

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 ~~Federal Water Pollution Control Act~~ and regulations adopted by the administrator, including 40 CFR 122, 123.44 and 124 (effective July 1, 2009).

(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. ~~If one source within a category or subcategory is subject to a water quality based limit, then all sources within that category or subcategory shall be subject to the same limit.~~

(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;₂

(b) Water-borne wastes resulting from coal mining and reclamation activities;₂

(c) Sewage sludge point sources;₃-₄.

(d) Other categories of point sources ~~shown to have similar discharge~~

characteristics 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 shall be subject to the same limit.

(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 pollution;
- (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; or
 - (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. 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. 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.~~
- (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, ~~whereas follows:~~
 - (a) For storm water discharges associated with construction activity, that deadline shall not exceed ninety days prior to the commencement of ground disturbing activities; ~~and.~~
 - (b) For all other discharges, that deadline shall not exceed one hundred eighty days prior to the commencement of a discharge.
- (2) Renewal of coverage under a general NPDES permit.
 - (a) To renew coverage under a general NPDES permit, a new notice of intent and associated fees are required, as follows:
 - (i) ~~Is required once~~ Once per five years for any entity authorized under a construction or mining general NPDES permit, in accordance with the requirements specified in the respective general NPDES permit; ~~and.~~
 - (ii) ~~Is required for~~ For any entity authorized under a general NPDES permit other than a construction or mining general NPDES permit upon permit renewal, in accordance with requirements specified in the general NPDES permit renewal.
 - (iii) ~~Submitting a notice of intent~~ 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 ~~paragraphs~~ paragraph (E)(2) ~~to (E)(2)(b)~~ of this rule will result in the termination of coverage under the general NPDES permit.
- (3) Notices of intent shall be made only on forms approved by Ohio EPA and shall be considered, for the purpose of fee collection, as applications for general NPDES permits. Such notice of intent shall contain the following:
 - (a) The general NPDES permit number under which authorization to discharge is requested; ~~.~~

- (b) The name, address, telephone number, contact person, and title of owner or operator of the point source;
- (c) For storm water discharges associated with construction activities and coal mining and reclamation activities, the latitude and longitude of the approximate center of the project site to the nearest fifteen seconds.
- ~~(e)~~(d) A map that locates: 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.
- (i) ~~The point source, including the latitude and longitude of the approximate center of the facility to the nearest fifteen seconds; and~~
- (ii) ~~The location of the discharge;~~
- (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.
- ~~(d)~~(f) A description of the process generating the discharge, 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;
any
- (g) ~~existing~~ When required by a general permit, quantitative data describing the concentration of pollutants in the discharge; and volume to be discharged;
- ~~(e)~~(h) The location 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; and.

- ~~(F)~~(i) 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 ~~(E)~~(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.
- (F) After considering the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; the estimated number of discharges to be covered by the permit; and notwithstanding the notice of intent requirements of paragraph (E) of this rule, the director may develop a general permit that contains alternative means for persons to obtain coverage under a general permit in accordance with 40 C.F.R. 122.28(b)(2)(v) 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 ~~it~~the source already has an individual NPDES permit may request that the individual NPDES permit be revoked and that ~~it~~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 ~~that~~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; ~~and~~.
 - (c) Adequate monitoring to obtain required pollutant discharge information is provided; ~~and~~.
 - (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 ~~3745-47~~3745-49 of the Administrative Code.

(b) Minor modifications may only include the following:

- (i) Correct typographical errors;~~or~~.

- (ii) Require more frequent monitoring or reporting by the permittee.

(K) Transfer of general NPDES permit coverage.

- (1) General NPDES permit coverage is ~~transferrable~~transferable. Ohio EPA shall be notified ~~in writing on a form approved by the director~~ at least thirty days prior to any proposed transfer of coverage under a general NPDES permit. The transferor and transferee ~~must~~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 thirty day 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 ~~Chapter~~Chapters 3745-47 and 3745-49 of the Administrative Code except as provided in paragraphs (J)(3) to (J)(3)(b)(ii) 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 ~~its~~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 ~~it necessary to revoke~~the revocation of a general NPDES permit necessary pursuant to paragraph ~~(J)(1)(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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