



**Division of Surface Water
Response to Comments
August 2015**

Rules: General Permit Program Rules, OAC Chapter 3745-38

Agency Contact for this Package

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Ohio EPA held an interested party comment period from July 8, 2015 to August 11, 2015 regarding the General Permit program rules. This document summarizes the comments and questions received during the associated comment period.

Ohio EPA reviewed and considered all comments received during the public 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.

OAC Rule 3745-38-1

Comment 1.

Ohio EPA proposes to change the definition of "discharge" in OAC 3745-38-01 (H) to the "discharge of any pollutant or pollutants" from a point source. Ohio EPA proposes to create a new definition for "discharge of a pollutant or pollutants" in OAC 3745-38-01 (I), which defines that term as "any addition of any pollutant to waters of the state from a point source." The proposed new definition (I) uses the currently existing phrase verbatim from the existing definition (H), and does not provide any new description or clarification. These new definitions are not helpful, and simply add complexity and confusion. The proposed definition (H), "Discharge", includes the term to be defined in the definition. Moreover, the proposed definitions are not consistent with the definition of "discharge" contained in OAC 3745-39-01 (B)(4), which currently has the identical definition as the existing OAC 3745-38-01 (H). Columbus proposes that Ohio EPA leave the definition of "discharge" in the current rule unchanged, and eliminate the proposed new definition (I) for "discharge of a pollutant or pollutants". (City of Columbus)

Response 1. The Agency is proposing to revise the definition of discharge and include a new definition for discharge of a pollutant or pollutants to be consistent with definitions in rule 3745-33-01 of the Ohio Administrative Code (OAC) and definition in federal regulations at 40 CFR 122.2. The Agency will make revisions to the definitions in the storm water program regulation in the next rulemaking.

Comment 2. The current rule has a definition for "pollution" in 3745-38-01 (R) *[proposed to be renumbered as (S)]* which is "the discharge of any pollutant or pollutants in any waters of the state." This definition in essence restates the definition of "discharge", and does not capture the appropriate meaning of pollution. Discharge means the addition of any amount of pollutant(s), whereas pollution results when the amount of pollutant(s) present or introduced may cause harmful effects. Note that the only existing use of "pollution" in this rule (other than in the names of the federal Water Pollution Control Act or storm water pollution prevention plans) is in paragraph 3745-38-02(C)(1) with the phrase "The discharge currently is, or potentially may be, a significant contributor of pollution". The existing rule definition of pollution does not make sense in this use. Columbus proposes that Ohio EPA revise the definition in 3745-38-01 (R) to be "pollution means the presence of any pollutant or pollutants in any waters of the state in amounts that result in adverse impact to water quality." (City of Columbus)

Response 2. To address the ambiguity in the definitions, the Agency is revising proposed rule OAC 3745-38-01 to delete the definition of pollution. The Agency is also revising proposed rule OAC 3745-38-02(C)(1) to delete the term "pollution" and add the term "pollutants." Use of the term "pollutants" in this rule provision is consistent with 40 C.F.R. Part 122.28.

End of Response to Comments