



Division of Materials and Waste Management Response to Comments

Rule: Solid Waste Management District Rule, Ohio Administrative Code (OAC) 3745-27-90

Agency Contact for this Package

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Ohio EPA held a public hearing/comment period on March 13, 2020 regarding Ohio Administrative Code 3745-27-90, Standards for Solid Waste Management Districts. This document summarizes the comments and questions received during the comment period, which ended on April 13, 2020.

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.

- Comment 1:** **[Is this] the previous management plan?**
https://epa.ohio.gov/Portals/34/document/general/state_plan_.pdf (Danielle Giannantonio, NEORS)
- Response 1:** The link provided in this comment is for the most recent version of the state solid waste management plan, the *2020 State Solid Waste Management Plan*. The goals of the *2020 State Solid Waste Management Plan* are being incorporated into proposed OAC 3745-27-90. No changes were necessary in response to this comment.
- Comment 2:** **What sector do WWTP plants fall under? (Danielle Giannantonio, NEORS)**
- Response 2:** Which sector a WWTP falls under depends upon the type of wastewater being treated. Solid waste from wastewater treatment plants that treat municipal wastewater would be municipal solid waste and therefore from the residential/commercial sector. Solid waste from industrial wastewater treatment would be industrial solid waste. No changes were made in response to this comment.
- Comment 3:** **For the new plan, what is the reference year? (Danielle Giannantonio, NEORS)**

Response 3: Ohio EPA used 2017 as the baseline year. No changes were made in response to this comment.

Comment 4: **Would ash fit under “sewer sludge?” What about grit? (Danielle Giannantonio, NEORSD)**

Response 4: Ohio EPA interprets this question to concern ash produced by incinerating sewage sludge and grit removed from wastewater treatment operations. As with sludge, how ash and grit are categorized depends upon whether the treatment operation treats municipal or industrial wastewater. Provided ash and grit are not hazardous waste and are not liquid, then both would be solid waste. Ash and grit from municipal sewage treatment operations would be municipal solid waste and considered as being generated by the residential/commercial sector. Ash and grit from industrial sewage treatment operations would be industrial solid waste and considered as being generated by the industrial sector. No changes were made in response to this comment.

Comment 5: **Note: This comment combines several individual comments, and Ohio EPA addressed all comments with one response. These comments all suggest including requirements in the rule that Ohio EPA considers as too specific for rule language. The comments addressed are as follows:**

Paragraph (A)(2) Ohio EPA should specify the location to obtain population data that is acceptable to use. Or, at least make a reference that acceptable population data references are identified in the format.

Should the rule not include examples or refer again to the format which would provide examples of economic incentives as outlined in paragraph (K)?

Should the rule include a reference to the USEPA WARM model to calculate the impact of Greenhouse gases in Rule 3745-27-90 (L) 3745-27-90 (N)(2)?

Paragraph (L). Since greenhouse gas reduction is mentioned, should reduction in contamination of recyclables also be added as a standalone section in the education and outreach provisions?

Paragraph (N)(2) inventory should be explained to include data collection through industry standard methods such as surveying and use of EPA records.

Paragraph (N)(3) A description of the amount reduced should be explained to include data collection through industry standard methods such as surveying and use of EPA records. (Jim A Skora, GT Environmental, Inc.)

Response 5: The type of detail suggested by these comments is detail Ohio EPA considers more appropriately included in the format prescribed by the director. The agency generally avoids identifying specific sources of information in rule language to avoid having to update the rule if the sources change or become obsolete. Since the rule already refers to preparing a plan in accordance with a format issued by the director, including the recommendations in that format

accomplishes the intent of this comment. Including the recommendations in the format as opposed to rule also gives solid waste management districts flexibility for using another source of information or tool that may provide the necessary information or results.

Comment 6: Paragraph (A)(1) Why not refer to as “Business recycling opportunities” since both commercial and industrial businesses are referenced instead of “Commercial recycling opportunities” (Jim A Skora, GT Environmental, Inc.)

Response 6: Ohio EPA believes the commenter intended to refer to the definition of commercial recycling opportunities in 3745-27-90 (A)(11) and to name institutions rather than industrial businesses. In response to the comment, Ohio EPA added a comment to the rule to clarify that commercial includes institutions.

Comment 7: Paragraph (A)(2)(b) 6 cubic yards seems to be the standard but there are sites with smaller sizes such as 4 cubic yards that are viable drop-off locations and should be allowed under this standard. We suggest an aggregate capacity per site should be allowed instead of a minimum size per container standard. Some sites, because of space, use smaller containers in larger quantity such as 90-gallon carts or 2-4 cubic yard rear load dumpsters. A good example would be state parks or other recreational facilities that are open year-round dusk to dawn. In this example, there could be dozens of 90-gallon carts or similar sized containers throughout the overall location that accept recyclables from residents. We do not suggest that each container be considered a full-time drop-off site but the whole park could be. Having a minimum sized container of 6 cubic yards prevents solid waste districts from counting this viable infrastructure towards their 80% access goal. (Jim A Skora, GT Environmental, Inc.)

Response 7: The minimum capacity standard for drop-off sites is based upon language proposed by the Organization of Solid Waste Districts of Ohio (OSWDO) and agreed upon by MMAC. The language was included in the *2020 State Solid Waste Management Plan* and is reflected in the rule. Ohio EPA believes specific situations such as the one described in the comment above can be handled through the waiver provision contained in paragraph (E)(1)(h). No changes were made in response to this comment.

Comment 8: Paragraph (A)(2)(c) If [this paragraph] is adopted, then the sign requirement should be for the entire system when smaller containers are utilized throughout the park system. (Jim A Skora, GT Environmental, Inc.)

Response 8: Ohio EPA considers adding a requirement for a specific number of signs in rule is more detail than appropriate. Ohio EPA intends to include this recommendation in a future version of the format prescribed by the director as an example of how to ensure that residents can easily find drop-off locations. No changes were made in response to this comment.

- Comment 9:** Paragraph (A)(2)(a) Allow residents to easily find and access the site. This should be tied to a standard of providing map on website for each location. (Jim A Skora, GT Environmental, Inc.)
- Response 9:** Ohio EPA appreciates efforts to improve a resident's ability to identify local recycling opportunities. However, while the *2020 State Solid Waste Management Plan* establishes minimum education and outreach standards for solid waste management districts, individual solid waste management districts need flexibility to choose how to best meet those standards and address the needs of its constituents. Further, flexibility allows solid waste management districts to meet the requirement using their abilities and access to resources. Ohio EPA does intend to include this recommendation in future revisions to the format prescribed by the director as an example of how to ensure that residents can easily find drop-off locations. No changes were made in response to this comment.
- Comment 10:** Paragraph (E). The population credit for drop-off recycling locations is too high. Specifically, the urban drop-off recycling location with a credit of five thousand. Realistically a single location will serve far less than that. I recommend this be lowered to 3,500. (Juston R Carpenter, Lorain County Public Health)
- Response 10:** The standard population credit assigned to a drop-off recycling location is based on the size of a community rather than the actual number of people that are expected to use the drop-off. Some urban drop-offs likely have more people using them than other urban drop-offs. Because studying usage of each drop-off separately isn't feasible, standard credits were established as the most equitable way of using drop-offs to demonstrate achievement of the goal. The credits have been consistent since established in 1995. No changes were made in response to this comment.
- Comment 11:** Paragraph (E). [Why wasn't] food waste compost wasn't included in commercial recycling options? (Danielle Giannantonio, NEORS)
- Response 11:** Ohio EPA and the Materials Management Advisory Council (MMAC) identified the materials commercial generators most commonly recycle and the recycling services commercial generators use the most often. Ohio EPA and MMAC didn't include food waste as many counties do not have an infrastructure for collecting or composting food waste. No changes were made in response to this comment.
- Comment 12:** Paragraph (E) and (F) Both of these rules are written as if they are mutually exclusive, yet the format book says a SWMD must meet at least one of the two goals. Should there be discussion of that option in the rule so it's clear that a SWMD must meet at least one of the two goals (1 and 2). (Jim A Skora, GT Environmental, Inc.)
- Response 12:** The introductory language states that solid waste management districts have the option of achieving either Goal 1 (i.e. paragraph (E)) or goal 2 (i.e. paragraph (F)). No changes were made in response to this comment.

Comment 13:

[Note: Ohio EPA received the following comment after the public comment period closed but prior to filing the rule with the Joint Committee on Agency Rule Review.]

Instead of building on the current version of OAC 3745-27-90, Ohio EPA re-wrote the entire rule from top to bottom. There are some issues with the re-write. For example, the provision regarding population credits for subscription curbside services says:

“(i) For a subscription curbside recycling service, the population credit is assigned using either of the following methods, whichever is greater:

(a) The total population of the political subdivision where subscription to a curbside recycling service is available multiplied by twenty-five per cent.

(b) The actual number of subscriptions to the subscription curbside recycling service.”

Doesn't the provision I highlighted create a problem? Why is the credit the actual number of subscriptions, i.e. the number of households? This does not reflect population.

The current version of 3745-27-90 provides:

(a) Subscription curbside recycling. For the purposes of this rule, subscription curbside recycling is defined as curbside recycling programs that handle the four materials used to demonstrate access and are offered to individual households who voluntarily determine whether to participate in the program and pay a separate bill for this service. Access for subscription curbside recycling is determined by the number of households that have the opportunity to subscribe to curbside recycling collection, as a result of existing haulers in the service area that offer subscription curbside recycling, multiplied by twenty-five per cent. This figure is then multiplied by 2.6 residents per household to determine the number of residents that have access to subscription curbside recycling. If the solid waste management district can demonstrate greater access through the actual number of subscriptions, participation, or tons of recyclables recovered, the access contribution from these curbside programs may be increased.

As you can see, the prior version and the re-write are very different. I'm not sure why the change was made. I don't recall any discussion that OMMAC was proposing to change the population credit for subscription services this way.

Because the rule was re-written so extensively, I think SWMDs should go through the re-write to make sure it meets the needs of SWMDs. (Albin Bauer, Peters, Keller & Markakis)

Response 13:

The Legislative Services Commission (LSC) requires that when more than 50 percent of a rule is amended, the agency proposing the amendments must

rescind the existing rule and adopt a new rule. To incorporate the goals of the 2020 State Solid Waste Management Plan, Ohio EPA must change more than 50 percent of the existing language.

Calculating the standard credit for subscription curbside recycling services using the existing version of OAC rule 3745-27-90 requires a solid waste management district to:

- identify the number of households with the opportunity to subscribe to the service (which is less than all households in the political jurisdiction because it excludes households that the service isn't offered to, such as multi-family housing units).
- multiply the number of households by 2.6 people per household and
- multiply the resulting population by 25 percent.

Due to the difficulties solid waste management districts expressed about obtaining the number of households with the opportunity to subscribe, Ohio EPA began allowing solid waste management districts to calculate the standard credit as the entire population of the political community multiplied by 25 percent. This method includes households that do not have the opportunity to subscribe (e.g. multi-family housing units). Therefore, calculating the population credit in this manner should result in a higher population credit than using the existing calculation.

In the draft rule, Ohio EPA replaced the existing method of calculating the standard credit with the method described above. Even though the effective rule prescribes the existing calculation, solid waste management districts already use the alternative calculation.

Upon consideration of both versions of the rule, Ohio EPA realizes the proposed rule does not offer the number of alternative ways of calculating the creditable population as the existing rule and revised paragraph (E).

Interested parties will have another opportunity to provide comments on this rule during the formal comment period associated with the original filing of the rule with the Joint Committee on Agency Rule Review.

Comment 14: **Paragraph (G)(4) should be reworded to “a person who has knowledge of District programming, solid waste plan priorities and goals, general solid waste industry information and has experience with presentations to all age groups.” (Jim A Skora, GT Environmental, Inc.)**

Response 14: Ohio EPA considers this information more detailed than what is appropriate for rule language. Ohio EPA does intend to include this recommendation in future revisions to the format prescribed by the director as guidelines for the person who is available to a solid waste management district as a speaker/presenter. No changes were made in response to this comment.

Comment 15: Paragraph (H)(2)(c)(iv) “A focus on changing behavior within the district increasing recycling participation and reducing contamination of recycled materials.” (Jim A Skora, GT Environmental, Inc.)

Response 15: Although not explicitly expressed, this comment suggests the language in the paragraph named be amended to include “...increasing recycling participation and reducing contamination of recycled materials.” That goal might be appropriate for an established collection service. However, one of the premises of Goal 4 is to provide outreach within the context of the solid waste management infrastructure. If no infrastructure exists, then the recommended language would not apply. There are many opportunities for outreach that would not address participation in, or the quality of, material collected through an existing recycling program or service. An example is working with local politicians or school administrators to implement new recycling services. Therefore, Ohio EPA considers the language in the rule most appropriately left as originally drafted. No changes were made in response to this comment.

Comment 16: Paragraph (I) Industrial generators. 3 programs seem like a lot especially for such small districts like Henry or Van Wert. Could there be a scale based on size of district and or budget so districts with limited budgets/staff/industrial businesses would have a lower minimum program level? (Jim A Skora, GT Environmental, Inc.)

Response 16: The requirement for selecting three programs replaced the requirement for achieving an industrial waste reduction and recycling rate. OSWDO recommended the requirement that solid waste management districts provide at least three activities to the industrial sector in language the organization submitted to MMAC. The types of programs and services listed in both the *2020 State Solid Waste Management Plan* and format range from relatively simple to more involved. Further, the rule allows solid waste management districts to identify a program not listed in the rule. Ohio EPA considers the range of available programs necessary to provide all solid waste management districts with adequate options to meet the three-program requirement. Elimination of the industrial reduction and recycling rate allows solid waste management districts to redirect resources that were being used to collect data to assisting industrial generators with their recycling needs. No changes were made in response to this comment.

Comment 17: Does [Ohio Revised Code] 3734.53 (G)(1) or (2) have any impact on OAC 3745-27-90 (J)(1)? (Jim A Skora, GT Environmental, Inc.)

Response 17: The requirements in divisions (G)(1) and (G)(2) of Ohio Revised Code 3734.53 no longer apply to solid waste management plans. These requirements are applicable to either initial plans prepared by solid waste management districts or plans prepared during the process of reconfiguration a solid waste management district. Further, the provisions in those divisions are specific to scrap tire facilities. Paragraph (J) of OAC Rule 3745-27-90 requires solid waste management district plans to include a strategy to address managing scrap tires. That paragraph does not require a solid waste management plan to provide for a

scrap tire collection program or facility. No changes were made in response to this comment.

End of Response to Comments