



Draft Rules – Sewage Sludge Rules (OAC chapter 3745-40)

What does OAC Chapter 3745-40 cover?

Chapter 3745-40 of the Ohio Administrative Code (OAC) contains the rules for the disposal, use, storage, transfer, and treatment of sewage sludge and biosolids and the beneficial use of biosolids, where:

- “Biosolids” is defined as sewage sludge or mixtures containing sewage sludge that have been treated for beneficial use; and
- “Beneficial use” is defined as the placement of class B or bulk exceptional quality 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, the incorporation of biosolids into the soil, for the purpose of providing an agronomic benefit, or the distribution of exceptional quality biosolids that do not satisfy the definition of bulk exceptional quality biosolids.

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.

Which rules are under review?

This rulemaking includes all twelve existing rules in chapter 3745-40, as well as the addition of a new rule to the chapter. The following rules are being reviewed in this five-year rule review:

Rule Number	Title
3745-40-01	Definitions.
3745-40-02	Purpose, applicability, general requirements, exclusions and prohibitions.
3745-40-03	NPDES permit requirements and biosolids management permit requirements.
3745-40-04	Biosolids classifications.
3745-40-05	Notice and necessary information requirements for biosolids.
3745-40-06	Beneficial use site authorizations and deauthorizations for class B biosolids.
3745-40-07	Requirements for the field storage of biosolids 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, standard operating procedures, record retention, and 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 new rule would be 3745-40-13: Requirements for the biosolids beneficial user management program.

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What types of changes are being considered?

The Agency is reviewing the existing rules in OAC Chapter 3745-40 in accordance with the five-year rule review requirements in Ohio Revised Code (ORC) 106.03. All rules under review will receive language and format changes as needed to update reference citations, improve ease of use and consistency, reduce regulatory restrictions to comply with Senate Bill 9, correct any errors, and conform to the requirements of the Legislative Service Commission style manual. A new rule is also being put forward for the chapter. The following significant revisions are being considered for existing rules at this time:

3745-40-01

- Addition, deletion, and clarification of definitions.

3745-40-02

- Addition of a procedure for approval of a biosolids pilot study.
- Addition of professional operator of record requirements for privately owned treatment works, effective three years after finalization of these rules.
- Moved screening requirements to 3745-40-04.

3745-40-03

- Reorganization for simplification and reduction of regulatory restrictions.

3745-40-04

- Reorganization for simplification, clarification, and reduction of regulatory restrictions.
- Screening requirements moved from general requirements and are now listed under treatment required for sewage sludge to be classified as biosolids.

3745-40-05

- Revision of the notice and necessary information requirements for the distribution of exceptional quality biosolids.

3745-40-06

- Addition of a process for the deauthorization of biosolids sites.

3745-40-07

- Clarification of the allowable field storage duration.
- Addition of isolation distances to property lines and wetlands for field storage and regional storage facilities.
- Clarification of the prohibition of field storage and regional storage facilities for drinking water source protection areas that are highly susceptible to contamination.
- Increased isolation distances for regional storage facilities.

3745-40-08

- Clarification of requirements for the beneficial use of materials derived from exceptional quality biosolids.
- Addition of use of the Ohio Phosphorus Risk Assessment (OPRA) procedure to determine the appropriate phosphate rate of application for crops based on the soil test phosphorus and runoff risk class.
- Addition of a prohibition on beneficial use of biosolids within a vulnerable hydrogeological setting, effective two years after the finalization of these rules.
- Addition of isolation distances to property lines and public drinking water surface water intakes for the beneficial use of biosolids.
- Clarification of the prohibition of beneficial use in drinking water source protection areas that are highly susceptible to contamination.

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- Revisions to document that Mehlich III extraction method is the primary soil P extractant method now used in Ohio.

3745-40-09

- Reorganization for clarification and ease of use.
- Removal of dioxin monitoring requirements.
- Clarification of standard operating procedure requirements and record keeping requirements for beneficial users.

3745-40-10

- No major changes.

3745-10-11

- No major changes.

3745-40-12

- No major changes.

New rule 3745-40-13

- This new rule sets forth the requirements for the certification of beneficial users including the application and examination process to become certified, the recordkeeping requirements for beneficial users, and reasons a certification may be suspended or revoked. This certification requirement will become effective on January 1, 2028.

Where does the new information come from?

Revisions to the rules come from staff experience and research, communication with stakeholders, other Ohio agencies such as the Department of Agriculture, federal agencies such as the Natural Resources Conservation Service (NRCS) and U.S. EPA, as well as biosolids regulations from other states.

How will the draft rules affect the regulated community?

The draft rule revisions will allow the regulated community to have a better understanding of the beneficial use restrictions, agronomic rate calculations, field storage duration, site deauthorization process, and biosolids pilot study requirements. By including more detail in all of the rules in this chapter, the Agency is providing clarity, transparency, and predictability to the regulated community. The draft revisions for determining agronomic rates based on the Ohio phosphorus risk assessment will require a change in the method used by the regulated community to determine rates and may require more acreage to be authorized for the beneficial use of biosolids. The new draft rule for the certification of beneficial users will impose new requirements for the beneficial use of biosolids.

What additional information is the Agency seeking?

The Agency is seeking comments from interested stakeholders (public, local officials, National Pollutant Discharge Elimination System [NPDES] permit holders, industry sectors, other state agencies, consultants, and environmental organizations) who may be impacted by these draft rule amendments. 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 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 that is considered for deletion is identified in strikeout font; new text is underlined.

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What is the rulemaking schedule?

At this time, the Agency is soliciting input on these draft rule revisions. Ohio EPA is required by section 121.39(D) of the Revised Code to contact potentially affected parties prior to adopting rule changes.

An information session will be held Wednesday, March 19, 2025 at 10:30 a.m. Questions will be taken at the end of the session. Use this link to join the session virtually at the time shown above:

<https://attendee.gotowebinar.com/register/9058025724725463645>, or attend the session in person at the State Library of Ohio, 274 E. 1st Ave., Columbus, OH 43201.

At the close of the comment period, the Agency will review the comments and make necessary changes to the rules. The Agency will then file proposed rules with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State. Ohio EPA expects to file the proposed rules in summer 2025. At that point, another comment period, including one or more public hearings, will be scheduled. After the close of the comment period, the Agency will review the comments, make any necessary changes, then adopt the final rules.

How can I comment on the draft rules?

Please submit your comments in one of the following ways:

- By email: dsw_rulecomments@epa.ohio.gov
- By postal mail:
Rule Coordinator
Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

Comments on the draft rules must be received no later than 5 p.m. on April 10, 2025.

How do I get more information?

Information is available on the Ohio EPA Division of Surface Water website:

- Copies of this fact sheet, CSI form, and the draft rules at: epa.ohio.gov/divisions-and-offices/surface-water/regulations/interested-party-review.
- The existing rules are available here: epa.ohio.gov/divisions-and-offices/surface-water/regulations/effective-rules.
- For additional information on the Sewage Sludge/Biosolids Program, please visit the web page at: epa.ohio.gov/divisions-and-offices/surface-water/permitting/biosolids-program.

All are welcome to attend the webinar detailed above.

Contact

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