

# OhioEPA

## Division of Surface Water Response to Comments

### Ohio Administrative Code (OAC) Rules:

<u>Rule Number</u>	<u>Rule Title</u>	<u>Proposed Action</u>
3745-38-01	Definitions.	Amended
3745-38-02	Requirements for general national pollutant discharge elimination system (NPDES) permits.	New
3745-38-02	Ohio NPDES permit required.	Rescinded
3745-38-03	General permits coverage.	Rescinded
3745-38-04	Individual or alternative general permit requirements.	Rescinded
3745-38-05	Alternative NPDES authorization.	Rescinded
3745-38-06	Notification of general permit coverage.	Rescinded
3745-38-07	Criteria for issuing and renewing general permits.	Rescinded
3745-38-08	Modification of general permits.	Rescinded
3745-38-09	Transfer of general permit coverage.	Rescinded
3745-38-10	Applicability of rules procedure.	Rescinded
3745-38-11	Revocation of general permits.	Rescinded
3745-38-12	Termination of general permit coverage.	Rescinded

### Agency Contact for this Package

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This document summarizes the comments and questions received during the interested party review comment period, which ended July 27, 2009.

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 rule number.

### **Rule 3745-38-02(B)**

1. Comment: This Section states that general permits are to be written to cover a category of discharges that correspond to existing geographic or political boundaries. It then identifies the sources that can be regulated within the above

area. To be consistent with 40 CFR 122.28(a)(3), this section should be expanded to include a requirement which states that if one source within a category or subcategory is subject to a water quality-based limit, then all sources in that category shall be subject to the same limit. [Peter Swenson, Chief, NPDES Programs Branch, US EPA]

Response: Ohio EPA agrees with the comment and that section of the rule has been revised accordingly.

**Rule 3745-38-02(H)**

2. Comment: To be consistent with 40 CFR 122.61(b)(2), -02(H)(1) should require, in addition to the existing and new permittees jointly informing Ohio EPA of the transfer of responsibilities, that Ohio EPA be informed of when the transfer of permit responsibilities will occur. [Peter Swenson, Chief, NPDES Programs Branch, US EPA]

Response: Ohio EPA agrees with the comment and that section of the rule has been revised accordingly.

**Rules 3745-38 -02(E)(2)(a)(i) & (ii)**

3. Comment: The rules as written would have permit coverage lapse during the renewal process even if a permittee was in compliance with the rules. [Julius Ciaccia, Executive Director, NEORSD]

Response: In both sections of the rule indicate the renewal Notice of Intent (NOI) application is to be submitted in accordance with requirements contained in the each general permits. Ohio EPA's practice regarding continuation of general permit coverage has been to specify within each general permit how to renewal coverage and allow a grace period to do so, this will continue to be Ohio EPA's practice. The purpose of these sections of the rule was to insure coal and construction general permittees are required to resubmit NOI's once per five years. In response to the comment we added section -02(E)(2)(a)(iii) to clarify that if a permittee is in compliance with submitting a renewal NOI in accordance with the rules that coverage does not lapse.

**Rule 3745-38-02(E)(6) and 3745-38-02(A)(1)**

4. Comment: The second section of the rule is unnecessary since the topic is addressed in first section. [Julius Ciaccia, Executive Director, NEORSD]

Response: Both sections make mention of discharging to waters of the state is prohibited unless authorized by an NPDES permit. Ohio EPA does not disagree that the two sections address the same issue but did not believe it necessary to revise the language.

End of Response to Comments