



Division of Materials and Waste Management

Response to Comments

Rule: 3745-27-90 Standards for solid waste management districts.

Agency Contact for this Package

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Ohio EPA held a public hearing on April 7, 2014 regarding the standards for solid waste management districts rule. This document summarizes the comments and questions received at the public hearing and during the associated comment period), which ended on April 7, 2014.

Ohio EPA reviewed and considered all comments received during the public 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.

General/Overall Concerns

Comment 1: Paragraph (E)(1)(b) - A single solid waste management district should be considered a “service area” in and of itself or leave single SWMD’s remain as in the current legislation. If a current single SWMD (considered a sector) is autonomous to the “District” that would be acceptable. A realignment to another district or the formation of a new district would be unacceptable ONLY AND UNLESS that present single SWMD does not meeting current ADR recycling rates.

Consolidation is a major concern for single solid waste management districts. Why penalize a well-functioning single county SWMD that has worked toward community involvement and local recycling and solid waste

management efforts (Jack Betscher, Putnam County Solid Waste Management District).

Response:

The requirements governing and forming solid waste management districts are established in Chapter 3734 of the Ohio Revised Code (ORC). The Ohio Administrative Code does not contain rules addressing those requirements.

The sole purpose of Ohio Administrative Code Rule 3745-27-90 is to codify the requirements established in the state solid waste management plan for solid waste management districts. The rule prescribes the standards that solid waste management districts must follow to demonstrate meeting the goals of the state solid waste management.

The existing rule and Ohio EPA's proposed changes do not address the legal structure of solid waste management districts or consolidating solid waste management districts. The concept of consolidating solid waste management districts resulted from Ohio EPA's House Bill 592 legislative review effort. The Agency has not made a proposal regarding solid waste management district realignment. Even if Ohio's General Assembly eventually adopts revisions to the Ohio Revised Code to address realigning solid waste management districts, Ohio Administrative Code Rule 3745-27-90 would not be revised to address those revisions.

The requirement regarding service areas addresses how solid waste management districts demonstrate meeting Goal 1 of the state solid waste management plan. Solid waste management districts are required to demonstrate meeting Goal 1 in each county of the solid waste management district. The solid waste management district cannot make one demonstration for multiple counties collectively. A solid waste management can define more specific, smaller services areas (such as individual communities). However, the default service area is the county. That requirement will not change as the result of Ohio EPA's proposed revisions.

Comment 2:

The language in rule number 3745-27-90 where the words " and/or " are omitted and the word "and" is proposed is unnecessary. My suggestion is that the language in rule number 3745-27-90 where " and/or " is omitted not be changed to provide enforcement to the rule and the code (Scott Bushbaum, Sierra Club).

Response 3: The Legislative Service Commission's standards for drafting rule language specify that state agencies with rules that currently use "and/or" must revise the rules to use either only "and" or only "or."

Comment 4: **3745-27-90 1 E (1) (ii): The language in rule number 3745-27-90, letter E, number 1, subset (ii) where the comment paragraph with words, "Comment: It is unlikely that the use of subsidies or grants..." is added is a detriment and unnecessary to the rule. My suggestion is to omit the Comment paragraph. The comment paragraph doesn't provide for protection under the rule and code (Scott Bushbaum, Sierra Club)**

Response 4: Ohio EPA agrees with the commenter that this comment is no longer needed. However, at this time, Ohio EPA is limiting the number of non-essential changes that the Agency is proposing to this rule. Ohio EPA will remove this comment when it proposes substantive changes to the rule to incorporate the requirements of the 2009 State Solid Waste Management Plan.

Comment 5: **3745-27-90 (E): The language omitted in rule number 3745-27-90(E) is important to the rule. My suggestion is to omit the language as proposed in rule 3745-27-90 as it allows for better compliance to the code. (Scott Bushbaum, Sierra Club)**

Response 5: In their solid waste management plans, solid waste management districts must demonstrate that they will achieve either Goal 1 (infrastructure goal) or Goal 2 (percentage goal) of the 1995 State Solid Waste Management Plan by the end of the third year of the planning period. To do that, the solid waste management plans must identify the programs that will allow it to achieve the chosen goal and a schedule for implementing those programs. Once the solid waste management plan is approved by Ohio EPA, the solid waste management district is required to implement the programs in the solid waste management plan according to the schedule identified. Ohio EPA takes into account the strength of a solid waste management district's strategy for achieving a goal during the Agency's review of the solid waste management plan. Therefore, Ohio EPA believes it achieves the same result without the existing rule language.

End of Response to Comments