

LEGISLATIVE REVIEW
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QUESTIONS ON WASTEWATER 10 STATE STANDARDS RAISED WITH OEPA

OHBA met with OEPA Staff yesterday on recent issues brought to our attention related to enforcement of the 10 states standard referenced in OEPA rules. Although the standard has been referenced by rule for many years, there was a recent change to the 2012 edition of the standards intending to clarify the application of 10 foot separation distance between water lines, sanitary sewer and storm sewer lines. It seems this change has caused confusion in areas where the 10 foot separation was not being applied to storm sewer lines, but has recently been enforced by the agency. The current OEPA rule references the 2007 edition of the standard, while the new 2012 language has yet to be formally adopted by the agency. However, OEPA Staff argued the intent has remained unchanged and the standard has been in place for years even without the 2012 clarification. This seems contrary to the experiences presented by developers, and engineers in attendance with OHBA at the meeting. Representatives from both Northeast and Central Ohio explained how they were caught off guard when they were recently told to comply with the 10 foot requirement applied to storm water sewers.

Bill Sanderson with Payne and Payne, Charlie Driscoll with Edwards, and Craig Bohning with EMH & T, were able to provide valuable insight into the practical problems this change in application of the standard to both storm and sanitary sewer would cause developers. Particularly, they raised issue with potential conflicting municipal regulations and zoning, as well as, application to development projects already established, making compliance nearly impossible. After discussions on the impact of issuing individual waivers on a case by case basis, the agency indicated it was working internally on a set of more predictable expectations for the ability of applicants to get an exemption from the requirement. Bill, Charlie and Craig all emphasized the need for industry input in developing these more predictable exemptions. OHBA focused on the ability to enforce the recent changes to the Standards without the new language having been formally adopted in the agency rulemaking process. According the OEPA Staff, although the new rule is currently in the process of being adopted, the intent has always been the same, so the authority to apply the 10 feet to both sewer systems is currently in place.

OHBA is following up on the status of the rule making process referencing the 2012 edition of the Standards, as well as, potential resolutions to the inconsistent application of the current rule.