



Division of Drinking and Ground Waters Response to Comments

Draft Revisions to Operator Certification and Operational Requirements

3745-7-01, Operator certification definitions

3745-7-03, Public water system classification and staffing requirements

3745-83-01, Operational requirements

Agency Contact for this Package

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Ohio EPA issued public notice and requested interested party comments for the period of Nov. 9, 2015 to Dec. 14, 2015 on proposed revisions to rules in the Ohio Administrative Code (OAC). This document summarizes the comments and questions received during the interested party public comment period.

Ohio EPA reviewed and considered all comments received during the interested party 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.

3745-7-03, Public water system classification and staffing requirements

Comment 1: "Paragraph (C)(2)(c)(ii) lists circumstances by which a staffing reduction approval can be revoked by Ohio EPA. Failure of automation or continuous monitoring is specifically mentioned. What qualifies as a 'failure' (i.e., how many times in a calendar year, duration of a single event, etc.)? Does this include failure due to power outages?" (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 1: The intent of the term failure is to capture circumstances when the equipment itself no longer functions as it was designed. A temporary power outage that prevents equipment from running strictly during the period when power is temporarily out would not be a situation that resulted in the revocation of a minimum staffing reduction.

Continuous monitoring is defined in the chapter definitions and provides flexibility by allowing manual grab samples to be taken every 15 minutes.

Comment 2: “Paragraph (C)(2)(d) requires ‘operational records shall clearly indicate every time the backup operator is being used to meet the minimum staffing requirement.’ The previous two sentences seem to relate this requirement to water systems seeking extended periods, up to 30 days, in which a properly licensed backup operator can be used to meet the requirements without having to provide formal notification to Ohio EPA. However, it can also be interpreted as meaning every time the Operator of Record leaves the plant grounds, documentation of this is required in the operational records and identification of who the backup operator is during this absence is also required. Cleveland Water believes this requirement is unnecessarily cumbersome if it is intended to apply to routine absences such as off-site meetings, seminars, etc. Please verify and/or clarify the intent of this requirement.” (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 2: The intent of this provision is to ensure there is clear documentation of the person responsible for the technical operation of the facility during periods when the exemption provided by this paragraph is being used. The examples provided above may or may not trigger the use of paragraph (C)(2)(d) depending on if the particular facility is using this provision. If it triggers the use of paragraph (C)(2)(d), then documentation would be required. It is imperative that Ohio EPA be able determine the identity of the person responsible for the technical operation of the facility in order to ensure the protection of public health and safety.

Comment 3: “Paragraph (D)(3) requires continuous Fluoride monitoring at the entry point to the distribution system in order to qualify for any level of staffing hour reduction. Cleveland Water does not agree with this prerequisite. There is currently no compliance requirement for continuous Fluoride monitoring and staffing reductions should not be tied to something not required by rule. As an example, Cleveland Water has four treatment plants with 24-hour staffing by certified operators who run all of the operational laboratory parameters every two hours with the exception of Fluoride. Fluoride analyses are done every 8 hours. All of these frequencies exceed the minimum requirements of the current Operational Rules.”

“Cleveland Water has previously had reduced staffing granted by the Agency, only having lost that due to a plant manager retirement. Under the proposed rule, Cleveland Water would not qualify for a staffing reduction because three of our plants do not have a continuous Fluoride monitor even though we are staffed and exceed current monitoring requirements.”

“If Ohio EPA is concerned with a Fluoride overfeed, we would request the Agency evaluate the design deficiencies that led to the overfeed and correct the water system accordingly. Alternatively, we request the Agency allow water

systems to qualify for staffing reductions if there is a SCADA system that monitors day tank chemical levels and has alarm set points that trigger operator action when a chemical drop exceeds expected ranges. It is our view that the SCADA approach is superior to continuous monitoring because Fluoride chemical is many times fed well before the plant tap. This gives operational staff time to react and potentially fix an overfeed rather than waiting until it reaches the plant tap and is measured by a continuous meter.” (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 3:

Paragraph (D)(3) specifically refers to reducing the number of daily visits required by paragraph (D)(2). Paragraph (D)(2) requires a daily visit to be performed seven days per week by the owner, supplier, or their representative or agent. The City of Cleveland far exceeds this requirement by having certified operators staffing its facilities 24 hours per day.

The provision in paragraph (D)(3) is directed at facilities that do not wish to have staff visit the facility on a daily basis. In lieu of having personnel visit the facility daily, they can provide documentation of automation and continuous monitoring which provides a greater level of reasonable assurance that the facility is operating in compliance. While there is no requirement for fluoride to be monitored continuously, there is a monitoring requirement for fluoride. For PWSs that do not want to have personnel visit on a daily basis, the continuous monitoring of fluoride at the entry point would provide a greater level of reasonable assurance that the facility is operating in compliance. The requirement to monitor at the entry point is used to provide an assurance that the facility is in compliance with water quality parameters. Monitoring at the entry point would document not only an overfeed, but also an underfeed of chemicals. The rule requires that alarm set points be set in such a manner that an operator can respond to correct the problem. When these set points are appropriately determined, an over feed as described in the comments would be expected to have been caught and corrected.

As discussed above, this provision is an option for PWSs that wish to opt out of performing daily visits to the system. Only those facilities will be bound by the requirements in paragraph (D)(3).

The comment regarding the reduction of minimum staffing requirements is not appropriate for this provision. The provisions for granting a reduction in the minimum staffing requirement are included in paragraph (C)(2)(c) of this rule. Minimum staffing reductions can be requested for an individual facility and do not have to include all of the facilities operated by a municipality. We would suggest that you apply for a separate minimum staffing reduction for each of your treatment facilities.

Comment 4:

“Paragraph (D)(3) also requires continuous distribution chlorine monitoring at representative locations to qualify for reduced staffing. Cleveland Water will not have an issue with this requirement, but does not understand the Agency's intention and would like to have it clarified. It is our belief this section of the

rule is aimed at water systems that are operated by contract operators or are not staffed 24 hours per day. By trying to provide regulations granting reduced staffing to these facilities, the Agency is likely creating unintended consequences for much larger water systems.”

“Paragraph (D)(3) requires weekly calibration verification of all continuous monitors, including those in the distribution system. Failure to verify the calibration or if the calibration falls outside of the acceptable limits requires Agency notification and a return to daily site visits. Cleveland Water believes this also creates unintended consequences” highlighted above. (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 4

As discussed in the response to Comment 3 above, the intent of this provision in rule is to allow systems to have an alternative means of achieving compliance other than having personnel physically visit the site on a daily basis. Other provisions in Ohio Administrative Code rules require daily chlorine residual sampling at representative points in the distribution system and this provision gives the PWS a mechanism to comply with those regulations without having to have a person physically take samples. Ohio EPA is unsure what the unintended consequences are the City of Cleveland is referring to since this provision would only be used by PWSs that elected to go through the procedure. PWSs that do not intend to reduce their daily visits would not be affected by this provision.

In response to the second part of this comment, continuous monitoring is the substitute for daily visits by a staff member. Therefore, calibration verification is essential to ensure that the continuous monitors are working properly. In the event that the calibration verification of a continuous monitor is outside acceptable limits or a PWS fails to perform the calibration verifications, there is no reasonable assurance that compliance is being met; therefore, it stands to reason that a facility should return to meeting the rule requirements until such time as they fix/replace the monitor or provide assurances that they are performing the appropriate calibration verifications. Ohio EPA is unsure what unintended consequences the City of Cleveland is referring to since this provision also would only be used by PWSs that elected to go through the procedure. PWSs that do not intend to reduce their daily visits would not be affected by this provision. The provisions regarding calibration verification are the same provisions that have been associated with receiving minimum staffing reductions since 2006.

Comment 5:

“Cleveland Water requests the Agency consider granting plant specific reductions in staffing requirements instead of tying it to an entire system. For larger water systems like Cleveland with multiple treatment plants, the system-wide approach is punitive. Cleveland Water has four plants and lost the reduced staffing approval for the entire system due to a retirement at one of the four plants. Losing the staffing reduction did not improve public health protection for that portion of the 1.3 million customers of Cleveland Water served by the remaining three plants. We request the Agency make staffing

reductions on a plant basis, not utility-wide.” (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 5: Ohio EPA does make plant specific reductions in minimum staffing requirements. In the event the City of Cleveland is interested in a minimum staffing reduction we would encourage them to submit individual requests for each of their facilities.

Comment 6: “I have some general comments regarding the minimum staffing requirements. These comments are based on experience as a contract operator for smaller sized, privately owned public facilities.”

“On the surface, the implementation of minimum staffing requirements seems like a logical concept. Explicit, defined, uniform and enforceable minimum staffing requirements will ensure that an operator will be present for the prescribed time at the prescribed intervals. In theory the primary benefit of the program is that it should limit the length of time that an operational problem can exist before it is noticed and corrected by the operator.”

“However minimum staffing ensures just that- minimum staffing. It does not ensure or promote quality staffing, nor does it ensure that a qualified individual will actually be performing the tasks necessary to maintain safe treatment levels. An operator can be present at the site without providing any benefit to the operation of the system or even performing any actual work. Quality operators will perform necessary tasks at their systems regardless of the minimum staffing requirement. They are quite capable of doing so. Deficient operators will have deficient treatment systems in spite of the minimum staffing requirement.”

“Minimum staffing provides the state with a quantitative regulation that it can easily administrate, oversee and enforce. It is very black and white. However, all systems are different and have irregular operational needs, particularly those of similar size. One size does not necessarily fit all and generally fits none. The operational requirements of any given treatment system will not necessarily coincide with the officially prescribed minimum staffing schedule. Most operators are aware of the labor needs of their system and are capable of adjusting their time schedule accordingly. Minimum staffing requirements take this level of control out of the hands of the people who best understand the actual staffing needs of the system. Operators need the freedom to make scheduling and staffing decisions. When professional autonomy is restricted by a regulation it creates a conflict that can actually be counterproductive to the needs of the system.”

“While well meaning and ostensibly logical, the minimum staffing requirement in its present form encourages a mindset that minimum staffing will provide quality operation and system performance. A more effective method to determine the optimal staffing is to have an evaluation of each individual

treatment system take place prior to the renewal of its permit. Each treatment system should have its compliance history reviewed by the state personnel and they can also consult with the operator as to how much time is actually needed to ensure safe drinking water. This customized approach, although a bit more involved than the present universal approach, will give the state more leeway in rewarding well operating systems and provide the opportunity to require additional minimum staffing when and where it is useful and needed.” (Mike Ullman)

Response 6:

Thank you for your comments about the minimum staffing requirements. The minimum staffing requirements were developed as part of a collaborative stakeholder’s workgroup in 2005 that determined the absolute minimum amount of time that is reasonable for an appropriately certified operator to be at each classification of facility. It is true that not all public water systems are the same and some may require considerably more attention and an appropriately certified operator should advise their clients on the time and activities necessary to ensure that a facility operates in compliance with all regulations. Operators of record are responsible for the effective onsite operation of a facility regardless of the minimum staffing requirements. Ohio EPA would expect an operator of record to communicate with both the Agency and the facility owner in the event the minimum staffing requirements were not sufficient to ensure the proper operation of a facility.

Your suggestion about evaluating each individual treatment system prior to permit renewal will be considered as DDAGW reviews all of the operator certification rules over the next year. However, granting such general, broad authority to the director is not usually well received by the regulated community. (Please note, Ohio EPA only issues permits to wastewater facilities.)

3745-83-01, Operational requirements

Comment 7:

“Paragraph (C)(6) updates Ohio EPA's acceptance of American Water Works Association C651-14. Does this also include acceptance of ‘slug chlorination’ in distribution system line repairs?” (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 7:

Yes, the revised standard has been included as a rule by reference, which means everything in the listed standard is permissible.

Comment 8:

“Paragraph (H) describes equipment maintenance and functionality requirements of the owner and the operator. Paragraph (H)(3) implies Ohio EPA will tie this requirement back to the Operator Certification rules (i.e., penalties for maintenance deficiencies could be levied against the Operator of Record). Implementation of this rule seems difficult at best, and will likely involve a fair amount of subjectivity and inconsistency by Agency field staff. Cleveland Water supports efforts aimed at ensuring systems operate properly. However, putting

Operators of Record in a position to be disciplined by Ohio EPA for Owner budgetary shortfalls is unfair. It is this type of regulation that contributes, in part, to the shortage of employees interested in moving into plant management/Operator of Record positions. We request Ohio EPA remove the Operator of Record reference from this rule.” (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 8:

Paragraph (H)(3) is tying recordkeeping for this provision to Ohio EPA’s existing requirements for both owners and operators to document operation and maintenance. The existing requirements in paragraph (D) of rule 3745-7-09 of the Administrative Code already provide a provision to protect operators from budgetary shortfalls or any other issues that may be out of the operator’s control. This provision reads “In the event that there are issues related to paragraphs (A) to (C) of this rule that are within the area of responsibility of, but beyond an operator of record or a certified operator's ability to address, it shall be the operator's responsibility to document any efforts to rectify the problem.” Paragraphs (A) to (C) include provisions for operators to document maintenance activities and requests for maintenance.

Comment 9:

“Paragraph (I)(5) requires records of operation be kept for 10 to 12 years. Cleveland Water interprets this as eDWR submittals (MORs, Sample Submission Reports, etc.). Does this requirement include plant operational logs? Does this also imply paper copies of records need to be kept this long, or will electronic files be adequate?” (Margaret L. Rodgers, City of Cleveland Division of Water)

Response 9:

The intent of this rule provision was not to include plant operational logs. Plant operational logs shall be kept in accordance with the provisions in 3745-7-09 of the Administrative Code. In addition, PWSs may maintain electronic records. Paper or electronic records are to be accurate and authentic.

End of Response to Comments