



Division of Drinking and Ground Waters Response to Comments

Asset Management Rules

3745-81-02 (Amend)	Coverage.
3745-87-01(Rescind)	Definitions.
3745-87-01 (New)	Asset management definitions.
3745-87-02 (Rescind)	Capability assurance plans.
3745-87-02 (New)	Applicability and general requirements.
3745-87-03 (New)	Contents of an asset management program.
3745-87-04 (New)	Evaluation criteria.
3745-87-05 (New)	Long-term implementation.
3745-92-02 (Amend)	Financial assurance required.
3745-92-03 (Amend)	Amount of financial assurance.
3745-92-05 (Amend)	Orders of the director, notice to owner.

Agency Contact for this Package

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Ohio EPA issued public notice and requested interested party comments for the period of January 16, 2018 to February 16, 2018 on revised draft rules in the Ohio Administrative Code (OAC). This document summarizes the comments and questions received during the interested party public comment period.

Ohio EPA reviewed and considered all comments received during the interested party comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General Comments

Comment 1: Several comments were received on the October 1st, 2018 due date. The comment letters stated that the due date of October 1, 2018 unrealistic. Will cause for increased costs to utilities and poorly laid out/implemented programs. Would prefer the October deadline be the requirement for submitting an implementation schedule of the development of their program and not a complete program. (AWWA, Del-Co, Fairfield, Dayton, Painesville)

“the timeline(s) established in the proposed rules is not realistic and will cause an increased cost for compliance.” (AQUA)

“First and foremost, the timetable for the implementation of asset management is unreasonable and unrealistic. How can you require an asset management plan in October of 2018, when the actual requirements have not been approved as of February 2018? Utilities need time to plan. At a minimum, the date of implementation should be pushed back to 2019 to allow utilities to plan and budget for the new rules. Yes, we have known some kind of asset management requirements were coming in 2018. But, we could not budget for these regulations without the regulations in place”. (Wyoming)

“Even with the work that has previously been done in regard to asset management in our system, we would recommend an implementation strategy for the asset management program be required by this deadline rather than a full program inclusive of all aspects listed in these rules. The implementation strategy would outline the staged approach to complete a full scale program. “(Butler)

Suggestion was made that the effective date if the provisions be extended by 18 months. (Fairfield)

A second major concern by the AWWA Ohio Section is the due date for the requirements. In order to allow utilities to embrace asset management and incorporate it into operations, Ohio EPA should only require an implementation schedule by October 1, 2018. (, Aqua, Fairborn, Wyoming, Del-Co, Fairfield, Butler County, Dayton, Painesville)

The requirements of the proposed regulations are significant and could take years to fully implement. Asset inventories [(B) (8)] and evaluations [(B) (9)], specifically, may take a significant period of time to complete, depending upon the number of assets a utility owns and the state of the utility’s GIS or other documentation system. Similarly, an annual review and update of the asset management program [OAC 3745-87-05 (A)] may be overly burdensome due to the size of the overall program. It may be better to require a utility to review certain sections annually so that the entire program is reviewed every five years.(Ohio AWWA)

Comment was received that the requirements of the proposed regulations are significant and could take years to fully implement. Asset inventories and evaluation may take a significant period of time to complete, depending upon a number of criteria, including the number of assets a utility owns, and the state of the utility’s GIS or other documentation system” (Cleveland)

Response 1:

The October 1st deadline is required by Ohio Revised Code (ORC) 6109.24 and cannot be changed by this rule. By October 1st all water systems will need to implement an asset management program and have a written description of their asset management program onsite. Pursuant to proposed rule 3745-87-02, new

water systems and existing system, other than those applying for a loan, will be required to submit just a written description of their asset management program unless the Director requests supporting documentation. Supporting documentation for existing systems other than those receiving a loan, may be required to be available for review based on enforcement proceedings, compliance history, or capability screening. Systems applying for a WSRLA loan are required to demonstrate they have an acceptable asset management program and are required to address any deficiencies noted in a capability screening. While all systems must make their written description and supporting documents available for inspection pursuant to OAC 3745-87-04(A), Ohio EPA plans to evaluate all other systems through the sanitary survey process over time. There will be additional questions added to the survey to view key portions of an asset management program, such as the inventory, condition assessment, and capital improvement plan.

Comment 2:

Though the proposed regulations will help Ohio EPA do so, the AWWA Ohio Section believes that provisions of the proposed regulations go far beyond that which is required by S.B. 2 and will substantially add cost, without adding significant benefit for the majority of utilities that are effectively operating. Especially because utilities, in general, are in the midst of major infrastructure renewal and replacement programs, utilities should not be required to make sub-optimal investments that could cost customers hundreds of thousands of dollars. Parts of these proposed regulations will impose substantial and unwarranted burdens upon community water systems. (AWWA, Cleveland, AQUA, Fairborn, Wyoming, OMHA, Del-Co, Fairfield, Perrysburg, Butler County, Painesville, Ohio Utilities Group, Big Island Water Works, Dayton, Cincinnati, AEP)

Suggestion was made that the rules be limited to the requirements listed in SB2. (Fairfield)

The AWWA Ohio Section supports extending these requirements in a staged and orderly manner to all public water systems in order to assure technical, managerial, and financial capability. During the legislative negotiation process, some of the utility members worked hard to negotiate this to be an asset management “program,” rather than a “plan.” This is because much of the requirements are already being done in various forms. The largest concerns the AWWA Ohio Section have related to the draft regulations are that they go against the negotiated intent of the legislation and appear to require a major written plan, and this written plan is highly prescriptive and goes much beyond the scope of the legislation.

Response 2:

After discussions with Ohio AWWA, the proposed rules have been changed to no longer require levels of service, changing the risk assessment of assets to looking at asset criticality, identifying the table of organization as “high-level” that would require only critical personnel, and changing the ten and twenty-year capital improvement plan to a planning document requiring the project identification and estimated costs. Also see Response 1 in regard to what is required by October 1st.

Comment 3: Suggestion was made that non-transient non-community public water systems that serve industrial facilities be excluded from the requirement of having an asset management program “The "Asset Management" draft rules should exclude systems that provide drinking water to only an industrial facility. The draft rule requires burdensome reporting on the following which are not applicable to an individual facility including:

Customer Complaints; Contracting and Purchasing Procedures; Extensive inventory and evaluation of assets;

If NTNC public water systems that are dedicated to an industrial facility cannot be excluded from the requirements of the rule, then a different template should be developed for these types of drinking water systems.” (AEP)

We believe that the exhaustive list of contents of an asset management program, detailed in the draft language in Draft Rule 3745-87-03, should not apply a priori to all public water systems. We believe that it would be appropriate to have several graduated sets of program requirements for transient noncommunity, nontransient noncommunity, small community and large community public water systems. For example, we believe that it is appropriate that the requirements listed in Draft Rule 3745-87-03 (A) apply to all PWS. We also believe that these requirements alone should be adequate for a transient noncommunity PWS, particularly a transient noncommunity PWS which neither has a distribution system, nor sells its water to customers (e.g., church, small business). (Hull Company)

Response 3: ORC 6109.24 requires all public water systems to implement an asset management program; that requirement cannot be modified by rule. To aid the non-community water systems in complying with the rule we developed a non-community template designed to fit the needs of all non-community water systems. It is available on the Ohio EPA website in a word document, so water systems can make edits as needed for their system. Systems are not required to use the template but can come up with their own if they would like. Ohio EPA acknowledges that each system is unique and will draft guidance to assist different sized systems in creating an acceptable asset management program.

Comment 4: “Our concern is that the Ohio EPA wants to go beyond the U.S. EPA federal mandate by requiring implementation of “*programs*” as opposed to preparation of “*plans*” for *existing* small water systems that are and have been totally compliant. This change from “*plans*” to “*programs*” requires significant additional resources, including the hiring of technical advisors, engineers, accountants, capital asset experts and others. We support having asset management “plans” on file for existing systems as suggested by the U.S. EPA—and also outlined in rule OAC 3745-85-01 requiring “contingency plans” (not “*programs*”).” (OMHA)

“The regulation does not implement a federal requirement. The Safe Drinking Water Act amendments have been in place since 1996. Capacity assurance plans are required for funding and that requirement has not changed. The OEPA is implying that without requiring asset management plans they would lose funding, that is not the case as the SDWA has not changed since 1996. Funding has been available based on the OEPA complying with capacity assurance plans since 1996. The rules exceed the federal requirements as well as those in Ohio Senate Bill 2.” (Warren)

“The Agency cites the 1996 SDWA as the basis for rules in 3745-87; the City questions the basis for looking back 21 years to support new rule revisions in 2018.” (Perrysburg).

Regarding question (4), s the rationale for exceeding the requirements of SB2 is not provided. “States that all of proposed revisions exceed provisions required by federal government. While OEPA has discretion to exceed federal requirements, the Agency did not explain the rationale for doing so. OEPA further stated OAC 3745-87 is undergoing revision to meet SB 2, however these revisions in some cases exceed the requirements of SB 2 without stating a rationale for doing so.”(Perrysburg)

Response 4:

Systems will need to have an asset management plan in place and the development and implementation of that plan will be their asset management program. An asset management program does not require the use of software. An asset management program can be implemented by the current staff at the water system. The rules have been proposed to incorporate new and amended language effective in ORC 6109.24, the requirements of which are more prescriptive than the federal rule. The proposed rules are more prescriptive than the statute to provide clear standards for compliance. Revisions have been made to clarify that water systems will need to have an asset management program for their system.

Capability assurance plans have previously been required to demonstrate a system’s capacity to determine if they are capable of paying back a loan made through WSLRA. The asset management program of a water system will serve as a demonstration of capability in place of the capability assurance plan.

Comment 5:

“...we believe OEPA rule making should specifically consider privately owned PWS which operate under the PUCS’s existing mandates, rules and regulation so as to not place additional cost burden on Ohio Consumers without real benefit.” (AQUA)

Response 5:

Water systems likely already have a portion of the information that is being requested in the rules for an asset management program. While there may an initial upfront cost of the time it will take to put together the information, a properly implemented asset management program can save a system money. Some of this cost may be offset by ensuring PWSs acquire and maintain technical, financial and managerial capability necessary to provide a reliable, safe and adequately supply of drinking water at all times. Having an asset management

program will improve long term system integrity eventually resulting in cost savings and positive economic growth and development. The implementation of asset management can save water systems money in the long-term by ensuring financial planning is established to avoid costly emergency and unexpected expenses.

Comment 6: The proposed rules attempt to provide a singular asset management approach which prescriptive requirements which does not recognize the spectrum of PWS sizes and Complexities (AQUA)

Response 6: To develop the rules the Agency worked with service providers, water systems, and with industry standards to determine the basic items to include in an asset management program. The rules provide enough information that a system can use the rules to have a functioning asset management program. There is still flexibility for each system to meet those requirements in a way that suits the needs and abilities of the water system. Further information will be given in guidance on developing a functioning asset management program that allows flexibility for PWSs based on their needs.

Business Impact Analysis

Comment 7: The level of effort estimated in the Business Impact Analysis (\$2,500 to \$15,000) to prepare a comprehensive asset management program as described under 3745-87 is greatly underestimated. Many utilities do not have any type of Asset Management Program in place and the requested information would take months if not years to collect, analyze, and used as a predictive tool. Even well run utilities with mature Asset Management Programs may struggle with presenting all of the information required in the draft regulations. As written, there will be significant ongoing costs as PWSs review, revise, and update plans, and these costs appear to not have been considered. Based on the comment letter received from OAWWA, there is a cost associated with updating the document on the annual basis which would cost in \$2,500 to \$15,000 each year, which has not been accounted for.

“The rules need to recognize the authority and oversight that the PUCO has on regulated private PWS in Ohio. The proposed rules place an additional cost burden on PUCO's regulated PWS with no additional benefit to the consumer who ultimately will bear the cost of complying with the regulations.” (Aqua Ohio)

“The CSI Business Impact Analysis suggests that initial compliance costs for Utilities would range \$68 - \$17,642 as an expected adverse impact. GCWW expects, dependent upon final requirements, a significant consumption of resources to achieve the highly detailed and prescriptive level of reporting identified within the proposed rule, and this is certainly true if the October 1 deadline for compliance is maintained. Costs at GCWW are expected to be several orders of magnitude greater than suggested.” (GCWW)

Regarding question (14 c.), “Most PWSs have a budgeting process that is set at the beginning of the year. Ironically this is also a requirement of the asset management plan. The cost estimations from OEPA for the asset management plans are being shared with the PWSs only seven months prior to implementation. This will have an adverse effect on approved budgets.” (Warren)

“In analyzing adverse impacts of meeting these regulations, Agency states 'if experienced personnel are on staff, the cost to complete and submit the plan will be significantly lower.' City contends having in-house staff to compile the plan does not negate the cost of preparation, it means the PWS must divert those staff resources away from other duties. Also the estimate of 50 hours for in-house development appears unrealistically low.” (Perrysburg)

In question (15), the plan does not impact untreated or poorly managed sewage. (Warren)

Regarding Question (15), “The Agency implies the cost of complying with these proposed rules creates a new public health safety net and therefore justifies the cost. The statement is poorly worded and borders on an affront to PWS operators and managers.” (Perrysburg)

Response 7:

The rules have been revised based on negotiations with AWWA to accept more-generic, high-level asset management programs by removing level of service goals and other requirements to reduce the initial implementation costs based on the amount of time and staff utilized to develop a successful asset management program.

The cost and time that are spent to develop an asset management program will vary by water system. The BIA provided an estimate on monetary and time costs for the average asset management program. Some systems may find that the cost to them is less than what is projected in the BIA, while others it may be more. Many factors can go into what will determine the cost for a system, such as the amount of staff to work on asset management or how well things have previously been documented. Some of the cost may be offset by ensuring PWSs acquire and maintain technical, financial and managerial capability necessary to provide a reliable, safe and adequate supply of drinking water at all times. Having an asset management program will improve long term system integrity eventually resulting in cost savings and positive economic growth and development. The implementation of asset management can save water systems money in the long-term by ensuring financial planning is established to avoid costly emergency and unexpected expenses.

The average cost as provided by the Ohio Rural Community Assistance Program (RCAP) for a new or existing PWS with knowledgeable staff to complete the asset management program could be approximately \$2,500 (average time spent is 50 hours at a pay rate of \$50 per hour). The average cost for a PWS that contracts for assistance with completing the asset management program may be about \$15,000 (average time spent 120 hours at a pay rate of \$125 per hour). For PWSs with a

population of 10,000 or fewer, Ohio RCAP could absorb some of the cost dependent upon the needs of the system (technical assistance, exploring cost efficiency, etc.).

It is estimated that the cost of compliance with OAC rule 3745-85-01 can range from \$68 to \$17,642, for PWSs serving 10,000 or less. Since the contingency plan requirements for non-community PWSs (per OAC rule 3745-87-03) are less stringent than the requirements for community and wholesale PWSs, the actual cost of creating a contingency plan will be less. For larger PWSs, the cost can be significantly more. Depending on the level of detail, costs could be as much as \$2 million to \$4 million, or more if the system implements a robust program.

Comment 8: Regarding Question (7) in the BIA a comment was received on considering consultants as stakeholders. "The BIA lists a stakeholder as consultants. Consultants are only a stakeholder in that they will be the one profiting off the production of the asset management plans." (Warren)

Response 8: Consultants were also considered as stakeholders since some are likely to be assisting systems in the development of their asset management programs. There are also consultants that have had experience putting asset management programs together previous for water systems, so their feedback was useful in the development of the rule.

Comment 9: Regarding question (9) in the BIA several comments were received.

The comment letter stated that there is no scientific data that was used to develop the rule. (Warren)

"The measurable outcomes of these rules are to achieve the public health objectives of the SDWA by ensuring PWSs acquire and maintain the technical, financial, and managerial capability necessary." A satisfactory answer would have been to cite some actual unresolved instances of deficient technical, financial or management capabilities." (Perrysburg)

Response 9: During development of the rule, information was collected on the programs of other states, stakeholder input, and international standards regarding asset management. The implementation of an asset management program will provide measurable outcomes of achieving public health objectives. Examples of public health objectives that can be achieved through implementation of an asset management program include ensuring reliable and safe drinking water supplies and resolving deficiencies in a system's capability.

Comment 10: Regarding Question (10), clarify why alternate regulations were not considered. "The Agency states they do not have the option of an alternative regulation because the development of the capability assurance program to meet US EPA's guidelines was necessary. This is true; however, the current rules meet the US EPA guidelines. Changes are not necessary to meet those

requirements. The Agency should consider alternative regulations.” (Warren)

“OEPA states all these revisions exceed federal requirements. Yet in CSI #10, OEPA states there is no alternative to these revisions in 3745-87 because they were necessary to meet USEPA guidelines. These are contradictory statements.” (Perrysburg)

Response 10: OAC Chapter 3745-87 has been amended to reflect the amendments to ORC 6109.24 and memorializing that capability is demonstrated through developing and implementing an acceptable asset management program. See Response 4 for additional clarification on the requirement to adopt these rules under ORC 6109.24, which is more prescriptive than federal rule.

Comment 11: Regarding Question (11), The agency states that the rules are performance based. The outcome is not defined in these rules. (Warren).

“Agency states that rules in 3745-87 and 3745-92 are performance based. The City disagrees and believes they are quite prescriptive.” (Perrysburg)

Response 11: The rule states what should be included in an asset management program, but it is up to the system to decide the manner and format to demonstrate how the requirements have been implemented. The outcome is that a system will have an implemented asset management program. To determine implementation, systems will have to track six metrics, which were revised during discussions with Ohio AWWA

Comment 12: “The Agency will base success of all rules in this package on public water system compliance rates with the new and revised requirements.” This is a circular argument. “The success of the rules in OAC Chapter 3745-87 is based on the PWS's submittal of an acceptable asset management plan.” This is another circular argument; it is ironic the Agency here did not define their own metrics for success when, in this rule, they require PWSs to define measures of success and metrics.”(Perrysburg)

Question 1 (BIA)The analysis states that the 3 new rules are detailing the applicability and required content of an asset management plan as detailed in ORC 6109.24. The 3 new rules drastically expand and add to ORC 6109.24 rather than detail it. The rules propose to add requirements that are duplicative, labor intensive, cost prohibitive, and irrelevant to successful operation of a public water utility. The Agency cannot possibly measure success if the asset management plans are not submitted. The Agency is not approving the plans. (Warren)

Response 12: The Agency will measure the success of the rules in Chapter 3745-87 based on compliance rates with the new and revised requirements.

Comment 13: “We believe the compromise we brokered with the Ohio EPA appears not to go beyond the U.S. EPA mandate and; therefore, exempts existing sub-metered water systems from asset management “programs” when receiving all its water from already regulated public water systems. However, it appears from the EPA BIA on this rule package (Question 16) that there is wavering in this exemption. Rule 3745-81-02, which reflects ORC 6109.02 and was amended in Senate Bill 2 to specifically achieve OMHA’s removal of opposition to the bill, is drafted exactly as the ORC section was enacted. The BIA states that this rule “does not provide any specific exemption for small businesses. Ohio EPA small entities and businesses are not exempt from completing an asset management plan.” It is in this rule that the EPA (the Director) has the opportunity to spell this out specifically. We request that this clarification be made at this time in this rule” (OMHA)

Response 13: As the commenter noted OAC 3745-81-02 is drafted to reflect the amendments to ORC 6109.02. With the exception of 6109.05, the requirements of ORC Chapter 6109 don’t apply to a public water system that meets the exemption criteria in 6109.02 and further memorialized in 3745-81-02. The criteria do not specify being a small business as a criterion for exemption. Small businesses are not exempt from the requirements of the asset management rules merely based on small business status. However, water systems owned by small businesses could qualify for the exemption if they meet the exemption criteria. Therefore, the response in the BIA is accurate.

3745-87-01 Definitions

Comment 14: Clarify the definition of asset. “Asset as defined could represent specific equipment or processes, with no standard industry definition available. Could the OEPA please clarify what is intended? The definition of "assets" in general and specific terms is critical to the implementation of this rule. “Suggestion was made to that Ohio EPA work GCWW and other water utilities who have mature asset management plans to discuss this definition and what types of things are covered in asset management programs. (GCWW)

Clarify the guidelines for determining Capability screening “the guidelines for determining Capability Screening are not apparent in these rules.” Suggestion was made to allow GCWW to discuss this with the agency (GCWW)

Many of the terms in the rules are not and should be defined in the definitions section of the rules. The Asset Management Committee would draw attention to a recently published Asset Management Definitions Guidebook, which can be found on the national AWWA asset management resource page as a means to

provide more definition of the terms in the rules and will lead to a more consistent use of terms and potentially improved communications. (AWWA AM)

Response 14: Since some commenters did not indicate specific definitions, OEPA engaged the Ohio AWWA and AWWA AM to determine which definitions systems would like to be defined. Through additional stakeholder outreach and working with Ohio AWWA, the rules have been modified to incorporate definitions and add clarity.

Comment 15: Del-Co believes it is appropriate for an Asset Management Plan to mean “a written document that demonstrates the managerial, technical, and financial, capability of a public water system and a discipline for managing the life cycle of infrastructure assets” The phrase included in the definition of an Asset Management Plan “to achieve a defined level of service at the least cost and risk to the utility” should be deleted. Del-Co does not believe it is appropriate for “least cost and risk” and “achieving a defined level of service” to be factors in an Asset Management Plan, nor is apparent how such line items would be measured, compared, and consistently enforced across Ohio PWSs that vary in size, population served, complexity, and prior asset management experience. (Del-Co, Perrysburg)

Response 15: Water systems should use their asset management program to reduce costs and risks at the water system. Ohio EPA worked with Ohio AWWA to revise the definition of an asset management program. “Achieving a defined level of service” and “least cost and risk” are no longer in the definition. The trends of the metrics a water system reports on will be used to assess the implementation of an asset management program. Trends will be used to assess implementation as each system is different in size, population served, complexity, and prior asset management experience. Further information on implementation will be given in guidance.

Comment 16: Definition of "non-revenue water" or "water loss" does not specify how to categorize water used in flushing and disinfecting lines even though these are examples of legitimate O&M uses of water. (Perrysburg)

Response 16: The “non-revenue water” and “water loss” have been revised. In addition to the revised definitions, information will be provided in guidance as to how these items should be calculated.

Comment 17: Definition of "operating budget" needs to be rewritten. Budget includes both expense and revenue; income does not derive from "known expenses and expected future costs." (Perrysburg)

Response 17: This definition has been deleted.

Comment 18: What is the definition of operating ratio? (Warren County)

Response 18: This is defined in 3745-87-01.

Comment 19: Define Level of Service. How is it measured (Warren)

Response 19: The definition has been removed and it is no longer a requirement.

3745-87-02 Applicability and general requirements

Comment 20: **Several comments were received on the general requirements of the draft rule.** While the need to provide specific guidance on how utilities can equitably comply with the rules is understood, there is also a need for some flexibility in reporting format given the diversity of public water system sizes and levels of asset management maturity. (AWWA AM, Columbus)

“Each PWS operates differently based upon size, population served, equipment utilized, etc. Therefore, the PWS would be best suited in determining the format and manner in which the asset management program shall work. Placing identical, specific, detail requirements on all PWSs would be forcing utilities into a cookie cutter program, and likely not useful for those utilities. Some PWSs, including BCWS, already have some of these requirements for an asset management program in place and in use (i.e. SOPs, contingency plans, CIPs). Based on OAC 3745-87-04, there seems to be a potential for 'reinventing the wheel' just to satisfy a format that is "acceptable by the Director".” (Butler County)

“The rule needs to recognize that an asset management program involves long-term planning which is not prescriptive but accommodates adjustments due to near term needs and drivers. Flexibility is crucial to accommodate current and future management of the utility, and allows utilities of various capacity to adapt a program and plan tailored to their specific need” (GCWW)

“Asset Management applications are used by utilities to maintain asset records including fixed asset tracking, maintenance history and condition assessment. Systems such as CMMS, CIS, and GIS store, manage, and report asset details in a variety of formats. It is recommended that allowance for flexibility in reporting be recognized to accommodate existing technology investments and well-established protocols within a utility's operation.” (GCWW)

Suggestion was made to add provisions into rulemaking to allow for the approval of alternate means to demonstrate compliance

“add provisions into the rulemaking to allow for the approval of alternative means by Public Water Systems to demonstrate compliance with asset management rules - versus the proposed 'one size fits all' approach. The current overly-prescriptive approach will require well-run and properly managed utilities

to spent limited resources on developing asset management programs and supporting documents and policies to prove to the State what the utilities already know - that the systems they have in place are effective and proactive and strategically-sound. Most utilities are already doing asset management and planning for the future; as such, most utilities should easily be able to meet the 'spirit' of the proposed rules, but likely not the 'letter' of the law. As an alternative to the 'one size fits all' approach to asset management, Ohio EPA inspectors could audit a Public Water System to determine the level of sophistication of the utility's programs and systems, and the adequacy of the programs to meet the objectives of the State's asset management rules. If a utility **is deemed** to be deficient or if a utility has a record of non-compliance with other environmental rules and/or permit conditions, then the prescriptive provisions of the current proposed rules would apply. Otherwise, the utility's programs would be deemed acceptable and the 'one **size** fits all' **asset** management regulatory obligations and documentation requirements would not apply." (Fairfield)

Response 20: In negotiations with AWWA, the following language has been incorporated into the rule: "Demonstration of capability shall be made through a written description of an asset management program that is acceptable to the director." The Agency understands that each system is different. While the rules do specify what a water system needs to have in their asset management program, the format and how each of the required items are demonstrated will be determined by the water system. In guidance Ohio EPA will provide examples of what would be meet the requirements, but a system would not be limited to those examples.

Comment 21: Please consider revising to read, "General requirement for submittal of an asset management program include the following:" (Hull Company)

Response 21: Thank you for your comment. The insertion of "submittal" into 3745-87-02(A) would no longer be accurate based on edits made to paragraph (A), described in Response 22. Asset management program will only be requested to be made available at the request of the director, they will not be required to submitted routinely.

Comment 22: "Those applying for a loan shall submit an acceptable asset management plan..... These plans will be multiple thick binders and much too large to scan and email". (Perrysburg)

Response 22: Following discussions with AWWA, the rule has been revised to require public water systems applying for a water supply revolving loan account (WSRLA) loan to demonstrate an acceptable asset management program prior to receiving a WSRLA loan based on a capability screening, rather than the physical submission of an asset management program. Systems will be able to have their asset management program in a format that works best for the system. This could be that the program is in hardcopy in binders, some may have an electronic asset management program, or it could be a combination of electronic and hardcopy.

The system will need to be able to have the information on hand and available for inspections and otherwise if requested.

Comment 23: Please consider revising to read, “the director shall determine the form and manner (e.g., electronic, hard copy) that in which the asset management program will be submitted and reviewed, based on the size and scope of the asset management program.” (Butler County, Hull Company)

Response 23: Following discussions with AWWA, the language that the director shall determine the form and manner in which asset management programs are submitted and reviewed has been modified, so that systems themselves will determine which format works best for their system. See Response 21. This section of the rule has been reworded to clarify that the program will not need to be submitted, but rather a written description of the program. Additional options could include viewing the asset management program onsite or completing a capability screening.

3745-87-03 Contents of an asset management program

Comment 24: **Comments were received on the contents of an asset management program in the draft rules.**

“The *draft* rules particularly relating to definitions, meanings, performance expectations, time for compliance, and accountability of the regulated community are unclear and go far beyond providing a framework that requires each utility develop an Asset Management Program. Rather, the rules dictate a Plan. Specifying an Asset Management Plan leaves no room for each utility to tailor their Program so it is useful and cost effective.” (Aqua Ohio)

Comment was received that the draft regulation is extremely burdensome and not useful for non-transient, noncommunity water systems “The purpose of “asset management” requirements is to provide Ohio EPA with a mechanism to address “owner[s] of a . . . water system [that] shows an unwillingness or inability to make repairs to ensure safe drinking water.” Ohio EPA, Senate Bill 2 Fact Sheet (Feb. 2017). The non transient, noncommunity public water systems are very different than those intended to be addressed. First, the Utilities have the ability and incentive to maintain their system for the purposes of serving their facilities. Second, in the case of a company's onsite, captive non transient, noncommunity water system, the risk to safe drinking water does not exist. For example, if a Utility did not maintain its system and the system were to fail, the only party impacted by the failure is the Utility. Third, there is no long-term community benefit for the systems operated by the Utilities; if a Utility wanted to do so, the Utility could eliminate these public water systems and find an alternative source for the facility. (Ohio Utility Group)

Suggestion was made to remove the following information as part of an Asset Management Plan: an operating plan, organizational chart, clearly defined job duties, the individuals with those duties, the credentials of management and operations personnel, and the documentation of operators, governing bodies and employees attending trainings since they fall under operational management (Delco)

"The information required to be included in the written asset management program as it appears would be overly burdensome to provide in a single written document. GCWW has thousands of discrete assets and over 3100 miles of water main. Depending on the definition of an asset, the information requested would be voluminous: Suggestion was made that Ohio EPA work with utilities and asset management experts to get a more realistic or better-defined requirement to achieve the desired documentation (GCWW)

Response 24: ORC 6109.24 requires that all water systems have an asset management program that contains an inventory and evaluation of assets, operation and maintenance programs, emergency preparedness and contingency planning program, criteria and timelines for infrastructure rehabilitation and replacement, approved capacity projections and capital improvement planning, and a long-term funding strategy to support asset management program implementation. These rules are adding detail to help clarify those general statutory requirements.

Comment 25: "Documentation that the owner has committed to proper operation and management..." Would a statement signed by the Mayor suffice? (Perrysburg)

Response 25: Rule language has been revised to: "Demonstration that the owner has committed to proper operation and management of the public water system in accordance with Chapter 3745 of the Administrative Code, as applicable." and "Demonstration of ownership accountability, which includes the legal authority to take the measures necessary for construction, operation, and maintenance of the system, including maintaining staffing skills, resources, and prioritizing continuous improvements of the water system."

Comment 26: The City believes that the operation of the public water system through succession planning is broad in interpretation by OEPA and requests specific documentation is provided that details planned succession criteria before rules are final. (Painesville)

How does a utility demonstrate succession planning (GCWW)

Response 26: Succession planning expectations will be included in guidance. Generally, a PWS should include that there is a continuity plan in place for critical positions and for systems that have only one certified operator, they must have a contract in place for a properly certified backup operator. An apprenticeship program for operators would qualify as succession planning.

Comment 27: OAC 3745-87-03 (B) - The overall number of items required in the asset management has increased from 7 items in Senate Bill 2 to 17 items in the proposed OAC rule. (Warren County).

Response 27: The items included in rule are necessary to explain the expectations for compliance with ORC section 6109.24. The proposed rules are more prescriptive than the statute to detail the compliance standards for the more general statutory requirements established in ORC 6109.24.

Comment 28: Comments were received that the draft rule exceeds the legislative intent of SB2. OAC 3745-87-03 (B) (2) and (10). Sub-item (2) requires an operating plan that not only includes basic standard operating procedures (SOPs) and maintenance schedules, but also exceeds the legislation by requiring managerial aspects such as an organizational chart, job duties, and names and qualifications of staff and technical aspects as referenced in (B) (11) (b) such as performance testing protocols. (AWWA, Cleveland, DelCo, Butler County)

“Ohio Senate Bill 2 requires the Director of OEPA to adopt rules establishing requirements governing the demonstration of technical, managerial, and financial capability. Several components of the proposed rules expand beyond those 3 elements, specifically, demonstrating the ability to address violations with the public, requiring written policies for security, system equipment, billing, deposits, collections, connection charges, level of service reporting, source water protection plans, and capacity projections.” Suggestion was made that the rules should focus on the 3 elements prescribed by Senate Bill 2, f technical, managerial and financial capability.(Warren)

Response 28: The managerial aspects have been relocated to the managerial portion of the rule. Managerial capability is part of the overall capability of a water system. Managerial capability includes an operating plan, because the operating plan lays out the information that is needed to run the system, including job duties, tables of organizations, and policies. The rules have been revised to include a high-level table of organization that should include critical water personnel. The rules are more prescriptive than the statute to detail the compliance standards for the more general statutory requirements established in ORC 6109.24. Further, the ORC 6109.24 requires rules to be adopted to establish requirements governing the demonstration of technical, managerial, and financial capability, so the rules do not exceed the statutory intent.

Comment 29: “The draft Asset Management Rules appear to ignore this legislative history and the plain language of ORC 6109.24 by in effect requiring water utilities to submit an enormously complex and lengthy asset management *plan*. Draft OAC 3745-87-02 requires water utilities to submit to Ohio EPA a "written description of an asset management program that is acceptable to the director." Draft OAC 3745-87-03(8) contains a list of dozens of new elements that a water utility must implement to meet the "acceptable" asset management requirement, including the development of levels of service with metrics, asset failure risk assessments,

and performance testing protocols. The requirements of Draft OAC 3745-87-03(8) go far beyond anything required in ORC 6109.24.” (Columbus)

Comments were received that the rules were very prescriptive “The rule as proposed is very prescriptive, and at many times requires information concerning functional utility operations which should not be subject to regulatory disclosure or reporting or overlap with other rules”(GCWW)

Comment was received that utilities practicing good asset management practices will have much of the required information in various forms and contained in several different software platforms and it would be impractical to assemble all of the information in one document. Suggestion was made that required documentation be shown by reference in the plan or upon request rather than keeping identical information in several formats and locations that would be difficult to keep simultaneously updated. (GCWW)

“The documents referred to in the proposed rules are pre-existing required documents. A suggestion is to add an indication that those documents, location and last revision be referred to, but that inclusion of the documents not be required as part of the actual asset management plan.” (Dayton)

Response 29:

Following discussions with AWWA, Ohio EPA clarified the language and will include in guidance that the asset management program can be electronic or hardcopy as long as if requested to be viewed, a representative of the director would be able to see it. The Agency understands that a lot of this information a system will already have some documentation for. The system would need to have that documentation in their asset management program but would not be required to redo it to a certain format.

Levels of service have been removed from the rule, risk has been replaced with criticality, and maintenance recommendations have been removed and will be included in guidance.

The asset management program incorporates information from other rules. If system’s have items that are covered by another rule, for example a contingency plan, the system will be able to reference in their asset management program where they have their contingency plan located.

Comment 30:

Regarding paragraph (B)(11) of the draft rule, comment was received that standard operating procedures and performance testing protocols should not be subject to regulatory disclosures. “Standard operating procedures and performance testing protocols describe operational functions performed by the utility and should not be subject to regulatory disclosure or regulation. Determining maintenance: frequency is a functional duty of operators, maintenance, and engineering professionals. Simply following equipment manufacturers maintenance recommendations or past industry standards does not take into account fundamental asset management objectives to optimize equipment life cycle costs (such as performing condition-based rather than time-based maintenance) and does not encourage the use of predictive maintenance tools.” (GCWW)

Suggestion was made that paragraph (B)(12) of the draft rule be deleted since it references other sections of the code that already pertain to utilities.(GCWW)

Response 30: Having written operating procedures in place is critical to the management and technical capability of a water system. The Agency understands that each system will have slightly different standard operating procedures, but they are identified in the rule because each system should have these procedures in place. The Agency lists the key assets that should have maintenance schedules in place. Information regarding what maintenance schedules should be based on are being moved to guidance.

Asset management incorporates various aspects that are key to running a water system, so this may include referencing other rules. ORC 6109.24 requires that emergency preparedness and contingency planning be part of an asset management plan. Systems that have a contingency plan in place are able to reference its location and the non-community template includes an emergency preparedness table to be filled out.

Comment 31: An operating plan defining the tasks to be performed in managing and operating the PWS' -to imagine thinking of, and logically listing, all the tasks involved in managing a PWS is excessive. (Perrysburg)

Response 31: A documented operating plan is important to determining the managerial capability of the water system. While there are many tasks that going into managing and operating a water system, the rule identifies the key ones to be addressed in the asset management plan.

Comment 32: “Documentation of operators, governing bodies and employees attending trainings.” Operator training is the operator’s responsibility. There is no need for the utility to maintain records of operator training for the operator or for the EPA for that matter. (Wyoming)

Response 32: Following discussions with AWWA the language has been changed to: “If cited with significant deficiencies, the director may require fiscal and managerial training for water systems governing bodies and responsible management, and documentation of governing bodies and employees attending appropriate water system fiscal and management trainings”.

Comment 33: Demonstration, in writing, of the owner’s ability to address violations of applicable portions of the Revised Code and the Administrative Code. The demonstration shall include an explanation of how the water system will establish and maintain effective communications and relationships between the water systems management, its customers, professional service providers, and any applicable regulatory agencies....” This seems to go beyond asset management.

Developing a schedule to address deficiencies is impossible as there are so many possibilities and every deficiency is different. (Wyoming)

Response 33: The language has been moved to the managerial portion of the rule. Communication between water personnel, water system management, and others is important in sharing information regarding issues that the water system may be having. Communication regarding the mentioned topics are important in the proper implementation of an asset management program.

Comment 34: Violations can differ in severity and complexity. Utilities will need a better definition of what the violations could be to be able to address with the public.

Response 34: Violations are addressed individually through separate correspondence and will include language detailing the violation as well as steps required to return to compliance.

Comment 35: "Demonstration in writing of the owner's ability to address violations.' Is it correct to assume that existing unresolved violations are already subject to enforcement action? What is accomplished by writing paragraphs about how to deal with future hypothetical violations?" (Perrysburg)

Response 35: Resolution of violations is an integral part of an appropriate asset management program. If a system has a procedure in place to handle violations before the violation occurs, it will aid them in getting back to compliance.

Comment 36: What type of meetings are expected with the public? (Warren County)

Clarify ""Documentation of the governing body, if applicable, holding open, announced, in- advance meetings"(GCWW)

Response 36: This requirement to be included in the asset management program has been removed from the rule.

Comment 37: Comments were received on the requirement of keeping an inventory of external contact in paragraph (B) of the draft rule. External contacts and resources do not run the systems. How are these essential to the asset management plan. (Warren County)

"The proposed rules do not define what is intended by keeping an "inventory of external contacts and resources necessary for proper operation of the system, including a description of how they will be effectively utilized". Water treatment, billing, customer service, and capital planning are all examples of areas that have differing external resource requirements." Suggestion was made to allow GCWW to work with the agency to discuss the intent of this section and identify the appropriate data sources to fulfill the identified needs. (GCWW)

Response 37: External contacts are important to have on hand in the event of emergencies. Community systems will have these listed in their contingency plans, while non-community systems will need to create one and include it with their asset management program.

Comment 38: Comments on providing internal contacting and purchasing information in the draft rule. "Description of internal contracting and purchasing procedures to accomplish repairs.' What is accomplished by writing paragraphs about already established and working purchasing practices? "(Perrysburg)

"Members of the OCOA are privately owned and operated businesses. They should not be required to submit proprietary financial information to the State of Ohio." (OCOA). This is irrelevant to asset management and changes often. (Warren)

"Asset management plans do not typically include descriptions of internal contracting and purchasing procedures. Procurement is a functional operation of utilities, and should not be subject to regulatory disclosure or reporting." (GCWW)

OAC 3745-87-03 (B) (5) - This is irrelevant to asset management and changes often. (Warren County)

Response 38: The intention is to have these procedures documented formally in writing. OAC 3745-87-03 (B) (5) identifies that an asset management program needs to include a description of internal contracting and purchasing procedures to accomplish routine and emergency repairs and replacements. It is important that internal contracting and purchasing procedures for routine and emergency repairs and replacements be a written part of the asset management program. These procedures should be in place and updated, so that everyone involved with water system decisions is able to receive funds for water system parts. These procedures can make a difference when responding to incidents, particularly emergencies. If a system already has those procedures documented, they can include those in their asset management program. Internal contracting and purchasing procedures are included in the asset management program because they are a part of demonstrating managerial capability. Only financial information regarding the water system needs to be included in the asset management program. Financial information is part of the asset management program because financial capability is a key part of asset management and having the proper funds to implement the program.

Comment 39: 3745-87-03 (B)(5) – This provision requires an asset management program to include: Description of internal contracting and purchasing procedures to accomplish routine and emergency repairs and replacements. Members of the OCOA are privately owned and operated businesses. They should not be required to submit proprietary financial information to the State of Ohio. (Ohio Campground Owners)

Response 39: The intention is to have these procedures documented formally in writing and maintained on site. Financial information that the entity believes to be trade secret should be clearly identified as such. Note that written descriptions and supporting documentation will be treated as infrastructure and security records pursuant to OAC 3745-87-02. Additionally, if an entity is required to submit anything that it believes to be additionally entitled to trade secret protection, it may be submitted to Ohio EPA in accordance with Ohio EPA's process set forth in its Fact Sheet entitled "Requesting the Recognition of Trade Secret Protection." The link to the Fact Sheet is found here: <http://epa.ohio.gov/Portals/47/facts/TradeSecretProtectionRequests.pdf>.

Comment 40: Regarding the information needed to be included in the asset management program as contained in paragraph (B) of the draft rule. "Written policies on the following: security, routine billing, etc." These policy recommendations are for the utility to work out – not the EPA. Again, not really asset management. (Wyoming, Warren County)

"Security, billing, customer deposits and payments, collections, service disconnection and shutoff notices, connection charges, and authority to make purchases are functional utility operations which should not be subject to regulatory disclosure or reporting. Furthermore, the rule does not define the expectation of the written policies, and this is particularly unclear for "Use of system equipment" (what should be included and to what level of detail should the policies include?) and "Internal communication of compliance and water loss" (this phrase is very vague and it's not clear what is intended in its inclusion" (GCWW)

Response 40: These policies are part of the managerial portion of asset management. The policies that have been listed in the rule are those that the Agency, through researching standards and discussions with service providers, systems and other states, believe are key portions of the managerial capability of a water system. They are the basic policies that every water system should have in place. Demonstrating managerial capability is part of asset management and these policies are part of having managerial capability.

Comment 41: OAC 3745-87-03 (B) (8) - What is the threshold of assets to be inventoried? Is there a value cut-off? If not, the number of assets could be immeasurable. Does this include distribution and treatment assets? (Warren County)

Response 41: The granularity of level of assets is to be determined by each water system to ensure the system is sustainable over the long term. The threshold of assets to be inventoried will be determined by the water system, but it is recommended they include items that are a component of a facility with an independent physical and functional identity and age as defined by the water system and includes items of substantial value and critical to the delivery of potable water. It would be expected that distribution and treatment assets would be in the inventory.

- Comment 42:** The inventory of assets for the City has been a struggle to combine strip maps with GIS mapping. Combining real world data with technology based GIS is arduous and expensive. Personnel required to gather and ultimately enter the data into a system based programs requires time, training and funds to perform these tasks. The City would request that the draft proposal be revised to allow more time to work through the gathering of inventory information and development of an asset management plan that is comprehensive and achievable. (Painesville)
- Response 42:** Ohio EPA realizes this will be a continual improvement process. GIS and GPS located maps are not required by the rule. Systems may decide to start with a paper map and can transition to digital if they want to and at a pace that works for their system.
- Comment 43:** OAC 3745-87-03 (B) (9) (d) - How is risk to be evaluated? There are many factors in determining risk and they are generally subjective. Will this be up to utility? (Warren County)
- Response 43:** Risk has been replaced by criticality and will be based on condition, history of maintenance and repair and estimated remaining useful life. Determining the criticality of assets will be up to the water system.
- Comment 44:** Similarly, sub-item (10) establishes Level of Service (LOS) requirements for water systems. LOS requirements are something highly progressive utilities are beginning to embrace as a best-practice and which relate to advanced asset management that is well suited for a guidance document. However, it is beyond the requirements of S.B. 2 and should not be imposed by regulation. If utilities should learn how to "walk before they run" with asset management, LOS could needlessly distract them from embracing the basics first. Additionally, it may take years before utilities know which LOS metrics are optimal for their particular situations. There are other elements of the proposed rule that not required by ORC 6109.24 and go well beyond what is required to ensure public health protection. (AWWA, Cleveland, Fairborn, Perrysburg, Butler County, DelCo)
- Response 44:** Levels of service have been removed as a requirement in the rule. Levels of service will be identified in guidance as a step a system can take to track the progress their asset management program with examples of levels of service being given. Systems will still need to track a list of identified metrics.
- Comment 45:** "Operation and Maintenance Programs..." Developing maintenance schedules as A GUIDE is good practice. How is this the EPA's responsibility? At a minimum, each utility should develop their maintenance schedule. AWWA can be a guide, but not a requirement. Manufacturer's maintenance manuals recommend considerably more maintenance than is typically done. (Wyoming, Perrysburg)
- Response 45:** Documented maintenance schedules are an integral part of asset management program implementation. AWWA and manufacturers recommendations have

been moved to guidance and referenced as resources for a system to use when determining their maintenance schedules.

Comment 46: Several comments were received on the requirements to document compliance with certified operator and contingency plan rule requirements in paragraph (A) of the draft rule.

PWSs are already required to meet extensive contingency planning regulations (OAC 3745-85-01). It is unnecessary and redundant to request this information as a component of an Asset Management Plan. (DelCo, Warren County)

The proposed regulation duplicates requirements that are already covered under other rules (such as operator certification and contingency plans. The rules as written are overly prescriptive and do not seem to capture the intent of the bill. (Fairfield)

“Documentation of training, certified OEPA operators have existing, extensive training requirements under Operator Certification regulations (OAC section 3745-7). It is unnecessary and redundant to request this information as a component of an Asset Management Plan. “(Delco)

Clarify what trainings are required to be included “GCWW has close to 600 employees who attend various training sessions throughout the year. Should every employee's training be documented in the written asset management program? It is also unclear what is intended by documenting training for governing bodies, as this term is not defined.” (GCWW)

Response 46: This is not intended to be a duplication; it is only to reference where this information can be located. Contingency plans are referenced in the asset management rule because systems should include that information in their asset management program when putting it together.

In working with AWWA, the rule was edited to state that if a system is cited with significant deficiencies, the director may require fiscal and managerial training for water systems governing bodies and responsible management, and documentation of governing bodies and employees attending appropriate water system fiscal and management training.

Comment 47: Source Water Protection Plans are already required by the OEPA. Are these to be duplicated in his plan also? (Warren County)

Regarding paragraph (B)(13) of the draft rule, suggestion was made to extend the revision cycle for source water assessment from 3 to 6 years for community PWS. “The review and revision of a source water assessment and a source water protection plan, especially for complex aquifers or watersheds with a large number of stakeholders, can be a time-consuming process. Furthermore, many of the watershed and aquifer protection programs described in protection plans typically occur over an extended time frame, the results of which may require data collected over several years to fully evaluate. The 3-year revision cycle will

dramatically cut into the time available to execute the actual protection programs. Finally, given that the development of a source water protection plan is not fully required by regulation, such an aggressive revision timeline seems to be a disincentive for water utilities to actively participate in source water protection.”(GCWW)

Comment was received on the language regarding source water protection in paragraph(B) of the draft rule “The manner in which the requirements for the source water assessment revision and the source water protection plan revision as presented is confusing. We suggest adding additional section headers to separate the items related to the assessment from the items related to the protection plan. Specifically, group the first two items under a heading called "Source Water Assessments" and the remaining four elements under a heading called "Source Water Protection Plan." The recommended re-organization is presented below:

3475-87-03(B) The Owner or Operator of the public water system shall include at least the following information in the asset management program:

- (13) Source Water Protection
 - (a) Source Water Assessments
 - (i) Community public water systems shall review the source water assessments and revise as necessary to include new potential sources every six years.
 - (ii) Non-community public water systems shall review the source water assessment and revise as necessary to include new potential contaminant sources every five years.
 - (b) Source Water Protection Plan
 - (i) Community public water systems that have an endorsed drinking water source protection plan, shall review and revise the protection plan as stated in the protection plan.
 - (ii) Community public water systems that have an endorsed drinking water source protection plan that does not include a review schedule, shall review the protection plan every six years and revise it as necessary.
 - (iii) Public water systems that have a drinking water source protection checklist that has been submitted and accepted by Ohio EPA, the water system shall review and update the checklist every five years.
 - (iv) Non-transient non-community public water systems that have an endorsed drinking water source protection plan shall review the plan every three years and revise as necessary.” (GCWW)

Response 47: This requirement is to ensure routine evaluation and updates of the Source Water Protection Plans which are generally voluntary. The rule section regarding Source Water Protection has been revised for clarity. The water system will be required to review the plans or checklists as determined by the type of system and if revisions are necessary they will work with Ohio EPA on those revisions.

Comment 48: “Approved Capacity Projections: Each utility has different and unique issues. For us, capacity projections are unimportant. Our usage is down 33% in the last 10 years and we are landlocked with little to no development. We have excess capacity with 3 mgd capacity and 0.7 mgd average flow. Why should we develop capacity projections? Instead, we are working on water age issues internally – which are much more relevant to us. (Wyoming)

Clarify “As a distribution system, it is not clear whether the City would have responsibilities under "approved capacity projections." (Perrysburg)

Who is approving capacity projections? Each utility will know better than outsiders the proper projections and assumptions. (Warren County)

Response 48: Capacity projections are critical to deciding how large or small future capital expenditures will be necessary. Asset management will help shrinking systems manage issues related to fewer customers such as, to not over invest, maintain good water quality due to increasing water age, and working with equipment that is oversized. Asset management will also enable systems to plan for needs to increase capacity in the event of development. The document referenced in the rule specifies how Ohio EPA approves the capacity of a water system.

Comment 49: 3745-87-03 (B)(15)(b) – This provision requires an asset management program to include: Identification of funds and the funds will be collected or set aside for repair, rehabilitation, replacement or expansion of existing assets. Members of the OCOA are privately owned and operated businesses. They should not be required to submit proprietary financial information to the State of Ohio. The State should not be requiring the submission of budgeting information of privately owned businesses. This is particularly concerning as the provision has no condition of cause for needing the information. This provision appears to be a blanket requirement for all asset management programs. (OCOA)

“This section requires very detailed financial information that is not typically included in asset management plans or programs. It is also unclear if the planning timeframe is meant to be 5 or 10 years. Income statements, balance sheets, cash flow, amortization schedules, capitalization terms of long term debt anticipated to be incurred in the next five years of operation, water rate ordinances, and customers billed water usage are used for functional operation of a utility and should not be subject to regulatory disclosure or reporting.” (GCWW)

Clarify triennial water rate evaluations “GCWW does cost of service studies on a routine basis (typically every 5 years), and closely tracks and monitors revenues during the interim. What is the basis for the 3 year cycle?” (GCWW)

Response 49: The requirement is specific to the financial capability of the water system finances to be sustainable for the long term and that funds are available for the proper implementation of the asset management program. Unless requested by the director this information will not be submitted to the state and should be kept onsite at the water system. Water systems will not need to perform a rate analysis every year, but will need to provide documentation that they reviewed their rates. PWSs will only be required to do a rate analysis when their rate review shows that rates are not sufficient.

Comment 50: Comments were received on the capital improvement program requirements in paragraph (B)(16) of the draft.
Some of the requirements are so detailed as to be detrimental to utilities. As an example, the capital improvement planning (CIP) requires efforts out to a 20- year horizon. The Government Finance Officers Association identifies a Capital Improvement Plan as typically being of three-to-five year's duration outlining projects, revenues and financing sources. The CIP may be driven by a Master Plan but must also be fluid to adjust for economic changes, regulatory changes, new development, etc. (Fairborn,)

A 20-year CIP is unreasonable and not able to be detailed with any sort of reliability.(Warren)

“Five-year capital improvement plans are appropriate and useful with the detail suggested in item b. Ten and twenty-year planning horizons are also beneficial, but should include far less detail. The schedules may change, funding sources are unknown, and costs are very loosely estimated”. (Wyoming)_

Clarify the meaning of “annual projections in 5-year, 10 years, and 20-year planning horizons”. Annual expenditures projected out to 20 years would be fairly meaningless. The descriptions required each year appear to be excessively detailed. (Perrysburg)

Response 50: The rule language has been revised following discussions with AWWA to include a detailed three to five-year capital improvement plan and a more general ten to twenty-year financial forecast for potential major projects.

Comment 51: “ Campgrounds already need to have an emergency action plan (AEP) for each well, listing basic information regarding the wells. Those AEPs are inspected every five years. The information contained in the proposed asset management program is duplicative of the information already collected through the AEP. This creates an unnecessary burden for non-community transient systems. Creating new work for our members takes important time away from their customers.” (OCA)

Response 51: If the campground has the information that is being asked for in an asset management program, they would be able to reference where that information is located, as long as it is available onsite.

Comment 52: In paragraph (B)(10)(b), comment was received that defining and achieving a “Measure of success” in not an appropriate provision of an Asset Management Plan. It is unclear how success would be measured and consistently enforces across all PWS that vary in size and complexity. (Delco)

“Service levels go beyond simply quality, quantity, and reliability. As long as a utility is maintaining compliance, service level goals should be set by a particular water utility based on what best fits their customers. What is meant by “Measure of Success”? Aren't service level goals the measure of success” Most of metrics listed in paragraph (B) of the draft rule are not what are typically defined as levels of service in asset management programs (e.g., distribution miles of pipe), or are subject to a broad range of interpretation as to how to measure.(GCWW)

Response 52: Following discussions with AWWA, levels of service have been removed from the rule, so the items that were listed to be included in paragraphs ((B)(10)(a-b)) of the draft rule will no longer be included in an asset management program.

Comment 53: Regarding paragraph (B)(9) “Evaluation of all assets is broad and difficult for municipalities to comply with. Conditions of underground piping are difficult to assess and cost prohibitive. Technology to determine the quality of various pipe materials is unavailable. Remaining useful life of underground valves and piping is difficult to assess based upon material of the equipment and soils of various degrees of acidity (Painesville)

Response 53: The Agency realizes that the initial evaluation of the assets may be based on age and maintenance history. As systems continue to collect data regarding their assets, they can use that information to adjust the evaluation and condition assessments of those assets.

3745-87-04 Evaluation Criteria

Comment 54: Several comments were received regarding the requirement to have an asset management program in a format acceptable to the director in paragraph (A) of the draft rule

AWWA Ohio Section believes each utility is best-suited to determine the format of asset management program that works for that utility. OAC 3745-87-04 (A) states that the format must be “acceptable to the director,” which is in conflict with the intent of the legislation. We request utilities have broad latitude to interpret the regulation and prepare documentation that works best for them. For example, many utility representatives are thinking that Ohio EPA is requesting the program be documented in a 3-ring binder, or in

some similar manner. However, in addition to many other well-run utilities, as previously stated, utilities that utilize the revolving loan program already have completed many of the required documents. Adhering to the intent of the legislation and allowing the utility to determine if the current method of documentation is sufficient could save these utilities tens or hundreds of thousands of dollars by not “reinventing the wheel.” (Ohio AWWA, Cleveland, Warren County, Butler County)

“ It would be extremely difficult to fit our maintenance, contingency plan, GIS maps, and supporting data into a 10” binder and to locate useful content. Adhering to the intent of the legislation and allowing our water system to determine if the current method of documentation is sufficient, could save tens or hundreds of thousands of dollars.” (Sandusky)

Suggestion was made that a program “Acceptable to the Director” should be a fluid dialogue that will allow public water systems to determine how the program will be run. (Butler County) A template is not available from the OEPA. More clarification on the format is necessary. (Warren)

“Successfully operating a large utility relies on technology and many data systems to manage linear, discrete, and IT assets. An asset management program organized as detailed in the proposed rule excludes reporting from non-centralized systems, such as a computerized maintenance management system (CMMS, customer information system (CIS), or geographical information system (GIS) applications, in favor of a stand-alone asset management program document. Compliance would dictate that these utilities maintain asset data in more than one manner for Director review. We suggest consideration of templates available for small utilities and allow for utilities with more mature asset management programs to utilize non-centralized systems for referencing data and reporting. One suggestion to achieve multiple goals would be the utility maintain a high-level description of the available data in the written plan, then in the plan just reference the available data systems for specific information”. (GCWW)

Clarify the expectation for “description” in paragraph (D) of the draft rule. “GCWW assumes that this is a very short description given that the Business Impact Analysis states that the cost of the program is minimal and timeframe for response is 30 days.” (GCWW)

Response 54:

Following discussions with AWWA, the rules have been revised to request a written description of an asset management program at the director’s discretion. Water systems are able to have the asset management program in a format that is best suited to their needs.

Comment 55:

Several comments were received on the requirement to develop level of service goals in paragraph (B) of the draft rule. Suggestions were made that to level of

service goals which should be deleted from the rule. (Warren County),

“ If levels of service are not removed from the rule, the stipulations in Rule 87-05 are confusing. The PWS is instructed to select 3 levels of service to track from the list of 17 levels of service in 87- 05.B.1, while 87-05.C.1 stipulates that all 11 metrics in this paragraph must be reviewed and documented annually. Why select 3 levels of service to track when all 11 metrics are mandatory and the metrics mostly overlap with the levels of service? (Perrysburg)

Response 55: Following discussions with AWWA, Levels of Service have been removed and metrics have been consolidated into a simplified list.

Comment 56: "The director may only grant acceptance at the time of review of the asset management program after a demonstration of appropriate implementation of the A.M. program." Under what circumstances would a PWS demonstrate appropriate implementation? (Perrysburg, Hull Company, Warren County)

Regarding paragraph(C) of the draft rule clarify “appropriate implementation”.
““The director may only grant acceptance at the time of review of the asset management program after a demonstration of appropriate implementation of the A.M. program." Under what circumstances would a PWS demonstrate appropriate implementation.” (Perrysburg)

In paragraph (D)Clarify the purpose of having a “written description” of the asset management program. (Perrysburg)

Suggestion was made to revise the language in paragraph (c) of the draft rule to as follows: ““The Director may only grant acceptance at the time of review of an asset management program for an existing public water system after a demonstration of appropriate implementation of the asset management program as stated in rule 3745-87-05 of the Administrative Code.” We believe that any *new* PWS will not be able to demonstrate appropriate implementation in advance of the Director’s approval of the program.” (Hull)

Response 56: Since asset management programs will be dynamic, Ohio EPA generally plans to evaluate asset management programs at the time of review outlined in 3745-87-02. Please see Response 1 for more details in this regard.

3745-87-05 Long-term implementation

Comment 57: Several comments were received on the requirement to annually review and update the asset management program as required in paragraph (A) of the draft rule. The comment letters stated that . the component sections of this type of plan do not require frequent changes and may not be updated annually. It may

be appropriate to review parts of the plan annually, but revision of the entire plan annually would divert needed resources from other areas. (Cincinnati, Warren County, Cleveland). Requirements for annual review and updating the asset management program in the draft rules may be overly burdensome due to size of the overall program. (OAWWA)

Suggestion was made that the rules require a utility to review certain section of the asset management plan so that the entire program is reviewed every five years, similar to how Emergency Contingency Plans are reviewed. (Cleveland)

Clarify the expectations for annual review. Suggestion was made that annual review and update include only parts of the plan that have changed or need to change, and consideration should again be given to letting utilities reference technical systems (CMMS, CIS, GIS, etc.) which are continuously updated. This is a much more efficient use of time and resources, which are already stretched thin for many utilities. (GCWW)

Regarding questions (6), clarify how the agency is measuring success if the asset management plans are not submitted. The agency is not approving the plans. (Warren)

Response 57: Ohio EPA anticipates that water systems will update their asset management programs as portions change, but want to ensure that it is a dynamic program, thus requiring annual updates/review

Comment 58: Regarding paragraph (B) of the draft rule, comments were received on the LOS metrics The comment letters stated that , several of these, including (b), (c), (f), (p), and (q) are not metrics; and it could be argued that only (a), (j), (k), and (l) are LOS goals applicable for customers (Ohio AWWA, Cleveland, Wyoming, Warren County, DelCo, Perrysburg, Cincinnati).

Level of Service metrics, the actual performance of a system in relation to that metric, and the targeted performance relative to that metric, should all be defined differently. The Committee believes that level of service metrics could be defined by October 1, and that collection of data on actual performance relative to a metric could begin to be collected or summarized if data already exists. However, without years of data, in some cases, the ability to establish targets cannot reasonably be completed by October 1, 2018. (Ohio AWWA AM)

Regarding paragraph (B) of the draft rule “The proposed regulation notes that water systems shall establish three levels of service goals. These should not be used to rate utilities against each other. Each utility has its own unique circumstances. We track many of these items, but do not necessarily establish goals. How do you set a goal of million gallons per person? Is more usage better or worse? We track costs, expenses, and revenues to set our rates, which we try to adjust minimally.”

Regarding the requirement to include staff per millions gallons and staff per mile of pipe as required by paragraphs (B)(m) and (B)(n) in the level of service goals, the comment letter stated that these metrics do not change for their public water system significantly from year to year. The comment stated that "I don't see how our reporting of our goals to the EPA in these areas will improve water quality or performance." (Wyoming)

The list of Levels of Service are not all goals that can be controlled by the utility. Milliongallons per connection is user dictated. Distribution length is a hard number. Gallons per person is userdictated. (Warren)

"Levels of Service (LOS) goals goes far beyond DDAGW's mission to protect human health and ensure adequate, safe drinking water. It is recommended that the only required LOS elements include (a) Water Quality, (b) Water Outages, (c) Adequate Water Supply, and (d) Water Pressure. Del-Co's view is that requiring additional elements is an overreach into the managerial aspects of a PWS. With respect to any Water Quality LOSs, these are already addressed through many regulations in OAC 3745 [Environmental Protection Agency] and require daily, weekly, quarterly, and annual analysis; the results of which are already relayed to consumers via the consumer confidence report. To require additional Water Quality LOSs as part of an Asset Management Plan would be unnecessary and redundant." (Delco)

"Utility decision-making and long-term planning can be affected by level of -service (LOS) commitments between the utility and its customers. While an important feature in a mature asset management program, it is a recent best-practices approach that requires iterative planning and time to establish. As LOS establishes a customer relationship, expediting a listing for reporting can be a costly burden to a utility. Section 3745-87-05 (B).(1) provides a specific list of LOS many of which do not provide for any indication of service level delivery and performance tocustomers." (GCWW)

Response 58:

After discussions with AWWA, LOS and metrics have been consolidated into a simplified list. The list has been modified and now requires systems to report on six metrics, with one being of the system's choosing that is customer focused.

Comment 59:

Regarding paragraph (C) of the draft rule "While keeping track of many of these metrics makes sense, what is the ultimate purpose? Are utilities going to eventually be rated against each other based on these metrics? Are utilities going to have to prove improvement in various areas over time? Items f and g are not currently able to be tracked for us. Is there a dollar threshold on f? Minor maintenance activities occur almost on a daily basis. Emergency vs. planned is difficult and not easily defined. If a valve packing starts leaking on a water main break, is that replacement considered an emergency? On g, we would have to make software changes to address. And, what is a complaint? Is this not somewhat subjective? We have numerous high water bill complaints which I

assume are not to be included. Water breaks are weather dependent. Some years we have just a few, other years we have many more. We currently track, but don't report." (City of Wyoming)

"This section states that metrics shall be kept on site and available for review, and then provides required metrics to document. The purpose of several of these metrics is not clear, as they either are not really metrics or there is no industry standard of measurement or evaluation, which is the definition of a metric. For community public water systems:

- (a) Operating budget (operating ratio)-what is the metric here? If it's operating ratio, that needs to be defined.
- (b) Cost per customer, connection or person - what is the purpose of collecting this data?
- (d) Non-revenue water (water loss)-non-revenue water and water loss are not synonymous. There are various components of water loss and very detailed protocols to calculate. What are the expectations of this metric?
- (e) Summary of events where system pressure drops below minimum pressure specified in paragraph
- (E) of rule 3745-83-01 of the Administrative Code-this is not a metric.
- (f) Repair, rehabilitation or replacement tasks per year (emergency versus planned)- need to better define what a "task" is and if capital work is to be included. It is also not clear what information this data will provide.
- (g) Customer complaints per year, customer or connection - need to define a complaint. GCWW gets many calls, emails, and social media inquiries a day. What would determine a complaint so that consistent data is provided?
- (h) Summary of completed projects from CIP - this is not a metric
- (i) Rate structure - this is not a metric
- (j) Reliability - this is not a metric
- (k) Plant utilization - this is not a metric" (GCWW)

What is the definition of metrics? How does this differ from Level Service? What is the period to be evaluated for metrics? Does it begin 10/1/18? If so there will be no metrics for this first asset management plan. (Warren)

What dictates a request for the asset management plan by the Director. All plans should be required by OEPA to be submitted and reviewed, especially if the plans are required to meet minimum standards for public funding. (Warren)

Comment was made that the asset management plan if reviewed and updated should also be reviewed and accepted by OEPA on an annual basis (Warren)

What is the correlation between rate structure and metric? What is the metric

for reliability (Warren)

What is the correlation between plant utilization and metric? (Warren) The BIA states that Metrics will be reported. How are these reported if the asset management plan is not going to be required to be submitted by OEPA? (Warren)

Response 59:

See Response 15. The metrics have been revised to six items that systems will need to track.

End of Response to Comments