



Draft Rules – Permit to Install & NPDES Programs Interested Party Review OAC 3745-42-01, -03, -04, -07 & -13 & 3745-33-08

What does OAC 3745-42 cover?

Ohio Administrative Code (OAC) Chapter 3745-42 covers the requirements for wastewater permits to install (PTIs). The following is a brief description of the rules covered in this rulemaking:

- OAC 3745-42-01 includes the definitions for the rule chapter.
- OAC 3745-42-03 covers the PTI application content requirements.
- OAC 3745-42-04 covers the criteria used by the director in deciding whether to grant or deny a PTI application and procedures for review of permits by political subdivision or investor-owned public utilities.
- New rule OAC 3745-42-07 further expands on best available technology as the term is used in OAC 3745-42-04.
- OAC 3745-42-13 covers the design and management requirements for land application of treated sewage systems.

OAC 3745-33-08 includes the generic conditions included in all Ohio National Pollutant Discharge Elimination System (NPDES) permits. A revision to this existing rule is necessary for consistency with new rule OAC 3745-42-07.

What step is this in the rulemaking process?

This step in Ohio EPA's rulemaking process, required by Ohio Revised Code (ORC) 121.39, is called Interested Party Review. During this step, the Agency makes available draft rules for interested parties for review and comment. This step occurs after the Early Stakeholder Outreach comment period.

Why are these rules under review and what changes are being considered?

Four rules under OAC Chapter 3745-42 have been reviewed and amended pursuant to section 119.032 of the ORC. Ohio EPA is required to review its rules every five years to determine if the rules need to be revisited. The Agency has reviewed the rules and has identified needed changes. The new rule OAC 3745-42-07 was developed to supplement a requirement in OAC 3745-42-04. OAC 3745-33-08 is being revised to be consistent with new rule OAC 3745-42-07. The following major changes are being considered:

OAC 3745-42-01

- Update of references and style.
- Update of definitions used in rule OAC 3745-42-13 to include liquid industrial waste.

OAC 3745-42-03

- Update to the PTI application signature requirements.
- In accordance with an ongoing effort of Ohio EPA to incorporate items from guidance documents into rule, revisions would incorporate application and detailed plan requirements from Ohio EPA's *Design Standards: Wastewater Treatment Plants & Collection Systems ≤ 100,000 gpd* and *Recommended Standards for Wastewater Facilities* (Ten States Standards). The revisions include requiring a submittal of: a copy of a certification of necessity and need from the Public Utilities Commission of Ohio, if applicable; and an engineering report for certain projects.
- Additional application submittal requirements for applicants other than public entities, public utilities or industries for disposal systems designed to collect or treat sewage from two or more homes or have an average design flow of 10,000 gallons per day or greater, to ensure that the applicant has the technical and monetary resources available to properly operate, maintain, and modernize the system. The requested information is similar to that already required in rules for land application of treated sewage in OAC 3745-42-13.

Draft Rules – Permit to Install & NPDES Programs

OAC 3745-42-01, -03, -04, -07 & 3745-33-08

OAC 3745-42-04

- Revision of rule title to “Criteria for decision by the director and political subdivision or investor-owned public utility agreements” to provide a more accurate description of the rule contents.
- Reorganization/rewording of several provisions for clarity.
- Addition of language regarding the consideration of incomplete PTI applications.
- Listing of technical guides used in review of detailed plans.
- Inclusion of a cross reference to a program in OAC 3745-3-03 for entities with approved pretreatment programs to review and approve industrial PTIs for indirect discharges.
- Update of table 4-1.

OAC 3745-42-07

- This new rule establishes best available technology, which is required to be implemented in rule OAC 3745-42-04, for determining when existing sanitary sewers are considered accessible and available for wastewater disposal.
- Defines when new centralized collection and treatment of sewage is required.
- Connects design criteria and effluent limitations required by other regulations to requirements in the permit to install program.
- Applies only to facilities under the regulatory authority of Ohio EPA.

OAC 3745-42-13

- Removal of definitions that are included in rule OAC 3745-42-01 as noted in the new comment.
- Expansion of rule applicability to include liquid industrial waste if similar in nature to sewage and land applied for agronomic benefit.
- Clarification of when treated sewage should not be applied if precipitation is forecasted.
- Movement of the requirement for consistency with Section 208 plans to rule OAC 3745-42-04.
- Removal of special considerations for impaired waters.
- Removal of outdated rule language.
- Removal of language already contained in other PTI rules.
- Where possible, replacement of tables inserted in the rule as graphics as tables built in the rule authoring software.
- In table 13-1, inclusion of minimal information required for background phosphorus levels and hydrogeologic site investigations for land application areas.
- Clarification of how to perform soil phosphorus sampling.
- Update of references.
- Inclusion of potential for less restrictive isolation distances for highly treated and disinfected effluent.
- Clarification of requirements for storage facilities to have level indicators.
- Update of effluent monitoring requirements to be more consistent with Ohio EPA’s permit guidance document “National Pollutant Discharge Elimination System (NPDES); Monitoring Frequency Requirements for Sanitary Discharges” revised November 8, 2010.
- Removal of ground water monitoring program exemption for storage facilities based on distance from karst features.
- Clarification that approved forms should be used for record keeping.
- Clarification that the Director can revoke a land application management plan approval where the system is de-commissioned or never built.
- Addition of total phosphorus to the list of parameters the Director can require to be sampled from tile drain outfalls.

Draft Rules – Permit to Install & NPDES Programs

OAC 3745-42-01, -03, -04, -07 & 3745-33-08

OAC 3745-33-08

- Draft new rule OAC 3745-42-07 contains a distance for the connection of an existing structure into a sanitary sewer that is different than the 200 feet stated in ORC 6117.51 for counties to require connection into sanitary sewers. This rule contains a requirement that no NPDES permit shall be issued for a semi-public disposal system whenever the sewage system of a POTW is available and accessible in accordance with ORC 6117.51. This rule language is not consistent with the new PTI rule being considered and will therefore be removed.

How will the draft rules affect the regulated community?

The draft rule revisions will allow the PTI applicant to have a better understanding of what is expected to be submitted in a PTI application. A majority of the changes incorporate existing guidance and policy into the rule, making existing practice more transparent. By requiring additional information to be submitted with the permit application upfront, the Agency should reduce the PTI processing time. The draft new rule OAC 3745-42-07 allows applicants to have a clear understanding of requirements that were previously undefined and subject to discretion.

What additional information is the Agency seeking?

The Agency wants to hear from interested stakeholders (public, local officials, consultants and PTI applicants) who may be impacted by these rule revisions. General comments and specific factual information are welcome.

In addition to the draft rule amendments, Ohio EPA is also seeking comments and feedback on the draft Common Sense Initiative (CSI) Business Regulation Impact Analysis form, which is being released with these draft rules during interested party review.

How are the amendments formatted in the draft rules?

Text being considered for deletion is struck through; new text being considered is underlined. The new rule has all text underlined.

What is the rulemaking schedule?

At this time, the Agency is soliciting interested party input on these draft rule revisions. Ohio EPA is required by Section 121.39(D) of the ORC to contact potentially affected parties prior to adopting rule changes. At the close of the interested party comment period, the Agency will review the comments and make necessary changes to the rules. The Agency will then file the proposed rules with the Joint Commission on Agency Rule Review (JCARR), the Legislative Service Commission and the Secretary of the State. At that point, another comment period, including one or more public hearings, will be scheduled. After the close of that public comment period, the Agency will review the comments, make any necessary changes and then adopt the final rules. Ohio EPA expects to file the proposed rules in summer 2016. The final rules could be adopted by fall 2016.

How can I provide input on the draft revisions?

Please submit your comments in one of the following ways:

By email: dsw_rulecomments@epa.ohio.gov

By fax: (614) 644-2745

By postal mail: **Rule Coordinator**, Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, Ohio 43216-1049

Comments on the draft rules must be received no later than July 12, 2016.

How can I get more information?

Copies of this fact sheet, CSI form and the draft rule are on the Division of Surface Water website at www.epa.ohio.gov/dsw/dswrules.aspx.

For more information about the draft rules, please contact Mark Stump at (614) 644-2028 or mark.stump@epa.ohio.gov.