

June 2009

Wastewater Pollution Control – General NPDES Permit Draft Rules Ohio Administrative Code (OAC) Chapter 3745-38

What does OAC Chapter 3745-38 cover?

This chapter of the Ohio Administrative Code (OAC) contains procedural and technical requirements for the administration of Ohio EPA's National Pollutant Discharge Elimination System (NPDES) General Permits program. The chapter details procedures Ohio EPA must follow in the issuance, modification, and revocation of general permits; as well as, procedures for granting and terminating authorizations to discharge. It also contains requirements applicable to entities seeking general permit coverage.

What rules are being rescinded and what types of changes are being considered for the draft replacement rules?

Minor changes are being considered for Rule 3745-38-01 (Definitions). The word Ohio is being removed from the definitions of general and individual NPDES permits and then the definitions are being re-alphabetized.

We are also considering the consolidating Rules 3745-38-02 through -12 into rule -02; thereby reducing Chapter

3745-38 from twelve to two rules. There would also be three substantive changes to Rule 3745-38-02. The first is -02 (B) (2) (c) where sewage sludge point sources would be explicitly identified as sources that can be addressed by a general permit. The current rule does not specifically mention that source as eligible for inclusion in the general permits program. The second substantive change would be -02 (E). New language is being considered as to when a renewal notice of intent (NOI) and associated fee would be required. Existing rules provide flexibility as to whether a renewal NOI and fee is required. In the case of general permits for discharges other than those associated with mining and construction, renewal NOIs have been required around the time of general permit reissuance. Depending on when the initial NOI was submitted in relation to the effective date of a general permit, coverage may be in effect for a significantly shorter period than the typical NPDES permit five year duration. The majority of these facilities will be in existence for several five year permit cycles so submitting an NOI at permit renewal is not inconsistent with the individual

permit process. Whereas, mines and construction sites are somewhat transient in nature and will not be in existence for multiple permit cycles. Therefore, it has been DSW's practice not to require NOI renewals and fees of construction and coal surface mining general permittees. DSW now realizes that these sites are not as transient as originally believed. The changes to the rule would require NOI renewals and fees be submitted by all general permittees, except mining and construction, upon general permit renewal. In the cases of mining and construction permittees, the rule would require those permittees to submit a renewal NOI and fee once per five years. DSW believes these rule changes are fair and equitable. Also DSW believes that this change will insure that permittees will only request continued permit coverage when truly appropriate.

The third substantive change would be revising the application deadline for transferring permit coverage when a facility is sold. Currently the application must be submitted sixty prior to the sale. The proposed change would revise the deadline to



thirty days which is consistent with current federal regulations.

How are the changes formatted in the draft rules?

Text being considered for deletion is struck through. New text under consideration is underlined.

How will the draft rules affect the regulated community?

If the draft rules become effective, a sewage sludge general permit may be developed and issued in the future. This would simplify NPDES permitting for those dischargers. The revised rules would also clearly define when a renewal NOI and fee is due. And the deadline for applying for transferring permit coverage would be reduced from sixty to thirty day prior to a change in ownership.

What is the rulemaking schedule?

At this time the Agency is soliciting interested party input on the **draft rules**. Ohio EPA is required by Section 121.39(D) of the Ohio Revised Code to contact potentially affected parties before proposing rules. After the close of this interested party comment period, the Agency will review the comments, make any necessary changes and then file the rules with the Joint Committee on Agency Rule Review (JCARR), Legislative Service Commission and Secretary of State. At that point the rules are referred to as **proposed** rules. One or more public hearings and another comment period are then scheduled. After the close of that public comment period, the Agency will review the comments, make any necessary changes to the rules and then adopt **final** rules. Final rules could be adopted by December 2009.

How can I comment on the draft revisions?

Comments should be sent to the attention of **John Morrison** at Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, OH 43216-1049. Comments may also be emailed to john.morrison@epa.state.oh.us.

Comments on the draft rule changes must be received by John Morrison by **5:00 p.m. on July 27, 2009**. A copy of this fact sheet is also available on the Division of Surface Water web page at www.epa.state.oh.us/dsw.

How can I get a copy of the draft rules or more information?

Go to the Division of Surface Water's Web site at: www.epa.state.oh.us/dsw, or contact John Morrison by email at john.morrison@epa.state.oh.us or by phone at (614) 644-2259.
