

\*\*\* DRAFT - NOT YET FILED \*\*\*

3745-42-07

**Best available technology.**

(A) Definitions.

(1) "Centralized collection and treatment" means a disposal system that serves more than one source of sewage, industrial waste, or other waste.

(2) "Larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

[Comment: This definition was taken from the National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges associated with construction activity.]

(B) Purpose and applicability.

(1) The purpose of this rule is to establish, as part of a permit to install program under Chapter 6111. of the Revised Code, a definition for best available technology for disposal systems permitted under Chapter 3745-42 of the Administrative Code.

(2) This rule is applicable to disposal systems designed to treat sewage and industrial waste. Except as provided in paragraph (C) of this rule, a disposal system must meet best available technology criteria to be approvable.

(C) Exemptions.

(1) The director, by order, may exempt any person from the sanitary sewer connection criteria in paragraphs (D)(1)(a)(i) to (D)(1)(a)(v) of this rule and permit the installation of an alternative disposal system. For the purposes of this rule, an exemption is defined as a discretionary action of the director. It is the burden of the person requesting the exemption to demonstrate to the satisfaction of the director that technical, financial, environmental, legal or physical barriers prevent reasonable connection to sanitary sewers. The petitioner shall also have the burden of demonstrating to the satisfaction of the director that the alternative to the sanitary sewer connection will not affect human health or the environment.

(2) A petition for exemption shall be submitted in writing and signed in accordance with rule 3745-42-03 of the Administrative Code, prior to submittal of any NPDES permit or permit to install applications for the alternative disposal system, and shall include, at a minimum:

(a) Description of project background:

- (b) Identification of barrier or barriers. Barriers preventing reasonable connection may include refusal to allow connection to sanitary sewers by owners of the sanitary sewers or demonstrated unaffordable cost;
  - (c) Justification that sewage connection is not feasible due to barriers listed above;
  - (d) Description of alternative sewage or industrial waste disposal system; and
  - (e) Any additional information as the director may require to protect human health or the environment.
- (3) The director may revoke an exemption approved in accordance with paragraphs (C)(1) and (C)(2) of this rule if any condition upon which the exemption was issued changes.

(D) Best available technology.

[Comment: The application of best available technology is a two step process. The first step is to evaluate whether a publicly owned or regional sanitary sewer system is accessible and available in accordance with paragraph (D)(1) of this rule. If a sanitary sewer system is not accessible or available, the second step is a determination of what disposal system or systems shall be installed to treat the wastewater in accordance with paragraph (D)(2) of this rule.]

(1) For sewage or industrial waste management, best available technology shall mean:

(a) Connection into existing publicly owned or regional sanitary sewers for the disposal of sewage or industrial waste when said sewers are accessible and available. Accessible and available shall be determined as follows:

(i) The connection would not conflict with local planning or an areawide waste treatment management plan adopted in accordance with section 208 of the Clean Water Act (33 U.S.C. 1288, as amended through July 1, 2008), in accordance with section 6111.03 of the Revised Code, or a connection ban imposed in accordance with Chapter 3745-11 of the Administrative Code;

[Comment: The rule contains a reference to the Federal Water Pollution Control Act, also known as the Clean Water Act. This federal statute is generally available to the public through libraries and can be viewed electronically online at <http://www.gpoaccess.gov/uscode/index.html> and purchased by

writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The act is also available on-line through Ohio EPA and U.S. EPA websites.]

(ii) The disposal system receiving the sewage and industrial waste has or is expected to have capacity to adequately collect and treat the wastewater;

(iii) For an existing structure or structures, where any part of a structure is within three hundred feet of the nearest boundary of the right-of-way within which the sanitary sewer is located;

[Comment: For example, if an existing business is located two hundred and forty feet from the corner of the building to the sanitary sewer right-of-way, the business will be required to connect to the sewer.]

(iv) For a proposed structure not included within a larger common plan of development or sale, where any property line of the lot is within three hundred feet of the nearest boundary of the right-of-way within which the sanitary sewer is located;

[Comment: For example, if a new business is proposed on a single lot, and the edge of the property line is two hundred and ninety feet from the existing sanitary sewer right-of-way, the business will be required to connect to the sewer.]

(v) For two or more proposed structures (e.g., an industrial or commercial park), where any property line of the larger common plan of development or sale is within a distance of two hundred feet per structure multiplied by the number of proposed structures up to a maximum distance of five thousand feet from the nearest boundary of the right-of-way within which the existing sanitary sewer is located, measured from the closest property line to the sanitary sewer right-of-way.

[Comment: For example, if phase one of a proposed commercial park will contain five structures, and phase two of the project, that will not be constructed for six years, will contain six structures, and the sanitary sewer right-of-way is one thousand four hundred feet away from the nearest property line in phase one of the development, the commercial park will be required to connect since two hundred feet per structure multiplied by eleven structures equals two thousand two hundred feet, which is greater than one thousand four hundred feet. It should be noted that even if phase two is constructed first, connection to sewers would be

required since the larger plan of development results in a structure being located within two thousand two hundred feet.]

(b) Installation of new centralized collection and treatment for the disposal of sewage or industrial waste when the cumulative design flow of sewage or industrial waste for a proposed larger common plan of development or sale is greater than twenty-five thousand gallons per day if sanitary sewers are not accessible or available as per paragraph (D)(1) of this rule. This requirement does not preclude multiple or "cluster" type systems.

[Comment: Multiple and cluster type systems are subject to permit to install rules in Chapter 3745-42 of the Administrative Code.]

(c) In order to protect human health and the environment, the director may order, as authorized under Chapter 6111. of the Revised Code, the connection into existing sanitary sewers or installation of new centralized collection and treatment in situations beyond the connection distances or flow values stated above.

[Comment: Chapter 6111. of the Revised Code requires the director to give consideration to the technical feasibility and economic reasonableness in the issuance of the order.]

(2) For sewage or industrial waste treatment, best available technology shall mean the applicable of the following:

[Comment: A brief description of how the project achieves best available technology is required to be submitted as part of a permit application in accordance with rule 3745-42-03 of the Administrative Code. It is also recommended that effluent limitations established under Chapter 3745-33 of the Administrative Code for treatment systems subject to NPDES requirements be reviewed during the treatment technology selection process.]

(a) Effluent limitations or design criteria listed in the definition of best available demonstrated control technology in rule 3745-1-05 of the Administrative Code;

[Comment: Rule 3745-1-05 of the Administrative Code contains specific effluent limitations or design criteria for sanitary wastewater treated by conventional treatment technologies, industrial direct discharges, categorical industrial indirect discharges, and wastewater discharges resulting from clean-up of response action sites contaminated with volatile organic compounds.]

(b) Design criteria required under Chapter 3745-42 of the Administrative

Code;

[Comment: For example, see the design criteria for the land application of treated sewage in rule 3745-42-13 of the Administrative Code.]

(c) Industrial waste pre-treatment standards required under Chapter 3745-3 and Chapter 3745-36 of the Administrative Code;

(d) Treatment standards for sewage sludge required under Chapter 3745-40 of the Administrative Code; and

(e) In the absence of applicable effluent limitations or design criteria, best professional judgment shall be used to establish criteria based on the best sewage or industrial waste treatment technology that is in use by public or private entities to treat a particular type of sewage or industrial waste and is feasible and appropriate for the specific location.

(E) Notwithstanding the issuance or non-issuance of a permit to install for a non publicly owned or non regional disposal system, whenever a publicly owned or regional sanitary sewer system becomes accessible and available, the permittee shall abandon the disposal system and connect into the publicly owned or regional sanitary sewer system and properly close the disposal system in accordance with Ohio EPA's recommendations or requirements.

Effective:

R.C. 119.032 review dates:

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Certification

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Date

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