



## Division of Drinking and Ground Waters Response to Comments

### **Proposed Revisions to Plan Approval, Backflow Prevention and Cross-Connection Control, and Consumer Confident Report Rules**

3745-91-12, Certification by political subdivisions and investor-owned public utilities  
3745-95-01, Backflow prevention and cross-connection control definitions  
3745-95-02, Backflow prevention and cross-connection control  
3745-95-03, Surveys and investigations  
3745-95-05, Type of protection required  
3745-95-06, Backflow prevention devices  
3745-95-07, Booster pumps  
3745-96-01, Consumer confidence report applicability and definitions  
3745-96-04, Consumer confidence report delivery and recordkeeping

### **Agency Contact for this Package**

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Ohio EPA issued public notice and requested comments for the period of July 6, 2015 to August 12, 2015 on proposed rules in the Ohio Administrative Code (OAC). This document summarizes the comments and questions received during the comment period.

Ohio EPA reviewed and considered all comments received during the comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

### **3745-95-03, Surveys and investigations**

**Comment 1:** A request was made to rescind paragraph (A)(2) of this rule. (David Doran, American Backflow Certification)

**Response 1:** The public water system (PWS) maintains authority to conduct onsite investigations of any service connection within its purview. The rule revisions do not limit the PWSs ability to conduct an investigation of a consumer's premises, regardless of type, if there is a possibility that a change in water use practice has occurred which could represent a change in hazard. The educational campaign only applies to residential service connections which

likely have only typical residential water use practices and thus present a minimal risk to the public water supply. We felt this approach allowed for the limited resources available to PWSs to be used in the most beneficial way. Education plays a key role in the prevention of backflow and is integral to a backflow prevention program's success.

#### **3745-95-05, Type of protection required**

**Comment 2:** "Columbus believes that OAC 3745-95-05(A)(1) should be amended to allow for the installation of a reduced pressure device rather than an air gap protection on the customer's service line, in the presence of a severe health hazard in the customer's premises, where the customer has installed an air gap protection on its plumbing system at the source of the hazard. Such an approach is consistent with Ohio EPA's guidance on this issue in Ohio EPA's Manual of Backflow Prevention on Cross-Connection Control. This approach also will prevent pressure losses that will result from the installation of air gap protection on the service line and the need for customers to install booster pumps to restore pressure." (Richard Westerfield, Columbus Dept. of Public Utilities Division of Water)

**Response 2:** Ohio EPA does not have jurisdiction over consumer premises. It would not be appropriate for Ohio EPA to specify requirements in our rule and provide redundant oversight where Ohio's plumbing code addresses requirements for isolation backflow prevention within the consumer's premises. If a PWS has an agreement with local plumbing authorities, by which isolation and containment backflow prevention are addressed simultaneously, and compliance with the requirements of this rule is demonstrated, such a scenario would be successful.

#### **3745-95-06, Backflow prevention devices**

**Comment 3:** A recommendation was made to revise paragraph (C)(3) of this rule to require inspections and tests be performed by certified testers with annual authentication of certification, and with test gauges which are certified annually. (David Doran, American Backflow Certification)

**Response 3:** During previous interested party discussions, PWSs expressed the desire to retain authority on determining who is qualified to test containment backflow preventers for their system. There are recommendations in the backflow prevention and cross-connection control manual but at this time, Ohio EPA is not prepared to establish qualifications in rule.

**Comment 4:** Additional recommendations were made regarding paragraph (C)(5), (C)(6) and (D), in regard to maintenance of records. Records of inspections, tests, repairs, and overhaul should be kept by the supplier of water via the testing entity and maintained for at least ten years, and made available to consumers electronically via a web portal. The consumer should not be required to keep records and make them available to the PWS.

In addition, the supplier of water is required to maintain an inventory of installations where an approved connection exists between auxiliary water systems and the PWS or a consumer's water system. The request is to only require PWSs to maintain electronic records and not paper.

Lastly, a typographical error was noted. (David Doran, American Backflow Certification)

**Response 4:**

The consumer has the responsibility to maintain the proper operation of the backflow preventer required by the PWS to provide service, which includes having record of how the backflow preventer is performing via test reports and when it was last tested. The consumer often utilizes a PWS-approved, independent, backflow preventer tester to test the containment backflow preventer. The customer therefore has responsibility to ensure the record of the test is provided to the PWS.

Record retention placed in rule is a minimum. A PWS can choose a longer retention schedule for air gap inspection reports or backflow preventer test reports to provide a more complete documentation of the operational history of a particular installation. Five years was chosen to sufficiently represent historical data.

The PWS has the option of keeping records electronically or on paper, and is not required to keep records in both formats. Ohio EPA did not require electronic recordkeeping as some PWSs may not have the capacity to do so.

The typographical error was noted.

**3745-95-07, Booster pumps**

**Comment 5:**

A request was made to add in paragraph (A)(1) covering pumps not intended to be used for fire suppression, language that states, "an approved containment backflow preventer must be installed to protect \_\_\_\_\_." (David Doran, American Backflow Certification)

**Response 5:**

The PWS has the authority to require containment backflow prevention to maintain sanitary control over the public water system. Authority to do so is specified throughout Chapter 3745-95.

**Comment 6:**

It was recommended electronic or paper records certifying operation be retained for a minimum of ten years and available to Ohio EPA via an electronic web portal. (David Doran, American Backflow Certification)

**Response 6:**

Record retention placed in rule is a minimum. A PWS can choose a longer retention schedule for backflow preventer test reports of minimum pressure sustaining devices to provide a more complete documentation of the

operational history of a particular installation. Five years was chosen to sufficiently represent historical operations data.

Ohio EPA does not maintain backflow preventer test reports. This is responsibility of the PWS to keep records and make them available upon request. Due to limitations of some PWSs, keeping an electronic database with web access may not be practical and is therefore not required. Ohio EPA would support this effort if the PWS chooses to invest in an electronic database and program.

**3745-96-04, Consumer confidence report delivery and recordkeeping**

**Comment 7:** A recommendation was made to require community water systems of all sizes to make their current year's consumer confidence report available on a publicly-accessible site on the Internet for at least one year. (David Doran, American Backflow Certification)

**Response 7:** DDAGW has chosen not to be more stringent than the federal counterpart and require all community water systems to fulfill the provision in paragraph (E) of this rule. However, all community water systems can choose to make it available on the Internet but at minimum must mail or directly deliver the report to each customer.

**End of Response to Comments**