

**84th Annual Meeting
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Columbus, Ohio**

November 2, 2009

Melinda Harris, Rule Coordinator
Ohio ERPA, DSW
Box 1049
Columbus, OH 43216-1049

Via Email: melinda.harris@epa.state.oh.us

Re: Comments on proposed OAC 3745-42

Dear Ms. Harris:

On behalf of the 1,800 volunteer members of the Ohio Water Environment Association (OWEA), please find attached our comments regarding the proposed rule changes to OAC 3745-42.

Should you have any questions, please contact me at 937.781.2559 or livengoodm@mcoho.org

Sincerely,



Mark J. Livengood, President
OWEA

Cc: OWEA Executive Committee members
File

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COMMENTS ON 3745-42-03 REQUIREMENTS FOR APPLICATIONS AND ENGINEERING PLANS

3745-42-03

We recommend that this rule be expanded to include “design-build” project delivery, which is becoming more popular in our industry.

3745-42-03 (A)(1)(a)

In the first line, please add “and specifications” after the word “Plans”

3745-42-03 (A)(1)(a)

The text eliminates the phrases “treatment works” and “sewerage systems”, retaining only “disposal systems”. However, multiple other locations in the rule text use the phrase “treatment works”. 3745-42-1 definitions contain all three of these phrases, and each is “as defined in section 6111.01 of the Revised Code”. The change appears to be inconsistently applied. We wonder why the Ohio EPA is proposing this change.

3745-42-03 (E)(3)

The term “certificate of necessity” is not familiar to many in the industry and for those trying to follow this document. A general description, definition or cross reference to another OAC section would be helpful.

3745-42-03 (E)(4)

For insurance and liability reasons, Engineers are not able to “supervise” the construction activities that may be associated with projects. If the “Certificate of Supervision” is referring to this, then it should be changed or deleted.

3745-42-03 (J)

We noted that Section (J) (1) stipulates that a letter is needed to accept flow from an indirect discharger, while 3745-42-04(H) (2) delegates the PTI approval to approved municipalities for sewer extensions. It appears that more clarification is needed to address situations where sewer extensions are part of a project to pick up flow from an indirect discharger.

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3745-42-03 (E)(5)

Can it be assumed that by exclusion under (A)(1)(a), sewer extension projects of any size are exempt from this requirement because they do not require PTI submittals?

3745-42-03 (E)(5), next to last line,

We recommend that the term “effluent quality” be changed to “NPDES permit parameters”

3745-42-03 (E)(5)(g)

Please consider deleting “any lift stations” and adding it in place or in conjunction with the term “cost-effectiveness, operational advantages.” We believe that this term is more inclusive of what we believe that the Ohio EPA is looking to achieve.

3745-42-03 (E)(7)(b)

Under sub-paragraph b(ix) & b(xi)-In (ix), please consider deleting the words “the location and outline of equipment” and insert in their place from (xi) “the equipment or product specifications”, then please consider deleting (xi) in its entirety.

3745-42-03 (E)(7)(c)(i)

Please consider adding the words “the number, location, and elevation of referenced bench marks”

3745-42-03 (J)(1)

We believe that this should be a new Section K as it does not relate to the main topic of J, “direct dischargers” but to indirect dischargers. It makes better logic if it’s separate from the requirements for direct dischargers. Re-numbering of following paragraphs would be required as well as the existing Paragraph K to L and references within the section to the paragraphs.

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COMMENTS ON 3745-42-03 REQUIREMENTS FOR APPLICATIONS AND ENGINEERING PLANS

3745-42-03 (E)(5) (b)

We suggest that this statement needs to be more clear in what the Ohio EPA wishes to see. Specifically, we suggest that the Ohio EPA make a better distinction between the following classes of flow:

- Average Annual Flow
- Dry weather Average Daily Flow
- High Month per Year (reflects sustained I/I)
- Design Flow (Permitted value upon which NPDES permit is based)
- Peak Hourly Flow
- Peak Instantaneous Flow (not normally known)

3745-42-03 (E)(5)

For most projects, when is the “engineering report” to be submitted in relation to the Permit to Install (PTI) application? Should the engineering report be submitted before the PTI? Given that the purpose of “report” is apparently to establish the need and direction of an improvement before an Owner expends funds to prepare detailed design drawings, should not the “engineering report” precede the PTI application, by at least 45 days?

3745-42-03 (E)(7)(b)(iii)

For the Professional Engineer sealing the plans, we suggest that the Ohio EPA require the PE License Number. The use of the term “PIN” is confusing. The PE License Number is a unique identifier.

3745-42-03 (H)(8)

While we understand the need for the Ohio EPA to be provided confidence on the financial viability of an enterprise to take on the requirements of operating a wastewater treatment system under the laws of the State of Ohio, I wonder if the information being requested in this provision is within the education and training of technical reviewers whose backgrounds are from the sciences? I might suggest that the financial report be required to bear the signature of a certified professional such as a CPA?

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3745-42-04: ISSUANCE OF PERMITS TO INSTALL AND PLAN APPROVALS

3745-42-04 (E)

This provision lists two specific technical review guides (1) and (2). While (3) gives the Director room to consider other documents, why call out (1) and (2) specifically? In addition to the documents cited in we recommend adding “Design of *Municipal Wastewater Treatment Plants*, current edition [fifth edition published in 2009], prepared jointly by the Water Environment Federation and the American Society of Civil Engineers. This design guidance document is very widely used by the wastewater treatment engineering community, and is more inclusive of current treatment technologies and their application than *Ten States Standards*.

3745-42-04 (E)(1)

With regard to *Ten States Standards*, we ask that the Ohio EPA de-emphasize the use of this document since we have found it outdated and in some instances either incorrect or excessively conservative. At best it should be used only for general qualitative information.

3745-42-04 (H)(2)

Delegating PTI approval to authorized municipalities (3745-42-04(H)(2) may result in a different approvability across the state. At least the current approval process was standard across the state. Personnel capabilities vary from local entity to local entity, and this is not likely to change.

3745-42-04 (B)

We suggest that the Ohio EPA provide a more clear definition of “complete” and/or reference OAC 3745-42-03 (E)(1). Typically, we have found that the greatest interest to the Ohio EPA reviewers are to have reasonably complete process, civil, and site drawings that show how the process system works and functions in its ability to meet requirements of the NPDES permit.

3745-42-04 (C)

Please consider defining what is meant by social and economic impacts as this seems to be vague, and in the opinion of some reviewers in OWEA inconsistently applied in the past.



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3745-42-04: ISSUANCE OF PERMITS TO INSTALL AND PLAN APPROVALS

3745-42-04 (G)

We are not clear how the Director uses the 180 day provision for approval or denial. We believe that there are two issues of consideration in this determination. First, we urge the Ohio EPA as a matter of good will and public policy to provide an initial determination of the suitability of a submittal within 45 days to allow the Owner and others involved to make prudent business decisions on the viability of their own plan. In business, time is critical and knowing that something is either potentially feasible or not is critical to business interests and our overall economy. A period of 180 days is too long and tantamount to delaying the inevitable in some instances if an application is excessively unrealistic or has little change for approval. Also, we believe that more interpretation is needed on how the 180 days is calculated? Does the clock re-start once the reviewer has issued comments, in which case the plan review could go on indefinitely?

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3745-42-07: BEST AVAILABLE TECHNOLOGY

3745-42-07 (C)(2)(b)

Although text uses phrase “may include” refusal to allow or unaffordable cost, the text should also clearly indicate that other barriers may also be considered and what constitutes “unaffordable.”

3745-42-07 (D)(2)

Under the current application of BADCT to small users with flows of 1,000 GPD to 25,000 GPD, the primary technology recognized by the Ohio EPA, DSW for direct discharge is only the classical extended aeration package plant. While this provision does not list technologies “by name,” this is the reality or the situation. We ask the Ohio EPA consider recirculating sand filter (RSF) technology as one of its BADCT “preferred” systems for these small flows, where the choices of technology are such where consideration to “direct discharge” is necessary. Not only are RSFs more environmentally sustainable and more reliable than traditional package plants, its ability to remove CBOD and TSS is exemplary and they are not prone to the typical upsets and sludge wasting and hauling requirements as package plants. However, in making this statement, we acknowledge that in some instances RSFs will have difficulty achieving the 1 mg/l Ammonia-N limit on a sustained basis as prescribed by BADCT so that consideration be made to increase 1 mg/l limit for RSF installations as a “small flow exception.” The logic for this comment is continued in the next comment below.

3745-42-07 (D)(2)

While we acknowledge the importance of removing ammonia-nitrogen from wastewater, however, ask that the Ohio EPA explore provisions to consider increasing latitude with regard to increasing the ammonia-nitrogen concentration to 2 or 3 mg/l. This would allow for the implementation of sustainable technologies such as recirculating sand filters (RSFs) or constructed wetlands that are not able to achieve an effluent concentration of 1 mg/l on a continual and sustained basis. RSFs are able to achieve high levels of CBOD, TSS, in addition to respectable reductions for Total Nitrogen and Total Phosphorus.



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3745-42-07 (D)

Has the Ohio EPA considered the need to incorporate a provisions in its rules to address situations whereby a County is asked to connect a large package plant to a regional service provider (not the County), even if no facilities planning was done and where the financial burden incurred by the County to make this connection would be highly adverse, due to a large tap fee? (This is a real situation that has occurred in Central Ohio.) Please see the commend under OAC 3745-42-07 (C) (2) (b).

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3745-42-07: BEST AVAILABLE TECHNOLOGY

3745-42-07 (D)(1)(a)(i)

Section 208 planning is very general “broad brush” planning and done mostly to ascertain preferred areas of service and to minimize areas of service area overlap. As a result, it does not appear that in many instances 208 planning is often done with enough detail to select process technology. As a result, the Ohio EPA may also wish to add Section 201 “facilities planning,” which is done to a much higher level of detail and much more practical from the perspective of decision making.

3745-42-07 (D)(1)(a)(iii)

Does the provision to require service within 300 feet of a public sanitary sewer in conflict with ORC 6111, which has historically limited the requirement for service within 200 feet?

3745-42-07 (D)(1)(a)

What if the treatment works that is “accessible and available” does not meet BAT? Would the person be required to connect to it if their alternative system met BAT? The proposed rule does not address this.

3745-42-07 (D)(2)(a)

Effluent limits defined by best available demonstrated control technology (BADCT) from the antidegradation rule (OAC 3745-1-05). A draft rule revision to 3745-1-05 published in October 2008 included new BADCT requirements for sanitary wastewater with total nitrogen limit of 10 mg/l (30-day average) and total phosphorus limit of 2 mg/l (30-day average). If this draft antidegradation rule is finalized, then the proposed PTI and Plan Approvals rule (3745-42-7) would then expand the antidegradation BADCT technology limits for nutrients to all discharges of sanitary wastewater from facilities using conventional treatment technologies, which are pursuing any increase in discharge loading. We are not sure that most POTWs in Ohio are in as good position to rapidly implement measures for TN and TP very quickly and that the full nature of the economic ramifications are well understood by the regulated community. As an alternative, we suggest that the Ohio give consideration to addressing this situation through the NPDES Permit Program, and stipulate that POTWs be required given a schedule of compliance and ask that they be prepared to implement appropriate measures at the end of a 3-year period.



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3745-42-07: BEST AVAILABLE TECHNOLOGY

3745-42-07 (E)

We believe that this section should state that a reasonable time schedule shall be provided for abandonment of previously approved non-public or non-regional treatment system after access to a public system becomes available. We ask that the Director consider cost implications on the non-public entity in determination of requirements to connect.

3745-42-07 (E)(7)(b)

This item would require abandonment of a permitted industrial disposal system whenever a publicly owned or regional sanitary sewer system becomes accessible and available. In that case, it should require that the publicly owned or regional sanitary sewer system have sufficient capacity and that the industrial disposal system be modified as necessary for compliance with State Pretreatment Rules OAC 3745-3 and OAC 3745-36