

April 2009

Wastewater Pollution Control Draft Biosolids Rules – Second Interested Party Review OAC Chapter 3745-40

What does OAC 3745-40 cover?

Chapter 3745-40 of the Administrative Code includes rules governing the treatment or disposal of sewage sludge or biosolids, the transfer of sewage sludge or biosolids to another National Pollutant Discharge Elimination System (NPDES) permitted treatment works, the storage of sewage sludge or biosolids, and the beneficial use of biosolids, where:

- “Biosolids” is defined as sewage sludge that has been treated for beneficial use; and
- “Beneficial use” is defined as the placement of biosolids onto a beneficial use site through the spraying or spreading of biosolids onto the surface of the beneficial use site, the injection of biosolids below the surface of the beneficial use site, or the incorporation of biosolids into the soil for the purpose of providing an agronomic benefit.

Why are revisions being considered to these rules; what revisions are being considered?

The Division of Surface Water (DSW) is in the process of conducting a review of the **seven rules** in Chapter 3745-40 of the Administrative Code, governing sewage sludge. DSW is considering rescinding all **seven rules** and replacing these rules with **twelve rules**. The increase in the number of rules is being considered to provide the reader with shorter rules, making information easier to find.

The following is a list of the current rules the Agency is considering rescinding:

- [3745-40-01](#) Definitions.
- [3745-40-02](#) Purpose, applicability and exclusions.
- [3745-40-03](#) Permits, plans and authorizations.
- [3745-40-04](#) Land application agronomic management.
- [3745-40-05](#) Land application restrictions.
- [3745-40-06](#) Land application monitoring and reporting.
- [3745-40-07](#) Other management practices; prohibition.
- annual reporting requirements.
- [3745-40-10](#) Facility storage requirements.
- [3745-40-11](#) Signage requirements for beneficial use sites receiving class B biosolids.
- [3745-40-12](#) Compliance and enforcement; and spill notification requirements.

The Agency is considering the following major changes, including new and reduced requirements:

The following is a list of the draft new rule titles:

- [3745-40-01](#) Definitions.
 - [3745-40-02](#) Purpose, applicability, general requirements, exclusions and prohibitions.
 - [3745-40-03](#) NPDES permit requirements and management plan requirements.
 - [3745-40-04](#) Biosolids classifications.
 - [3745-40-05](#) Notice and necessary information requirements for biosolids and other notification requirements.
 - [3745-40-06](#) Authorization for a beneficial use site, site transfer requirements and site amendment requirements for class B biosolids.
 - [3745-40-07](#) Requirements for the storage of biosolids: isolation distance requirements and requirements for field and regional facility storage.
 - [3745-40-08](#) Requirements for the beneficial use of biosolids: general requirements, prohibitions, isolation distance requirements, site specific requirements and additional site restrictions for the beneficial use of class B biosolids.
 - [3745-40-09](#) Approved sampling methods, monitoring frequency requirements, record retention and
1. The definition of bulk biosolids will be revised to:
 - a. Any quantity of class B or class A biosolids;
 - b. Greater than one thousand cubic yards of exceptional quality cake biosolids beneficially used at a single beneficial use site; or
 - c. The beneficial use of exceptional quality biosolids at rates equal to or greater than ten dry tons per acre at a beneficial use site.
 2. Introducing two new “concepts”: beneficial use and biosolids;
 3. Reducing the frequency of monitoring for metals and total Kjeldahl nitrogen and ammonia nitrogen to agree with Federal 503 Regulations;
 4. Eliminating monitoring frequency requirements for potassium and pH for the sewage sludge itself. (We will still require pH monitoring of the soil at authorized land application sites.);
 5. Reducing monitoring requirements for dioxin;
 6. Requiring additional recordkeeping to meet the requirements of Class B Pathogen Reduction Alternative 1: Geometric Mean of Seven Samples;
 7. Prohibiting the surface application of bulk biosolids to land from



- November 15 through March 15 and requiring the surface application of bulk biosolids to frozen or snow covered ground during the rest of any year to be in accordance with the NRCS Waste Utilization Code 633 application requirements;
8. Clarifying notice and necessary information (NANI) requirements and requiring each person who provides biosolids to another person to notify the initial person receiving the material that the material is or contains biosolids;
 9. Including set back requirements for the land application of all biosolids classifications;
 10. Removing Class A Pathogen Reduction Alternative 3 and Alternative 4 (Other processes and Unknown Processes);
 11. Including additional "stockpiling" restrictions to guard against impacts to human health and the environment;
 12. Requiring the use of best management practices (BMPs) to mitigate runoff and protect surface waters of the state, including additional requirements for agricultural sites that are tile drained;
 13. Requiring signs to be posted at all Class B biosolids beneficial use sites at least one week prior to delivery of Class B biosolids to the site;
 14. Requiring all treatment plants that wish to beneficially use their biosolids to have a screening mechanism to remove inert materials 3/8 inch in diameter or larger from the biosolids stream.

How are the changes formatted in the rules?

All text in the new rules is under consideration and is underlined.

How will the draft rules affect the regulated community?

The changes being considered to these rules include administrative and technical changes.

One administrative change being considered by the Agency is the increase in the number of rules to allow for shorter rules. Another administrative change being considered is the addition of tables and graphics. Both of these changes are being considered to enhance the reader's understanding of the rules.

Overall the technical changes being considered include a balance of "more stringent" and "less stringent" requirements, all of which are designed to be protective of public health and the environment.

In some cases, the Agency is considering more stringent requirements, such as prohibiting the surface application of bulk biosolids to land during times of the year where frozen or snow-covered ground conditions are more likely to occur. The Agency feels that this more stringent requirement is necessary to ensure that runoff of pollutants does not enter surface waters of the state. The prohibition of surface applying bulk biosolids on frozen or snow covered ground will require a person to improve the storage management of biosolids.

In other cases, the Agency is considering less stringent requirements, such as reducing the frequency of monitoring for metals and total Kjeldahl nitrogen and ammonia nitrogen to agree with Federal 503 Regulations. These less stringent requirements will result in lower monitoring costs for the permittee, while being designed to be protective of public health and the environment.

The Agency is also considering requiring screening of all beneficially used biosolids. This will create an upfront cost for some treatment plants to install screening capability at the plant, however; the quality of biosolids produced at their facilities will increase as waste inert materials that do not degrade in the treatment process will be removed.

What is the rulemaking schedule?

At this time the Agency is soliciting a second interested party input on the **draft rules**. Ohio EPA is required by Section 121.39(D) of the Ohio Revised Code to contact potentially affected parties before proposing rules. After the close of this second interested party comment period, the Agency will review the comments, make any necessary changes and then file the rules with the Joint Committee on Agency Rule Review (JCARR), Legislative Service Commission and Secretary of State. At that point the rules are referred to as **proposed** rules. One or more public hearings and another comment period are then scheduled. After the close of that public comment period, the Agency will review the comments, make any necessary changes to the rules and then adopt **final** rules. Final rules could be adopted by **October 2009**.

How can I comment on the draft revisions?

Comments should be sent to the attention of **Jacob Howdyshell** at Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, OH 43216-1049. Comments may also be emailed to the following address: jacob.howdyshell@epa.state.oh.us. Comments on the draft rule changes must be received by **5:00 p.m. on May 22, 2009**. A copy of this fact sheet is also available on the Division of Surface Water web page at www.epa.state.oh.us/dsw.

How can I get a copy of the draft rules or more information?

Go to the Division of Surface Water's Web site at: www.epa.state.oh.us/dsw, or contact **Jacob Howdyshell** by email at jacob.howdyshell@epa.state.oh.us or by phone at (614) 644-2018.