

STATE OF OHIO

General NPDES Permits

Chapter 3745-38 of the ADMINISTRATIVE CODE

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Ohio Environmental Protection Agency
Division of Surface Water
Permits & Compliance Section

TABLE OF CONTENTS

OAC Rule #	Rule Title	Effective Date
3745-38-01	Definitions.....	6/3/2022
3745-38-02	Requirements for general national pollutant discharge elimination system (NPDES) permits	6/3/2022

3745-38-01 Definitions.

[Comment: The Code of Federal Regulations and federal statutes listed in this rule can generally be found in public libraries, and can be viewed electronically online at <http://www.gpo.gov/fdsys/> and purchased by writing to: "Superintendent of Documents. Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]

As used in this chapter of the Administrative Code:

- (A) Except as otherwise provided in this rule, the definitions in sections 6111.01 and 6111.13 of the Revised Code shall have the same meaning in this rule as in that section.
- (B) "Act" means the "Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), section 519, formerly section 518, of Act June 30, 1948, C. 758 Title V, as added October 18, 1972, Pub.L. 92-500, 2, 86 Stat. 896, amended December 27, 1977, Pub.L. 95-217, 2, 91 Stat. 1566 and renumbered February 4, 1987, Pub.L. 100-4, Title V, 506, 101 Stat. 76, 33 U.S.C.A. 1251 to 1387 as amended through July 1, 2021.
- (C) "Alternative general permit" means a type of general NPDES permit that is specific to a type of discharge or geographic area or both that applies in lieu of an otherwise applicable general permit.
- (D) "Applicable water quality standards" means all water quality standards that apply to waters of the state under Chapter 3745-1 of the Administrative Code and under federal regulations.
- (E) "Applicable effluent standards and limitations" means all state and federal effluent standards, and limitations to which a discharge is subject under the act including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
- (F) "Application" means the form used to apply for an individual Ohio NPDES permit.
- (G) "Director" means the director of the Ohio environmental protection agency.
- (H) "Discharge" means "discharge of any pollutant or pollutants" from a point source.
- (I) "Discharge of a pollutant or pollutants" means any addition of any pollutant to waters of the state from a point source.
- (J) "General NPDES permit" means a permit issued by the state of Ohio for a category of point source discharges originating from multiple sites.
- (K) "Individual NPDES permit" means a permit issued by the state of Ohio for a discharge from a point source at a facility that is either in compliance with authorized discharge levels or that includes a schedule that will bring the point source into compliance with authorized discharge levels.
- (L) "Notice of intent" or "NOI" means the form used to request coverage under a general NPDES permit.

- (M) "Notice of termination" or "NOT" means the form used to request termination of coverage under a general NPDES permit.
- (N) "NPDES" means national pollutant discharge elimination system pursuant to section 402 of the act and Chapter 6111. of the Revised Code.
- (O) "Ohio EPA" means the Ohio environmental protection agency or its director as the context or other laws or regulations may require.
- (P) "Person" means the state, any municipal corporation, any other political subdivision of the state, any person as defined in section 1.59 of the Revised Code, any interstate body created by compact, or the federal government or any department, agency, or instrumentality thereof.
- (Q) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.
- (R) "Pollutant" means sewage, industrial waste, or other waste as defined by divisions (B) to (D) of section 6111.01 of the Revised Code.
- (S) "Regional administrator" means the administrator of the United States environmental protection agency, region V.
- (T) "Treatment additive" means a chemical or substance used to improve the characteristics of incoming water or to treat wastewater for purposes such as corrosion inhibition, particle flocculation or disinfection. These include substances used in cooling water, boiler water or in wastewater treatment systems.
- (U) "Waters of the state" has the same definition as defined in section 6111.01 of the Revised Code.
- (V) "40 C.F.R." means Title 40 of the Code of Federal Regulations effective July 1, 2021.

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3745-38-02 Requirements for general national pollutant discharge elimination system (NPDES) permits.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules and federal statutory provisions referenced in this rule, see rule 3745-38-01 of the Administrative Code.]

(A) General NPDES permit requirements.

- (1) No person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without applying for and obtaining an individual NPDES permit in accordance with Chapter 3745-33 of the Administrative Code or obtaining authorization to discharge under a general NPDES permit in accordance with this chapter. As a minimum, this chapter shall be administered consistent with the act and regulations adopted by the administrator, including 40 CFR 122, 123.44 and 124.
- (2) Each point source shall be regulated by an individual or general NPDES permit, as determined by the director.

(B) General NPDES permit coverage. The director may issue a general NPDES permit without application in accordance with the following:

- (1) Areas. The general NPDES permit shall be written to cover a category of discharges by persons conducting similar activities within a geographic area, except those covered by an individual NPDES permit. The area shall correspond to existing geographic or political boundaries.
- (2) Sources. The general NPDES permit may be written to regulate, within the area described in paragraph (B)(1) of this rule, any of the following:
 - (a) Storm water point sources.
 - (b) Water-borne wastes resulting from coal mining and reclamation activities.
 - (c) Sewage sludge point sources.
 - (d) Other categories of point sources if the sources within each category or subcategory all conform to the following:
 - (i) Involve the same or substantially similar types of operations.
 - (ii) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices.
 - (iii) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal.
 - (iv) Require the same or similar monitoring.
 - (v) In the opinion of the director, are more appropriately controlled under a

general permit than under individual permits.

- (3) Water quality based limits. If one source within a category or subcategory is subject to a water quality based limit, then all the sources within that category or subcategory are subject to the same limit.
- (4) Small municipal separate storm sewer systems (MS4s). For general permits issued under this chapter for small MS4s, the director shall establish the terms and conditions necessary to meet the requirements of paragraph (C) of rule 3745-39-03 of the Administrative Code by using one of the following permitting approaches as indicated in the permit or fact sheet:
 - (a) Comprehensive general permit. The director includes all required permit terms and conditions in the general permit.
 - (b) Two-step general permit. The director includes required permit terms and conditions in the general permit applicable to all eligible small MS4s and, during the process of authorizing small MS4s to discharge, establishes additional terms and conditions not included in the general permit to satisfy one or more of the permit requirements in paragraph (C) of rule 3745-39-03 of the Administrative Code for individual small MS4 operators.
 - (i) The general permit shall require that any small MS4 operator seeking authorization to discharge under the general permit submit a notice of intent (NOI) consistent with paragraph (B)(2)(a) of rule 3745-39-03 of the Administrative Code.
 - (ii) The director shall review the NOI submitted by the small MS4 operator to determine whether the information in the NOI is complete and to establish the additional terms and conditions necessary to meet the requirements in paragraph (C) of rule 3745-39-03 of the Administrative Code. The director may require the small MS4 operator to submit additional information. If the director makes a draft decision to authorize the small MS4 to discharge under the general permit, the director shall give public notice of, and opportunity to comment and request a public hearing on the small MS4's draft authorization and the NOI, the draft additional terms and conditions, and the basis for these additional requirements. The public notice, the process for submitting public comments and hearing requests, and the hearing process if a request for a hearing is granted, shall follow the procedures applicable to draft permits set forth in Chapters 3745-47 and 3745-49 of the Administrative Code. The director shall respond to significant comments received during the comment period as provided in rule 3745-49-05 of the Administrative Code.
 - (iii) Upon authorization for the MS4 to discharge under the general permit, the final additional terms and conditions applicable to the MS4 operator become effective. The director shall notify the permittee and inform the public of the decision to authorize the MS4 to discharge under the general permit and of

the final additional terms and conditions specific to the MS4.

(C) Individual or general NPDES permit coverage. The director may require any person who has submitted a notice of intent to obtain coverage under a general NPDES permit, or who otherwise has obtained coverage under a general NPDES permit, to apply for and obtain an individual NPDES permit or alternative general NPDES permit coverage. If the person has general NPDES permit coverage and does not apply for an individual or alternative general NPDES permit within ninety days of receiving written notification from the director to submit such an application to Ohio EPA, then the existing general NPDES permit coverage for that person is terminated. Any interested person may petition the director to take action under this paragraph. Cases where an individual NPDES permit or alternative general NPDES permit coverage may be required include any of the following:

- (1) The discharge currently is, or potentially may be, a significant contributor of pollutants.
- (2) The discharger is not, or previously has not been, in compliance with the conditions of a general NPDES permit.
- (3) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
- (4) Effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit.
- (5) An alternative general NPDES permit has been issued for a specific geographic area of the state.
- (6) An alternative general NPDES permit has been issued for a specific category of dischargers.
- (7) The director has revoked the general NPDES permit pursuant to this chapter.
- (8) A water quality management plan or total maximum daily load containing requirements applicable to such point sources is approved.
- (9) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
- (10) Standards for sewage sludge use or disposal have been promulgated for the sludge use or disposal practice covered by the general permit.

(D) Alternative NPDES permit authorization.

- (1) Any person who has obtained coverage under a general NPDES permit may request to be excluded from the coverage of the general NPDES permit by applying for an individual NPDES permit or alternative general NPDES permit coverage. The

person shall submit an application with reasons supporting the request.

- (2) If an individual NPDES permit is issued or alternative general NPDES permit coverage is granted by the director, the coverage of the general NPDES permit to the individual permittee is automatically terminated on the effective date of the individual NPDES permit or the date alternative general NPDES permit coverage is granted.

(E) Notice of intent for seeking coverage under general NPDES permit.

- (1) Initial coverage under a general NPDES permit. Each person seeking initial coverage under a general NPDES permit shall submit a notice of intent in accordance with the deadline specified in the applicable general NPDES permit.

- (2) Renewal of coverage under a general NPDES permit.

- (a) To renew coverage under a general NPDES permit, a renewal notice of intent and associated fees are required, as follows:

- (i) In accordance with the requirements specified in the general NPDES permit renewal.

- (ii) A notice of intent renewal fee is not required for persons who obtained coverage under the previous general permit and such coverage was obtained less than or equal to one year from the expiration date stated on the expired general permit.

- (iii) To be submitted in accordance with paragraph (E)(2)(a) of this rule, as appropriate, and will result in continuous permit coverage.

- (b) Failure to submit a renewal notice of intent in accordance with paragraph (E)(2) of this rule will result in the termination of coverage under the general NPDES permit.

- (3) Notices of intent shall conform to the following:

- (a) Be made only on forms approved by Ohio EPA.

- (b) Be considered as applications for general NPDES permits, for the purpose of fee collection.

- (c) Contain the following:

- (i) The general NPDES permit number under which authorization to discharge is requested.

- (ii) The name, address, telephone number, contact person, and title of owner or operator of the point source.

- (iii) For storm water discharges associated with construction activities, pesticide application discharges and coal mining and reclamation activities, the latitude and longitude of the approximate center of the project site to the nearest fifteen seconds.
 - (d) For storm water discharges associated with construction activities, an eight and one half by eleven inches site map that locates the project with the perimeter outlined and existing adjacent identifiable roads. The perimeters of the project are the boundaries that ground disturbance will occur within and for which a storm water pollution prevention plan has been developed. The facility project contact person and project name shall also be included on the map.
 - (e) For coal mining and reclamation activities, an eight and one half by eleven inches map, using 7.5 minute United States geological survey topographic map, with topographic map name labeled on the map. The map shall depict the affected area and location of treatment ponds with outfalls labeled. The map shall indicate whether the treatment ponds are existing or proposed.
 - (f) For discharges other than storm water associated with construction activities, small municipal separate storm sewer systems and small sanitary discharges, up to four four-digit standard industrial classification codes that best represent the principle products or activities provided by the facility.
 - (g) When required by a general permit, quantitative data describing the concentration of pollutants in the discharge and volume to be discharged. All required quantitative data shall be collected in accordance with sufficiently sensitive analytical methods conditions as established in paragraph (D)(1) of rule 3745-33-03 of the Administrative Code.
 - (h) The latitude and longitude of each outfall, if available, and name of the receiving water or, if the discharge is to a separate storm sewer, the name of the operator of the storm sewer and the ultimate receiving waters.
 - (i) Where applicable, a list of treatment additives proposed to be discharged including, but not limited to, maintenance chemicals and chemicals used to aid in the treatment of the wastewater. If these treatment additives proposed have not been approved in a permit to install issued under Chapter 3745-42 of the Administrative Code, director's final findings and orders, or NPDES permit issuance, the applicant shall also submit an application to discharge the treatment additives in accordance with paragraph (G) of rule 3745-33-03 of the Administrative Code.
 - (j) Any other information deemed necessary by the director.
- (4) Notices of intent submitted to the director pursuant to this chapter shall be signed as specified in paragraph (F) of rule 3745-33-03 of the Administrative Code.

- (5) The director shall notify each person submitting a notice of intent in writing as to whether their discharge is authorized pursuant to the general NPDES permit. The director shall maintain a list of each person authorized to discharge under each general NPDES permit and make the list available on Ohio EPA's website.
- (6) Any notice of intent that fails to provide Ohio EPA with requested information needed for ascertaining compliance with the applicable provisions of this chapter, may be considered incomplete. Ohio EPA may do either of the following:
 - (a) Request additional information.
 - (b) Return the application to the applicant without further processing indicating why the application was considered incomplete.
- (F) The director may develop a general permit that contains alternative means for persons to obtain coverage under a general permit without submitting a notice of intent under paragraph (E) of this rule where the director finds that a notice of intent requirement would be inappropriate, in accordance with 40 C.F.R. 122.28(b)(2)(v), after considering the following:
 - (1) The type of discharge.
 - (2) The expected nature of the discharge.
 - (3) The potential for toxic and conventional pollutants in the discharges.
 - (4) The expected volume of the discharges.
 - (5) Other means of identifying discharges covered by the permit.
 - (6) The estimated number of discharges to be covered by the permit.

The director shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

This provision does not apply to publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities and storm water discharges associated with industrial activity.
- (G) Any discharge to waters of the state without an individual NPDES permit or general NPDES permit is prohibited.
- (H) A source excluded from a general NPDES permit solely because the source already has an individual NPDES permit may request that the individual NPDES permit be revoked and that the source be covered by the general NPDES permit. Upon revocation of the individual NPDES permit, the general NPDES permit shall apply to the source.
- (I) Criteria for issuing and renewing general NPDES permits.
 - (1) The director may issue a general NPDES permit or renewal of a general NPDES permit for a discharge if, on the basis of all information available to Ohio EPA, the

director determines all of the following:

- (a) The discharges authorized by the NPDES permit will have only minimal adverse effects on the environment.
 - (b) The discharges are more appropriately authorized by a general NPDES permit than an individual NPDES permit.
 - (c) Adequate monitoring to obtain required pollutant discharge information is provided.
 - (d) The authorized discharge levels meet the criteria specified in paragraph (A)(1) of rule 3745-33-05 and rule 3745-33-07 of the Administrative Code.
- (2) The director shall not issue a general NPDES permit or renewal if the regional administrator objects in writing to the issuance or renewal of the general NPDES permit in accordance with section 402 of the act.
 - (3) General NPDES permit duration. A general NPDES permit shall be effective for a fixed term not to exceed five years.
 - (4) Fact sheets. The director shall prepare for each general NPDES permit a fact sheet that sets forth the principal facts and significant factual, legal, methodological, and policy questions considered in preparing the general NPDES permit.
- (J) Modification of general NPDES permits.
- (1) The director may modify general NPDES permits. When a general NPDES permit is modified, only the conditions subject to modification are reopened.
 - (2) Causes for modification. The following are causes for modification:
 - (a) Information. The director has received new information. General NPDES permits may be modified during their terms for this cause only if the information was not available at the time of general NPDES permit issuance and would have justified the application of different general NPDES permit conditions at the time of issuance.
 - (b) New regulations. The standards or regulations on which the general NPDES permit was based have been changed by promulgation of amended standards or regulations or judicial decisions after the general NPDES permit was issued.
 - (c) To correct technical mistakes, such as errors in calculation or mistaken interpretations of law made in determining general NPDES permit conditions.
 - (3) Minor modifications.
 - (a) The director may modify a general NPDES permit to make corrections or allowances for changes in the permitted activity without following the rules of procedure under Chapter 3745-49 of the Administrative Code.

(b) Minor modifications may only include the following:

- (i) Correct typographical errors.
- (ii) Require more frequent monitoring or reporting by the permittee.

(K) Transfer of general NPDES permit coverage.

- (1) General NPDES permit coverage is transferable. Ohio EPA shall be notified on a form approved by the director at least thirty days prior, unless a different timeframe is specified in the general permit, to any proposed transfer of coverage under a general NPDES permit. The transferor and transferee shall jointly inform Ohio EPA of the transition of responsibilities regarding general NPDES permit coverage, including the specific date coverage responsibility and liability are to be transferred between them.
- (2) At any time during the period between notification of the proposed transfer and the effective date of the transfer, the transfer may be prevented if the director concludes that such transfer will jeopardize compliance with the terms and conditions of the general NPDES permit or that the facility is more appropriately covered by an individual NPDES permit. The director will notify both the original permittee transferor and the transferee in writing of the decision.

(L) Applicability of rules of procedure. General NPDES permit processing shall be conducted in accordance with provisions in the rules of procedure under Chapters 3745-47 and 3745-49 of the Administrative Code except as provided in paragraph (J)(3) of this rule or superseded by division (B) of section 6111.035 of the Revised Code.

(M) Revocation of general NPDES permits.

- (1) The director may revoke a general NPDES permit during the permit's term for cause, including but not limited to determining that any applicable law, rule or regulation has been violated.
- (2) If the director finds the revocation of a general NPDES permit necessary pursuant to paragraph (M)(1) of this rule, the director shall send notice of the proposed revocation to each permittee covered by the general NPDES permit to be revoked.
- (3) Upon receipt of written notification from the director regarding the issuance of a proposed revocation of a general NPDES permit, each person that was authorized by that general NPDES permit shall submit an application for an individual NPDES permit or a notice of intent for an alternative general NPDES permit not later than ninety days after receipt of such written notification.
- (4) Failure to submit an application for an individual permit or a notice of intent for an alternative general NPDES permit within ninety days after receipt of the written notification of the proposed revocation of the general NPDES permit may result in an unpermitted discharge subject to enforcement.

(N) Termination of general NPDES permit coverage. When a person determines in

accordance with requirements contained within the general NPDES permit under which that person is covered that said coverage is no longer required, that person shall submit a notice of termination (NOT) in accordance with the applicable provisions of the general NPDES permit.

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