habitat and modified warmwater habitat. When the director has established that a pollutant in a point source discharge from an existing source has the reasonable potential to cause or contribute to excursions above a water quality criterion for aquatic life protection using the procedures established elsewhere in this chapter, the director may take into account biological survey data when setting the effluent limits for that pollutant where all of the following are met:

(1) Biological survey data exist that are capable of assessing the attainment of the aquatic life use in the area affected by the permittee's effluent.

(2) The biological survey data are deemed credible when collected by a level 3 QDC in accordance with Level 3 methods under an approved Level 3 Project Study Plan described in rule 3745-4-06 of the Administrative Code. Sampling methods descriptions are contained in "Biological Criteria for the Protection of Aquatic Life: Volume III. Standardized Biological Field Sampling and Laboratory Methods for Assessing Fish and Macroinvertebrate Communities" and the description and derivation of indices and ecoregions are contained in "Biological Criteria for the Protection of Aquatic Life: Volume II, Users Manual for Biological Field Assessment of Ohio Surface Waters" cited in paragraph (B) of rule 3745-1-03 of the Administrative Code.

(3) The biological survey data are collected during a time within the seasonal index period that is representative of the permittee's influence on aquatic life.

(4) Bioaccumulative pollutants will be limited by their most stringent applicability for aquatic life or human and wildlife health per rules 3745-1-42 and 3745-1-43 of the Administrative Code.

(5) In the Lake Erie basin, the pollutant is listed in Table G-1 in rule 3745-33-05 of the



Administrative Code.

(B) If biological survey data demonstrate attainment of all of the biological criteria applicable to a water body and initial wasteload allocation calculations done according to the procedures elsewhere in this chapter produce more stringent water quality-based effluent limits compared to those in effect at the time of the biological survey, the director may re-assess the modeling techniques, exposure assumptions and other related assumptions used for the initial wasteload allocation calculations and make adjustments for the derivation of alternate water quality-based effluent limits. All alternate wasteload allocations calculated after the consideration of biological survey data shall ensure that the final permit conditions will be protective of the aquatic life use, consistent with 40 CFR 122.44(d). In making decisions on whether setting alternate limits under this provision is appropriate and what the alternate limits will be, the director will consider the following:

- (1) Effluent PEQ values for the period represented by the biological assessment data.
- (2) Current effluent flow data and the design flow data used in the initial wasteload allocation.
- (3) Credible information about adverse impacts to mussels or endangered species.
- (4) Whether pollutants in the discharge are causing or contributing to an exceedance of narrative toxicity WQS in accordance with the procedures in rule 3745-33-07 of the Administrative Code.
- (5) The factors specified in division (J)(3) of Section 6111.03 of the Revised Code.

(C) If biological survey data indicate that the biological criteria applicable to a water body are not attained, the director will develop water quality-based effluent limits using the applicable protocols in Chapter 3745-2 of the Administrative Code.

(D) The director may require studies to periodically monitor the receiving water to document the aquatic life attainment status.

(E) In addition to the provisions stated in paragraphs (B) and (C) of this rule, no additional regulatory controls to reduce a pollutant responsible for non-attainment of biological criteria will be



imposed on point sources that are meeting the criteria for that pollutant unless all the following are met:

(1) The point sources are shown to be a primary cause of the non-attainment of the biological criteria, based on an assessment of annual or seasonal pollutant dynamics in the receiving water(s).

(2) The application of additional or alternate treatment or technology can reasonably be expected to lead to attainment of the designated use.

(3) The director had given due consideration to the factors specified in division (J)(3) of Section 6111.03 of the Revised Code.

(F) Nothing in this rule prevents the director from imposing any of the following:

(1) Water quality-based effluent limits developed using applicable protocols described in this chapter of the Administrative Code.

(2) Regulatory controls on point sources for pollutants that do not have chemical-specific aquatic life criteria after consideration of the association between that pollutant and applicable biological indicators.

(3) Regulatory controls on point sources to meet non-aquatic life use water quality criteria.