

Proposed 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 agricultural use of class B biosolids or bulk exceptional quality biosolids at a beneficial use site or the non-agricultural use of exceptional quality biosolids.

Which rules are under review?

The following rules are included in this rulemaking:

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.

Why are these rules under review and 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, including changes to reflect the regulation of exceptional quality biosolids based on end-use, not the amount used.

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3745-40-02

- Addition of a procedure for approval of a biosolids pilot study.
- 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.
- Reduction of the agency review time for site authorizations

3745-40-07

- Increase in the allowable field storage duration.
- Addition of isolation distances to property lines 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

- Addition of a prohibition on beneficial use of biosolids within a vulnerable hydrogeological setting, effective two years after the finalization of these rules.
- Clarification of the prohibition of beneficial use in drinking water source protection areas that are highly susceptible to contamination.
- 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.

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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.

Are there changes from the February 2025 draft rules?

Prominent changes made to the draft rules based on comments received during IPR are listed below.

- Removal of the use of the NRCS phosphorus risk assessment. The current regulations regarding phosphorus application rates will be maintained.
- Definitions were revised to reflect the regulation of exceptional quality biosolids based on end-use, not the amount used.
- The operator certification requirements for privately owned treatment works were removed.
- The field storage duration was extended from 90 days to 180 days with inspections required after 120 days.
- The isolation distance from property lines was removed.
- The isolation distance from occupied structures and schools was reduced from the proposed 2,000 feet to 1,000 feet.

How will the changes affect controls placed on water pollution?

The changes proposed in the rule will provide more flexibility to the regulated community while still maintaining the purpose of preventing water pollution. The changes will clarify the regulations for the regulated community.

What additional information is the Agency seeking?

The Agency is seeking comments from interested stakeholders (public, local officials, and National Pollutant Discharge Elimination System [NPDES] permit holders, industry sectors, other state agencies, consultants and environmental organizations) who may be impacted by these revisions and additions. General comments and specific factual information are welcome.

How are the amendments formatted in the proposed rules?

Text that is considered for deletion is identified in strikeout font; new text is underlined.

What is the rulemaking schedule?

A public hearing on the proposed rules will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. The purpose of the public hearing is to give interested persons the opportunity to present oral or written comments on the proposed rules.

Ohio EPA will hold an in-person and virtual public hearing on the rules on Tuesday, January 6, 2026 at 10:30 a.m. The in-person hearing will be at the same time and date and will be located at Ohio EPA, Suite 700, 50 W. Town Street, Columbus, Ohio 43215. During the hearing, the public may submit written comments on the record about the proposed rules. If participating virtually, comments may be submitted electronically and may be submitted verbally if participating in person.

To facilitate the scheduling of oral presentations, persons intending to give testimony in-person at the hearing should notify Mary McCarron at the Ohio EPA Public Interest Center, mary.mccarron@epa.ohio.gov or (614) 644-2160. Citizens who want to participate virtually must register in advance for the meeting at:

<https://attendee.gotowebinar.com/register/1954636357056617049>

Written testimony should be submitted to SmartComment: <https://ohioepa.commentinput.com?id=Cg8Wx2GcJP> or sent to the attention of Emily Imhoff, Rules Coordinator at the Division of Surface Water, P.O. Box 1049, Columbus Ohio 43216-1049. Written comments may also be submitted to the Hearing Officer at the public

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hearing. Written testimony will receive the same consideration as oral testimony. All testimony received at the hearing or by close of business on January 6, 2026 will be considered by Ohio EPA prior to final action on this rulemaking proposal. Written comments submitted after this date may be considered as time and circumstances permit.

At the close of the public comment period, the Agency will review the comments, make any necessary revisions to the rules, and then adopt the rules. A response to comments document will be prepared and sent to all parties that comment on the proposed rules. Final rules could be adopted during early 2026.

How can I comment on the proposed rules?

Please submit your comments in one of the following ways:

- In SmartComment: <https://ohioepa.commentinput.com?id=Cg8Wx2GcJP>
- During the public hearing
- By postal mail: **Rule Coordinator**
Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

Comments on the proposed rules must be received no later than 5 p.m. on January 6, 2026.

How can I get more information?

- Copies of this fact sheet, CSI BIA form, and proposed rules are on the Division of Surface Water website at: epa.ohio.gov/divisions-and-offices/surface-water/regulations/proposed-rules.
- The existing rules in OAC Chapter 3745-40 are available at: 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.

Contact

For more information, contact Betsy Sheerin at Betsy.Sheerin@epa.ohio.gov or (614) 644-2150.