

**NOTICE OF ADOPTION OF RULES
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**Rules Governing
Pretreatment and Indirect Discharge Program**

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections 6111.03 and 6111.042 of the Ohio Revised Code and in accordance with Chapter 119 of the Revised Code, has adopted the following rules of the Ohio Administrative Code:

Rule #	Rule Title	Action
OAC Chapter 3745-3 Industrial Discharges to Publicly Owned Treatment Works		
3745-3-01	Definitions.	Amend
3745-3-03	POTW pretreatment programs.	Amend
3745-3-04	Prohibited discharges.	Amend
3745-3-06	Reporting requirements for industrial users.	Amend
3745-3-07	Trade secrets; request for confidentiality.	Amend
3745-3-09	General requirements governing application of pretreatment standards.	Amend
OAC Chapter 3745-36 Permit Program Regulating Discharge of Nondomestic Wastewater into a POTW		
3745-36-02	Definitions.	Amend
3745-36-03	Individual indirect discharge permits.	Amend

The Director's order of adoption was issued on **August 30, 2012**. These adopted rules will become effective on **October 1, 2012**. To request a copy of these rules, write to Melinda Harris, Ohio Environmental Protection Agency, Division of Surface Water, P.O. Box 1049, Columbus, OH 43216-1049 or call Mrs. Harris at (614) 728-1357. A copy of the adopted rules is also available on the Ohio EPA Division of Surface Water website at www.epa.ohio.gov/dsw/.

The Director's action in this matter is pursuant to the procedural requirements of Ohio Revised Code Chapter 119 and is based upon the record of the public hearing conducted by Ohio EPA on July 11, 2012, and comments received during the public comment period.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Josh Mandel," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

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Pretreatment and Indirect Discharge Program
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Environmental Review Appeals Commission
77 South High Street, 17th Floor
Columbus, Ohio 43215

3745-3-01 **Definitions.**

As used in this chapter:

- (A) "Act" means the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) 33 U.S.C. sections 1251 et seq. to 1387 as amended through July 1, ~~2006~~2011.
- (B) "Administrator" means the administrator of the United States environmental protection agency.
- (C) "Approved POTW pretreatment program" means a program administered by a POTW that meets the criteria established in 40 C.F.R. 403 and section 6111.032 of the Revised Code and that has been approved by the director in accordance with 40 C.F.R. 403 and section 6111.03 of the Revised Code.
- (D) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in rule 3745-3-04 of the Administrative Code. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (E) "Categorical pretreatment standard" means any standard, including national categorical pretreatment standards, specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by new or existing industrial users in specific industrial categories.
- (F) "Control authority" means:
- (1) The POTW if it is under an approved pretreatment program; or
 - (2) Ohio EPA if the POTW is not under an approved pretreatment program.
- (G) "Control mechanism" means an individual or general permit, order, or similar means used to control an industrial user's contribution to a POTW to ensure compliance with applicable pretreatment standards and requirements.
- (H) "Director" means the director of the Ohio environmental protection agency or the director's duly authorized representative.
- (I) "Indirect discharge" means the introduction of pollutants into a POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the act.

- (J) "Industrial user" or "user" means a source of indirect discharge.
- (K) "Interference" means a discharge, that alone or in conjunction with a discharge or discharges from other sources, both:
- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent local regulations):
 - (a) Section 405 of the act;
 - (b) The Solid Waste Disposal Act (SWDA) 42 U.S.C. sections 6901 et seq. to 6992 as amended through July 1, ~~2006~~2011 (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA);
 - (c) The standards for the use and disposal of sewage sludge (40 C.F.R. 503);
 - (d) The Clean Air Act (CAA) 42 U.S.C. sections 7401 et seq. to 7671 as amended through July 1, ~~2006~~2011; and
 - (e) The Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2601 et seq. to 2692 as amended through July 1, ~~2006~~2011.
- (L) "Mid-tier categorical industrial user" is a significant industrial user subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N that the control authority may determine is subject to a reduction in the user's reporting requirement and the control authority's monitoring and inspection requirements, upon satisfaction of the conditions in paragraphs (L)(1) to (L)(4) of this rule:
- (1) The industrial user's total categorical wastewater flow does not exceed any of the following:

- (a) Zero point zero one per cent of the design dry weather hydraulic capacity of the POTW, or five thousand gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;
 - (b) Zero point zero one per cent of the design dry weather organic treatment capacity of the POTW; and
 - (c) Zero point zero one per cent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standards for which approved local limits were developed by a POTW in accordance with paragraph (C)(4) of rule 3745-3-03 of the Administrative Code;
- (2) The industrial user has not been in significant noncompliance, as defined in paragraph (C)(2)(h) of rule 3745-3-03 of the Administrative Code, for any time in the past two years;
- (3) The industrial user does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement would result in data that are not representative of conditions occurring during the reporting period pursuant to paragraphs (H)(1) and (H)(7) of rule 3745-3-06 of the Administrative Code;
- (4) The industrial user is not located upstream of a combined sewer overflow or sanitary sewer overflow, unless the procedures for the categorization of such a user as a mid-tier categorical industrial user and issues related to combined sewer overflows or sanitary sewer overflows are specifically addressed in:
- (a) The control authority's approved long term control plan;
 - (b) The control authority's approved combined sewer system operation plan implementing the nine minimum controls; or
 - (c) The control authority's program modification request submitted to the director.
- (M) "National categorical pretreatment standard" means a categorical pretreatment standard promulgated by the administrator in accordance with section 307 of the act and established under 40 C.F.R. chapter I, subchapter N.

(N) "National pretreatment standard" means any regulation of the USEPA, containing pollutant discharge limits promulgated by the administrator in accordance with sections 307(b) and (c) of the act, that applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. 403.5.

(O)

(1) "New source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (O)(1)(b) or (O)(1)(c) of this rule, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous onsite construction program:

- (i) Any placement, assembly, or installation of facilities or equipment;
or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(P) "Noncontact cooling water" means the water used to reduce temperature that does not come into contact with any raw material, intermediate product, waste product (other than heat), or finished product. Noncontact cooling water does not include any process waters or other type of wastewaters, nor is it exposed to anything but the inside of the pipe. Noncontact cooling water should be reasonably free from contaminants like metals, ammonia, organics, and total dissolved solids so that Ohio's water quality standards in Chapter 3745-1 of the Administrative Code are not violated.

~~(P)~~(Q) "Non-significant categorical industrial user" is an industrial user subject to 40 C.F.R. chapter I, subchapter N that the control authority may determine is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user does not discharge more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the categorical pretreatment standard) and the following conditions ~~in paragraphs (P)(1) to (P)(4) of this rule~~ are met:

- (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- (2) The industrial user annually submits the certification statement required in paragraph (J) of rule 3745-3-06 of the Administrative Code together with any additional information necessary to support the certification statement;
- (3) The industrial user never discharges any untreated concentrated wastewater; and

- (4) The industrial user is not located upstream of a combined sewer overflow or a sanitary sewer overflow, unless the following conditions are met:
- (a) The industrial user does not discharge wastewater regulated by categorical pretreatment standards at any time; or
 - (b) The industrial user has not been in significant noncompliance, as defined in paragraph (C)(2)(h) of rule 3745-3-03 of the Administrative Code, for any time in the past two years; and
 - (c) The procedures for the categorization of such a user as a non-significant categorical industrial user and issues related to combined sewer overflows or sanitary sewer overflows are specifically addressed in:
 - (i) The control authority's approved long term control plan;
 - (ii) The control authority's approved combined sewer system operation plan implementing the nine minimum controls; or
 - (iii) The control authority's program modification request submitted to the director.

~~(R)~~(R) "NPDES permit" means national pollutant discharge elimination system permit issued by the director under the requirements of section 402 of the act, Chapter 6111. of the Revised Code, and Chapter 3745-33 of the Administrative Code.

~~(R)~~(S) "Ohio EPA" means the Ohio environmental protection agency.

~~(S)~~(T) "Pass through" means a discharge that exits the POTW into waters of the state in quantities or concentrations that alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

~~(F)~~(U) "pH" means the logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram atoms per liter of solution.

~~(U)~~(V) "POTW treatment plant" means that portion of the POTW that is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

~~(V)~~(W) "Pollutant" means sewage, industrial waste or other waste as defined by divisions (B), (C) and (D) of section 6111.01 of the Revised Code.

~~(W)~~(X) "Publicly owned treatment works" or "POTW" means a treatment works that is owned or operated by a public authority. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the public authority that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

~~(X)~~(Y) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological treatment processes, by BMPs, by pollution prevention alternatives including process changes, material substitutions, improved operating practices and recycling, or by other means, except as prohibited by paragraph (E) of rule 3745-3-09 of the Administrative Code.

~~(Y)~~(Z) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user or POTW.

~~(Z)~~(AA) "Pretreatment standard" means a discharge limit related to pretreatment that is imposed on an industrial user by this chapter or by local ordinance or control mechanism, including categorical pretreatment standards, prohibitive discharge limits established pursuant to rule 3745-3-04 of the Administrative Code, local limits established pursuant to paragraph (C)(4) of rule 3745-3-03 and paragraph (D) of rule 3745-3-04 of the Administrative Code, and any enforceable schedule designed to achieve compliance with such limit.

~~(AA)~~(BB) "Process wastewater" means any water that, during manufacturing or processing, comes into contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product, except noncontact cooling water and sanitary wastewater.

~~(BB)~~(CC) "Process wastewater pollutants" means pollutants present in process wastewater.

~~(CC)~~(DD) "PSES" means categorical pretreatment standards for existing sources.

~~(DD)~~(EE) "PSNS" means categorical pretreatment standards for new sources.

~~(EE)~~(FF) "Public authority" means a municipal corporation, the governing board of a county, a sanitary district established pursuant to Chapter 6115. of the Revised Code, a sewer district established pursuant to Chapter 6117. of the Revised Code, a conservancy district under Chapter 6101. of the Revised Code, or any other special district owning or operating a POTW in accordance with section 6111.032 of the Revised Code.

~~(FF)~~(GG) "Significant industrial user" means, except as provided in paragraph ~~(FF)~~(3)~~(GG)~~(3) of this rule:

- (1) Industrial users subject to categorical pretreatment standards under 40 ~~CFR~~C.F.R. 403.6 and 40 ~~CFR~~C.F.R. chapter I, subchapter N, except the industrial users considered non-significant categorical industrial users, as defined in paragraph ~~(P)~~(Q) of this rule; and
- (2) Any other industrial user that:
 - (a) Discharges an average of twenty-five thousand gallons per day or more of process wastewater to the POTW (process wastewater excludes sanitary, non-contact cooling and boiler blowdown wastewaters);
 - (b) Contributes a process wastestream that makes up five per cent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that an industrial user meeting the criteria in paragraph ~~(FF)~~(2)~~(GG)~~(2) of this rule has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with paragraph (C)(6) of rule 3745-3-03 of the Administrative Code, determine that such industrial user is not a significant industrial user.

~~(GG)~~(HH) "USEPA" means the United States environmental protection agency.

~~(HH)~~(II) "Water quality standards" means the regulations in Chapter 3745-1 of the Administrative Code.

~~(H)~~(JJ) "Waters of the state" means the same as defined in section 6111.01 of the Revised Code.

~~(H)~~(KK) "40 C.F.R." means Title 40 of the Code of Federal Regulations effective July 1, ~~2006~~2011.

[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.gpoaccess.gov/cfr/index.html>~~http://www.gpo.gov/fdsys/~~ and purchased by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]

Effective: 10/01/2012
R.C. 119.032 review dates: 06/07/2012 and 06/07/2017

CERTIFIED ELECTRONICALLY

Certification

08/30/2012

Date

Promulgated Under: 119.03
Statutory Authority: 6111.03(Q), 6111.042
Rule Amplifies: 6111.03(Q), 6111.042
Prior Effective Dates: 11/1/1984 (Emer.), 1/31/1985, 8/1/1986, 4/7/1988,
2/28/1990, 4/15/1991, 5/21/2001, 2/1/2007

3745-3-03

POTW pretreatment programs.

[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 3745-3-01 of the Administrative Code.]

(A) Any POTW or combination of POTWs operated by the same public authority shall establish, administer, and enforce a pretreatment program in accordance with 40 C.F.R. 403 and this rule if:

- (1) The POTW or combination of POTWs has a total cumulative design flow greater than five million gallons per day and receives, from industrial users, pollutants that pass through or interfere with the operation of the POTW or that are otherwise subject to national pretreatment standards; or
- (2) The POTW or combination of POTWs has a total design flow of five million or less gallons per day and receives indirect discharges, if the director ~~finds~~determines that such a program is necessary to prevent interference or pass through. The director shall consider and base ~~his~~the determination on the following:
 - (a) The nature or volume of the indirect discharges; or
 - (b) The number, nature, or frequency of violations of POTW effluent limitations contained in its NPDES permit; or
 - (c) The nature, frequency, or duration of POTW treatment process upsets; or
 - (d) The actual or potential for contamination of municipal sludge; or
 - (e) Whether the indirect discharges are subject to categorical pretreatment standards; or
 - (f) Any other circumstance that causes or contributes to an interference or pass through.

(B) POTWs identified as being required to develop a POTW pretreatment program under paragraph (A) of this rule shall develop and submit such a program for approval as soon as possible, but in no case later than one year after written notification from the director of such identification. The POTW pretreatment program shall meet the criteria set forth in paragraph (C) of this rule and shall be administered by the POTW to ensure compliance by industrial users with applicable pretreatment standards and requirements. The POTW's NPDES permit will be reissued or

modified to incorporate the approved program as an enforceable condition of the permit.

(C) A POTW pretreatment program shall be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(1) The POTW shall operate pursuant to legal authority, enforceable in federal, state or local courts, that authorizes or enables the POTW to enforce the requirements of Sections 307(b), 307(c) and 402(b)(8) of the act and any regulation implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements that the POTW is authorized to enact, enter into or implement, and that is authorized by state law. At a minimum, this legal authority shall enable the POTW to:

- (a) Deny or condition any new or increased contribution of pollutants, or change in the nature of pollutants, to the POTW by industrial users where such contribution does not meet applicable pretreatment standards and requirements or where such contribution would cause the POTW to violate its NPDES permit;
- (b) Require compliance with applicable pretreatment standards and requirements by industrial users;
- (c) Issue control mechanisms to control each industrial user's contribution to the POTW to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant under paragraph ~~(FF)~~(GG) of rule 3745-3-01 of the Administrative Code, this control shall be achieved through individual or general control mechanisms issued to each such user or group of users. Both individual and general control mechanisms shall be enforceable and, at a minimum, shall include:
 - (i) A statement of duration (in no case more than five years);
 - (ii) If determined by the control authority to be transferable, a statement of transferability with, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
 - (iii) Effluent limits that are based on applicable general pretreatment standards in 40 C.F.R. 403, categorical pretreatment standards,

local limits, and state and local law;

(iv) Requirements for:

(a) Self-monitoring, including an identification of the pollutants to be monitored or the process for seeking a waiver from monitoring a pollutant neither present nor expected to be present in the discharge in accordance with paragraph (C)(1)(d) of this rule, sampling location, sampling frequency, and sample type based on the applicable general pretreatment standards in 40 C.F.R. 403, categorical pretreatment standards, local limits, and state and local law;

(b) Reporting; and

(c) Notification and recordkeeping;

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;

(vi) Requirements to control slug discharges, if determined by the POTW to be necessary;

(d) Authorize, at its discretion, an industrial user subject to a categorical pretreatment standard, except for centralized waste treatment facilities regulated by and defined in 40 C.F.R. 437, to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(i) The control authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater;

(ii) A monitoring waiver is valid only for the duration of the effective

period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user shall submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;

- (iii) In making a demonstration that a pollutant is not present, the industrial user shall provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver shall be signed in accordance with paragraph (F) of rule 3745-3-06 of the Administrative Code, and include the certification statement in 40 C.F.R. 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the USEPA approved analytical method from 40 C.F.R. 136 with the lowest method detection limit for that pollutant was used;
- (iv) The control authority shall include any monitoring waiver as a condition in the industrial user's control mechanism;
- (v) The reasons supporting any monitoring waiver and any information submitted by the user in its request for the waiver shall be maintained by the control authority for three years after expiration of the waiver;
- (vi) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the control authority, the industrial user shall certify on each periodic compliance monitoring report required by paragraph (E) of rule 3745-3-06 of the Administrative Code with the following statement:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standards under 40 C.F.R. [specify applicable national pretreatment standard part or parts], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant or pollutants] in the wastewaters due to the activities at the facility since submittal of the last periodic report under paragraph (E) of rule 3745-3-06 of the Administrative Code."
- (vii) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the user shall be required to

immediately:

- (a) Notify the control authority in writing; and
 - (b) Comply with the monitoring requirements specified in the POTW's pretreatment program;
- (viii) The provision for a monitoring waiver does not relieve the industrial user of any other certification processes and requirements established by the control authority or in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard;
- (e) Require the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements;
 - (f) Require the submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in rule 3745-3-06 of the Administrative Code;
 - (g) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under paragraph (G)(2) of rule 3745-3-06 of the Administrative Code to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the act;
 - (h) Obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement including but not limited to: the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or this chapter. Remedies shall include but are not limited to the following:

- (i) The POTW shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The POTW shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars per day for each violation by industrial users of pretreatment standards and requirements;

[Comment: The director may seek judicial relief or may also use administrative penalty authority when the POTW has sought a monetary penalty that the director finds to be insufficient.]

- (ii) The POTW shall have authority and procedures, after informal notice to the discharger, immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons; and

- (iii) The POTW shall also have authority and procedures, that shall include notice to the affected industrial users and an opportunity to respond, to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or that threatens to interfere with the operation of the POTW; and

- (i) Comply with the confidentiality requirements set forth in rule 3745-3-07 of the Administrative Code.

- (2) The POTW shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:

- (a) Identify all possible industrial users that may be subject to the POTW pretreatment program. Any compilation, index or inventory of industrial users made under this paragraph shall be made available to the director upon request;
- (b) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified in paragraph (C)(2)(a) of this rule. This information shall be made available to the director upon request;
- (c) Notify industrial users identified in paragraph (C)(2)(a) of this rule of applicable pretreatment standards and any applicable requirements under Sections 204(b) and 405 of the act and Subtitles C and D of the

Resource Conservation and Recovery Act 42 U.S.C. sections 6901 et seq. to 6992 as amended through July 1, ~~2006~~2011. Within thirty days of approval of a list of significant industrial users pursuant to paragraph (C)(6) of this rule, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status;

- (d) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in rule 3745-3-06 of the Administrative Code;
- (e) Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect each significant industrial user and sample the effluent from each such user at least once a year, except as follows:
 - (i) Where the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with paragraph (C)(1)(d) of this rule, the POTW shall sample for the waived pollutant or pollutants at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the user's operations, the POTW shall immediately begin inspecting the user and monitoring the user's discharge at the frequency set by the POTW's pretreatment program;
 - (ii) Where the POTW has determined that an industrial user meets the criteria for a non-significant categorical industrial user, the POTW shall evaluate and document, at least once per year, whether the industrial user continues to meet the definition in paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code;
 - (iii) In the case of mid-tier industrial users subject to reduced reporting requirements under paragraph (E)(2) of rule 3745-3-06 of the Administrative Code, the POTW shall conduct inspections and randomly sample and analyze the effluent from such users at least once every two years. If the industrial user no longer meets the definition in paragraph (L) of rule 3745-3-01 of the Administrative Code, the POTW shall immediately begin inspecting the industrial user and monitoring the effluent from the

user at the frequency set by the POTW's pretreatment program;

- (f) Evaluate the need for a plan, device or structure to control a potential slug discharge at least once during the term of each significant industrial user's control mechanism. ~~For industrial users identified as significant prior to thirty days after the effective date of this rule, this evaluation shall be conducted prior to October 14, 2006.~~ Additional significant industrial users shall be evaluated within one year of being identified a significant industrial user. For purposes of this chapter, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of these activities shall be made available to the director upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
- (i) Description of discharge practices, including non-routine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under paragraph (B) of rule 3745-3-04 of the Administrative Code, with procedures for follow-up written notification within five days;
 - (iv) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of wastewater discharge, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response;
- (g) Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under rule 3745-3-06 of the Administrative Code or indicated by analysis, inspection, and surveillance activities described in paragraph (C)(2)(e) of this rule. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

- (h) Comply with the public participation requirements of 40 C.F.R. 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in at least one newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, of industrial users that, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, an industrial user is in significant noncompliance if its violation meets the criteria in paragraph (C)(2)(h)(iii), (C)(2)(h)(iv), or (C)(2)(h)(viii) of this rule. A significant industrial user is in significant noncompliance if its violation meets any of the following criteria:
- (i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six per cent or more of all the measurements taken for the same pollutant parameter at any permitted monitoring point during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;
 - (ii) Technical review criteria (TRC) violations, defined here as those in which thirty-three per cent or more of all of the measurements taken for the same pollutant parameter at any permitted monitoring point during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
 - (iii) Any other violation of a pretreatment standard or requirement as defined by paragraph (N) of rule 3745-3-01 of the Administrative Code (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - (iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (C)(1)(h)(ii) of this rule to halt or prevent such a discharge;

- (v) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (vi) Failure to provide, within forty-five days after the due date, required reports such as baseline monitoring reports, ninety day compliance reports, periodic self monitoring reports, reports on compliance with compliance schedules, or any other reports required by the control authority;
 - (vii) Failure to accurately report noncompliance; or
 - (viii) Any other violation or group of violations, including a violation of BMPs, that the control authority determines adversely affects the operation or implementation of the local pretreatment program.
- (3) The POTW shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in paragraphs (C)(1) and (C)(2) of this rule.
- (4) The POTW shall develop, update as necessary and enforce local limits that will protect the POTW against interference and pass through. The POTW may develop BMPs and such BMPs shall be considered local limits and pretreatment standards for the purpose of this rule.
- (5) The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:
- (a) Describe how the POTW will investigate instances of noncompliance;
 - (b) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
 - (c) Identify each official, including their respective title, that is responsible for each type of response; and
 - (d) Discuss the POTW's primary responsibility to enforce all applicable

pretreatment requirements and standards, as detailed in paragraphs (C)(1) and (C)(2) of this rule.

(6) The POTW shall prepare and maintain a list of its industrial users meeting the criteria in paragraphs ~~(FF)(1)(GG)(1)~~ and ~~(FF)(2)(GG)(2)~~ of rule 3745-3-01 of the Administrative Code. The list shall:

(a) Identify the criteria in paragraphs ~~(FF)(1)(GG)(1)~~ and ~~(FF)(2)(GG)(2)~~ of rule 3745-3-01 of the Administrative Code applicable to each industrial user and, when necessary, indicate whether the POTW has made a determination pursuant to:

(i) Paragraphs ~~(P)(Q)~~ and ~~(FF)(3)(GG)(3)~~ of rule 3745-3-01 of the Administrative Code that such industrial user should not be considered a significant industrial user; or

(ii) Paragraph (L) of rule 3745-3-01 of the Administrative Code that such industrial user should be considered a mid-tier categorical industrial user.

(b) Initially be submitted to the director when a POTW is applying for approval of its pretreatment program or, in the case of POTWs with approved programs, at the time a program modification request is submitted to provide for a non-significant categorical or mid-tier industrial user classification. Any modification to the list shall be submitted to the director in the POTW's annual report, pursuant to paragraph (J) of this rule.

(7) The POTW may issue a general control mechanism to a group of significant industrial users.

(a) A general control mechanism may be used for a group of significant industrial users if, in the opinion of the POTW, the users are more appropriately controlled under a general control mechanism than under individual control mechanisms. Each user in the group must:

(i) Have the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations; and

(iv) Require the same or similar monitoring.

- (b) To be covered by a general control mechanism, the significant industrial user shall be required to file a written request for coverage that identifies its contact information, its production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with paragraph (C)(1)(d) of this rule for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until the POTW has provided written notice to the significant industrial user that a waiver request has been granted in accordance with paragraph (C)(1)(d) of this rule.
- (c) The POTW shall retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in paragraphs (C)(7)(a)(i) to (C)(7)(a)(iv) of this rule, and a copy of the user's written request for coverage for three years after the expiration of the general control mechanism.
- (d) The POTW shall not control a significant industrial user through a general control mechanism where the user is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations in 40 C.F.R. 403.6(e) and 40 C.F.R. 403.15.

(D) POTW pretreatment program submission.

- (1) A POTW requesting approval of a POTW pretreatment program shall develop a program description that includes the information set forth in paragraph (D)(2) of this rule. This description shall be submitted to the director who will make a determination on the request for program approval in accordance with the procedures described in 40 C.F.R. 403.11.
- (2) The program description shall contain, at a minimum, the following information:
- (a) A statement from the city solicitor or a city official acting in a comparable

capacity (or the attorney for those POTWs that have independent legal counsel) that the POTW has authority adequate to carry out the programs described in paragraphs (A), (B), and (C) of this rule. This statement shall:

- (i) Identify the provision of the legal authority under paragraph (C)(1) of this rule that provides the basis for each procedure under paragraph (C)(2) of this rule;
 - (ii) Identify the manner in which the POTW will implement the program requirements set forth in paragraphs (A), (B), and (C) of this rule, including the means by which pretreatment standards will be applied to individual industrial users (e.g., by permit); and
 - (iii) Identify how the POTW intends to ensure compliance with pretreatment standards and requirements, and to enforce them in the event of noncompliance by industrial users;
- (b) A copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the program. This submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and funding the POTW pretreatment program if approved;
- (c) A brief description of the POTW organization, including an organization chart, that will administer the pretreatment program. If more than one agency is responsible for administration of the program the responsible agencies should be identified, their respective responsibilities should be delineated, and their procedures for coordination should be set forth; and
- (d) A description of the funding levels and full-and part-time manpower available to implement the program.
- (E) Modification of POTW pretreatment programs. Either the director or a POTW with an approved pretreatment program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW pretreatment program that differs from the information in the POTW's submission, as approved under 40 C.F.R. 403.11.
- (1) The POTW shall submit a pretreatment program modification request to the

director for any modification to its pretreatment program at least forty-five days prior to when it is to be implemented by the POTW.

- (a) A pretreatment program modification request shall, at a minimum, contain the following:
 - (i) A statement of the basis for the desired modification;
 - (ii) A modification program submittal, which shall include the existing portions of the program and the proposed changes; and
 - (iii) Any other documents the director determines to be necessary.
- (b) If the director determines that a modification is a substantial modification, then the POTW shall obtain the director's approval prior to the implementation of the modification. The director shall determine if a modification request is nonsubstantial or substantial based on the criteria in paragraph (E)(2) of this rule. When approving or disapproving a modification request, the director shall follow the procedures in paragraphs (F) and (G) of this rule.

(2) Substantial modifications include:

- (a) Any modification that makes the POTW's legal authorities, as described in paragraph (C) of this rule, less stringent than they were prior to the modification, except for modifications that constitute changes to an approved pretreatment program and are reported as nonsubstantial modifications pursuant to paragraph (G) of this rule;
- (b) Any modification that makes the POTW's local limits less stringent than they were prior to the modification, except for the modifications to local limits for pH and the reallocation of the maximum allowable industrial loading of a pollutant that does not increase the total industrial loading of the pollutant, that are reported pursuant to paragraph (G) of this rule. Maximum allowable industrial loading means the total mass of a pollutant that all industrial users of a POTW or a subgroup of industrial users identified by the POTW may discharge pursuant to limits developed under paragraph (C) of this rule;
- (c) Any change to the POTW's control mechanism, as described in paragraph (C)(1)(c) of this rule;

- (d) A decrease in the frequency of self-monitoring or reporting required of industrial users;
- (e) A decrease in the frequency of industrial user inspections or sampling by the POTW;
- (f) Any change to the POTW's confidentiality procedures;
- (g) A request for authorization to review and take final action on industrial permits to install for indirect discharges from industrial users;
- (h) A request for using the classification of non-significant categorical industrial user, as defined in paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code;
- (i) A request for using the classification of mid-tier categorical industrial user, as defined in paragraph (L) of rule 3745-3-01 of the Administrative Code; or
- (j) Any other modification designated as a substantial modification by the director on the basis that the modification could:
 - (i) Have a significant impact on the operation of the POTW's pretreatment program;
 - (ii) Result in an increase in pollutant loadings at the POTW; or
 - (iii) Result in less stringent requirements being imposed on industrial users of the POTW.

(F) Approval procedures for substantial modifications.

- (1) Except as provided in paragraphs (F)(2) and (F)(3) of this rule, the director shall approve or disapprove the modification based on the requirements of paragraph (C) of this rule and using the procedures in paragraphs (b) to (f) of 40 C.F.R. 403.11. The modification shall become effective upon approval by the director.
- (2) The director need not publish a notice of decision under paragraph (e) of 40 C.F.R. 403.11 provided: the notice of request for approval under paragraph

(b)(1) of 40 C.F.R. 403.11 states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(3) Notices required by 40 C.F.R. 403.11 may be performed by the POTW provided that the POTW notice otherwise satisfies the requirements of 40 C.F.R. 403.11.

(G) Approval procedures for nonsubstantial modifications.

(1) The POTW shall notify the director of any nonsubstantial modification at least forty-five days prior to implementation by the POTW in accordance with the provisions of paragraph (E)(1) of this rule.

(2) If the director does not notify the POTW within forty-five days of its decision to approve or deny the modification, or to treat the modification as substantial under paragraph (E)(2) of this rule, the POTW may implement the modification.

(H) All program modifications shall be incorporated into the POTW's NPDES permit or NPDES permits upon approval.

(I) The director may revoke a POTW's pretreatment program prescribed under paragraphs (A) and (B) of this rule if the director ~~finds~~determines that such a program is no longer necessary. Prior to revoking a program, the director shall consider and base ~~his~~the determination on the following:

(1) The nature or volume of indirect discharges;

(2) The number, nature, or frequency of violations of POTW effluent limitations contained in its NPDES permit;

(3) The nature, frequency, or duration of POTW treatment process upsets;

(4) The actual or potential for contamination of municipal sludge;

(5) Whether the indirect discharges are subject to categorical pretreatment standards; and

(6) Any other circumstance that causes or contributes to an interference or a pass through.

- (J) Any POTW that has a pretreatment program shall provide the director with a report that describes the POTW's program activities, including activities of all participating agencies if more than one jurisdiction is involved in the local program. The report required by this paragraph shall be submitted to the director annually as specified in the POTW's NPDES permit. The report shall contain such information as the director deems necessary.
- (K) No POTW shall authorize or otherwise allow an industrial user to discharge pollutants to the POTW in violation of pretreatment standards established in this chapter. This provision shall not be interpreted to prevent a POTW from adopting or enforcing a pretreatment standard that is more stringent than provided in this chapter.
- (L) Any POTW to which reports are submitted by an industrial user pursuant to rule 3745-3-06 of the Administrative Code shall retain such reports for a minimum of three years and shall make such reports available for inspection and copying by the director ~~or his authorized representative~~. This period of retention shall be extended during the course of any unresolved litigation regarding an industrial user's discharge or the POTW's NPDES permit or pretreatment program.
- (M) Industrial user permits to install. The director may authorize a municipal corporation, county, or special district that owns or operates a POTW or sewerage system that has an approved pretreatment program to review and take final action on industrial permits to install for indirect discharges by industrial users of its treatment works or sewerage system.
- (1) In performing the review and final action on permits to install for indirect discharges by industrial users of its treatment works or sewerage system, the municipal corporation, county, or special district shall apply criteria and procedures specified by the director. This provision shall not be interpreted to prevent a municipal corporation, county, or special district from applying criteria or procedures that are more stringent than specified by the director.
 - (2) A municipal corporation, county, or special district that owns or operates a POTW or sewerage system that has an approved pretreatment program requesting authorization to review and take final action on industrial permits to install for indirect discharges by industrial users of its treatment works or sewerage system shall submit the request in accordance with the procedures described in paragraph (E) of this rule. Information to be submitted with the request shall be determined by the director.
 - (3) The director may periodically evaluate the review performed by the municipal

corporation, county, or special district that has received authorization from the director to review and take final action on permits to install under paragraph (M) of this rule and may terminate such authorization for poor quality review, or for failure to apply rules, criteria or procedures specified by the director.

~~[Comment: "C.F.R." refers to the federal "Code of Federal Regulations," which can generally be found in public libraries, and can be viewed electronically online at <http://www.gpoaccess.gov/cfr/index.html> and purchased by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]~~

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CERTIFIED ELECTRONICALLY

Certification

08/30/2012

Date

Promulgated Under: 119.03
Statutory Authority: 6111.03(Q), 6111.042
Rule Amplifies: 6111.03(Q), 6111.042
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3745-3-04

Prohibited discharges.

[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 3745-3-01 of the Administrative Code.]

(A) Pollutants introduced into POTWs by an industrial user shall not pass through the POTW or interfere with the operation or performance of the POTW. These general prohibitions and the specific prohibitions in paragraph (B) of this rule apply to all sources of indirect discharge whether or not the source is subject to other national, state, or local pretreatment standards or requirements.

(B) The following described substances shall not be introduced into a POTW:

- (1) Pollutants that create a fire or explosion hazard in the POTW including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty degrees ~~F~~Fahrenheit or sixty degrees ~~C~~Celsius using the test methods specified in 40 C.F.R. 261.21;
- (2) Pollutants that will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges;
- (3) Solid or viscous pollutants in amounts that will cause obstruction to the flow in sewers, or other interference with the operation of the POTW;
- (4) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate ~~and/or~~ pollutant concentration as to cause interference with the POTW;
- (5) Heat in amounts that will inhibit biological activity in the POTW treatment plant resulting in interference or causing damage, but in no case heat in such quantities that the temperature exceeds forty degrees ~~C~~Celsius (one hundred four degrees ~~F~~Fahrenheit) at the POTW treatment plant unless the director, upon request of the POTW, approves an alternate temperature limit;
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- (7) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
or

- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- (C) No industrial user shall discharge any pollutant in violation of applicable pretreatment standards.
- (D) The director may, in cases where pollutants contributed by an industrial user(s)user may result or have resulted in interference or pass through, and such violation is likely to recur, require POTWs that are not required to develop a pretreatment program pursuant to paragraph (A) of rule 3745-3-03 of the Administrative Code, to develop and enforce specific effluent limits for an industrial user(s)user, and all other users, as appropriate, that, together with appropriate changes in the POTW treatment plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit, or sludge use or disposal practices.

~~[Comment: "C.F.R." refers to the federal "Code of Federal Regulations," which can generally be found in public libraries, and can be viewed electronically online at <http://www.gpoaccess.gov/efr/index.html> and purchased by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]~~

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3745-3-06

Reporting requirements for industrial users.

[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 3745-3-01 of the Administrative Code.]

(A) Reserved.

(B) Baseline report.

- (1) Within one hundred eighty days after the effective date of a national categorical pretreatment standard, or one hundred eighty days after the final administrative decision made upon a category determination submission under paragraph (H) of rule 3745-3-09 of the Administrative Code, whichever is later, existing industrial users subject to such categorical standard or standards and currently discharging to or intending to discharge to a POTW shall submit to the control authority a baseline report which contains the information listed in paragraphs (C)(1) to (C)(6) of this rule, at least ninety days prior to commencement of discharge. New sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in paragraphs (C)(1) to (C)(5) of this rule. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in paragraphs (C)(4) and (C)(5) of this rule.
- (2) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance or the combined wastestream formula under paragraph (I)(1) of rule 3745-3-09 of the Administrative Code, at the time the user submits its baseline report the information required by paragraphs (C)(5) and (C)(6) of this rule shall pertain to the modified limits.
- (3) If the applicable categorical pretreatment standard is modified by a removal allowance, fundamentally different factor variance or the combined wastestream formula under paragraph (I)(1) of rule 3745-3-09 of the Administrative Code after the user submits its baseline report, any necessary amendments to the information requested by paragraphs (C)(5) and (C)(6) of this rule shall be submitted by the user to the control authority within sixty days after the modified limit is approved.
- (4) Where baseline reports containing the information required by this rule already have been submitted to the control authority pursuant to the requirements of 40 C.F.R. 403.12, the industrial user shall not be required to submit this information again.

- (5) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
 - (6) The baseline report shall certify that the information reported is representative of normal work cycles and expected pollutant discharges to the POTW.
- (C) The baseline report required by paragraph (B) of this rule shall contain the following information:
- (1) The name and address of the facility including the name of the operator and owners;
 - (2) A list of any environmental control permits held by or for the facility;
 - (3) A brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial users. This description shall include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
 - (4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (a) Regulated process streams; and
 - (b) Other streams as necessary to allow use of the combined wastestream formula of 40 C.F.R. 403.6.

The control authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
 - (5) The results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a BMP or a pollution prevention alternative, the industrial user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard;

- (6) A statement, reviewed and signed by an authorized representative of the industrial user (as defined in paragraph (F) of this rule), certifying whether categorical pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment or both, is required by the industrial user to meet the categorical pretreatment standards and requirements; and
- (7) If additional pretreatment operation and maintenance, or both, will be required to meet the categorical pretreatment standards, the shortest schedule by which the industrial user will provide such additional measures.
- (8) The schedule required by paragraph (C)(7) of this rule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executive contract for major components, commencing construction, completing construction, etc). No increment shall exceed nine months.
- (9) Not later than fourteen days following each date in the schedule required by paragraph (C)(7) of this rule and the date for final compliance with the applicable categorical pretreatment standard or standards, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

(D) Initial compliance report.

Within ninety days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to categorical pretreatment standards shall submit to the control authority a report containing the information described in paragraphs (C)(4) to (C)(6) of this rule. For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in paragraph (I) of rule 3745-3-09 of the Administrative Code, this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable

pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(E) Periodic compliance monitoring reports.

- (1) Industrial users subject to categorical pretreatment standards, except a non-significant categorical user as defined in paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit a periodic compliance monitoring report to the control authority during the months of June and December, unless required more frequently or during different months by the categorical pretreatment standard or the control authority.
- (2) For a mid-tier categorical industrial user as defined in paragraph (L) of rule 3745-3-01 of the Administrative Code, the control authority may reduce the frequency for reporting specified in paragraph (E)(1) of this rule to no less than once a year, unless required more frequently in the pretreatment standard or by the director, when the following conditions are met:
 - (a) The industrial user shall notify the control authority immediately of any changes at its facility causing it to no longer meet conditions in paragraph (L) of rule 3745-3-01 of the Administrative Code. Upon notification, the industrial user shall immediately begin complying with the minimum reporting requirement specified in the POTW's pretreatment program; and
 - (b) The control authority shall retain documentation to support its determination that an industrial user meets the definition of a mid-tier categorical industrial user in paragraph (L) of rule 3745-3-01 of the Administrative Code for a period of three years after the expiration of the control mechanism.
- (3) For categorical industrial users subject to categorical standards for electroplating (40 C.F.R. Part 413), metal finishing (40 C.F.R. Part 433), and electrical and electronic component manufacturing (40 C.F.R. Part 469), in lieu of requiring monitoring for total toxic organics (TTOs) the control authority may allow for implementation of a certified total toxic organics management plan (TOMP).
 - (a) To implement this option, a TOMP shall be submitted to the control authority for review and approval and shall include the following

information. If requested information is not applicable, an explanation shall be included in the plan.

(i) A complete inventory of all toxic organic chemicals used, generated, stored or identified through sampling and analysis of the wastewater from regulated process operations. A listing of regulated TTOs can be found in 40 C.F.R. 413, 433, and 469. Organic constituents of trade name products must be obtained from the supplier.

(ii) The identities and determinations or best estimates of approximate maximum quantities of toxic organic pollutants used in and discharged from the regulated processes. Compounds present in the wastestreams that are discharged to sanitary sewers or surface waters may be a result of regulated processes or disposal, spills, leaks, rinse waters carryover, air pollution control, and other sources.

(iii) A pollution prevention assessment for TTOs. This includes an assessment of pollution prevention options that could be implemented to minimize or eliminate the discharge of toxic organics introduced into the wastestream under current and future conditions.

(a) Pollution prevention options include, but are not limited to, the following:

(i) Material substitution;

(ii) Improved operating practices;

(iii) Technology changes; and

(iv) Recycling.

(b) Once pollution prevention options are identified, a technical and economic evaluation of viable options shall be conducted to select options, or projects that are technically and economically viable. A schedule of implementation shall be developed and a measurement system to track the implementation progress of the pollution prevention options shall be developed and revised as necessary.

(iv) A description of the methods of disposal other than discharge to wastewaters, such as reclamation, contract hauling, or incineration. A detailed description for each waste shall be included with information on how the waste is stored prior to

disposal.

(v) The procedures for ensuring that the regulated toxic organic pollutants do not spill or routinely leak into process wastewaters, floor drains, noncontact cooling water, groundwater, surface waters, sanitary sewers or any other location which allows the discharge of the compounds. These procedures shall include, but are not limited to, the following:

(a) A description of the practices to be followed, including housekeeping procedures, during the use, collection, and storage of organics. These practices shall include, but are not limited to, the following:

(i) Proper labeling and handling of containers of toxic organics;

(ii) Storing a minimal amount of organics at the site;

(iii) A centralized storage area designed and maintained to not allow leakage;

(iv) Sealing floor drains when they are in the area where toxic organics are used or stored;

(v) Overfill control equipment; and

(vi) Secondary containment system capable of holding one hundred and ten per cent of the total volume stored or the volume of the largest container, whichever is greater. The containment system shall be designed and maintained to not allow leakage;

(b) A description of the procedure that will provide routine and detailed visual inspections to ensure the absence of leaking storage containers. Visual inspections shall be conducted at least once per week;

(c) A description of how all employees are trained in the proper use, collection, and storage of all chemicals they work with; and

(d) A simple but complete floor plan showing the storage location of toxic organics prior to use, in use and toxic organic waste awaiting disposal. This plan shall include all floor drains, dikes, and containment areas in the storage facility.

(vi) A spill or leak notification plan and containment procedures. If a spill or leak containing a TTO enters the process wastewaters and discharges to a POTW or surface waters, the POTW and control authority, as applicable, shall be promptly notified within twenty-four hours of discovery. Information regarding the facility, chemicals spilled and remedial actions shall be provided in the notification. The spill or leak notification plan shall also include, at a minimum:

(a) The name of the individual responsible for implementing the TOMP;

(b) The name of the facility's emergency response coordinator;

(c) A list of agencies to be contacted during an emergency and their telephone numbers shall also be posted where organics are used and stored.

(d) A description of practices to be followed in the event of a spill or leak; and

(e) A description of equipment and supplies on site to contain and clean up spills and leaks.

(b) Initial sampling. The facility's effluent shall be sampled and analyzed for all toxic organic compounds, as indicated on the list included in the appropriate categorical standard.

(i) Samples shall be collected and analyzed in accordance with 40 C.F.R. 136, with appropriate detection levels;

(ii) The reporting form from the laboratory analyzing the samples shall be included in the TOMP;

(iii) The steps in the regulated process in which toxic organics are used must be described;

(iv) The source where toxic organics could be introduced into the wastestream besides those listed in paragraph (E)(3)(b)(iii) of this rule must be described;

(v) A flow schematic showing all of the sources and pathways where toxic organics could enter the wastestream shall be provided;

(vi) The approximate quantities of each toxic organic chemical used at each step in the regulated process must be listed; and

(vii) Evaluate any regulated TTO found in the effluent, but not on the TTO inventory list required in paragraph (E)(3)(a)(i) of this rule and determine if the TTOs are formed as reaction products or by-products or from raw materials, impurities, equipment corrosion or other sources.

(c) Certification eligibility. In order to qualify for the alternative in paragraph (E)(3) of this rule, the following criteria shall be met:

(i) The baseline analysis must show compliance with the appropriate TTO standards;

(ii) An acceptable TOMP must be submitted; and

(iii) The following certification statement must be signed by an officer of the company or manager responsible for overall plant operations, and submitted with the TOMP and each subsequent periodic compliance report:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the standard for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no discharge or dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the control authority".

(d) The control authority shall be notified if any production process is modified or if conditions change that affect the use or storage of toxic organics. The control authority may require that additional sampling be performed.

(e) Certification re-evaluation. At least every permit cycle but no longer than five years, the TOMP shall be updated and the regulated wastestream shall be sampled and analyzed for the required TTOs, or those toxic organic compounds expected to be present, unless the control authority has performed the required sampling in lieu of the facility. Industries in the electrical and electronic component manufacturing category must sample for all toxic organics included on the list in 40 C.F.R. 469.

(f) Revocation of certification eligibility. The certification eligibility may be revoked if independent sampling reveals violations or results inconsistent with the values reported by the entity for other cause.

(g) TTO monitoring shall resume upon the end or revocation of certification.

~~(3)~~(4) The periodic compliance monitoring report shall include the following:

- (a) A report indicating the nature and concentration of pollutants in the discharge that are limited by such categorical pretreatment standards;
- (b) A record of measured or estimated average and maximum daily flows for the reporting period for the discharge to the POTW, reporting the same information as called for under paragraph (C)(4) of this rule unless the control authority should require more detailed reporting of flows;
- (c) Where the control authority has imposed mass limitations on industrial users, the mass of pollutants in the discharge from the industrial user relevant to such mass limitations;
- (d) For industrial users subject to equivalent mass or concentration limits established by the control authority, a reasonable measure of the user's long-term production rate;
- (e) For industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the user's actual average production rate for the reporting period; and
- (f) In cases where the pretreatment standard requires compliance with a BMP or a pollution prevention alternative, documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user.

~~(4)~~(5) The control authority shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant noncategorical industrial users shall submit to the control authority at least once every six months (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. In cases where a local limit requires compliance with a BMP or a pollution prevention alternative, the user shall submit documentation required by the control authority to determine the compliance status of the user.

(F) The reports and certifications required by this rule shall include the certification statement in 40 C.F.R. 403.6(a)(2)(ii) and shall be signed by an authorized representative of the industrial user. An authorized representative may be:

- (1) A responsible corporate officer, if the industrial user submitting the reports required by this rule is a corporation. For the purpose of this paragraph, a "responsible corporate officer" means:
 - (a) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operation facilities, provided the manager:
 - (i) Is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and of initiating and directing other comprehensive measures, to assure long-term environmental compliance with environmental laws and regulations;
 - (ii) Can ensure that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements; and
 - (iii) Is assigned or delegated the authority to sign documents in accordance with corporate procedures.
- (2) A general partner or proprietor if the industrial user submitting the report is a partnership or sole proprietorship, respectively.
- (3) A member or manager if the industrial user submitting the report is a limited liability company;
- (4) A duly authorized representative of the individual designated in paragraph (F)(1), (F)(2) or (F)(3) of this rule if:
 - (a) The authorization is made in writing by the individual described in paragraph (F)(1), (F)(2) or (F)(3) of this rule;
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, or

a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(c) The written authorization is submitted to the control authority.

(5) If an authorization under paragraph (F)(4) of this rule is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (F)(4) of this rule shall be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

(G) Any industrial user subject to the reporting requirements established in this rule shall:

(1) Maintain records of all information resulting from any monitoring activities required by this rule. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

(b) The dates analyses were performed;

(c) Who performed the analyses;

(d) The analytical techniques or methods used; and

(e) The results of such analyses; and

(2) Retain, for a minimum of three years, any records of monitoring activities and results (whether or not such monitoring activities are required by this rule) and shall make such records available for inspection and copying by Ohio EPA, USEPA, or the POTW to which the industrial user discharges. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the director.

(H) Sampling and analysis performed in preparation of any report required by this rule shall be conducted in accordance with the following requirements:

(1) For the reports required in paragraphs (B) and (D) of this rule, a minimum of four grab samples shall be used for pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfide, and volatile organics for facilities for which

historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For all other pollutants, twenty-four-hour composite samples shall be obtained through flow-proportional composite sampling techniques, unless flow-proportional sampling is waived by the control authority. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged;

- (2) For those reports required in paragraphs (B) and (D) of this rule, unless an alternate sampling procedure is specified by the control authority, where the flow of the stream being sampled is less than or equal to nine hundred fifty thousand liters per day (approximately two hundred fifty thousand gallons per day), the user shall take three samples within a two-week period; where the flow of the stream being sampled is greater than nine hundred fifty thousand liters per day, the user shall take six samples within a two-week period;
- (3) Samples should be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastestreams are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula under paragraph (I)(1) of rule 3745-3-09 of the Administrative Code in order to evaluate compliance with the categorical pretreatment standards;
- (4) Except as otherwise provided in this rule, sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R. 136. Where 40 C.F.R. 136 does not contain sampling or analytical techniques for the pollutant in question, or where the director determines that the 40 C.F.R. 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods or other applicable sampling and analytical procedures approved by the director;
- (5) Except in the case of non-significant categorical industrial users, the sampling and analysis required in paragraphs (B), (D), and (E) of this rule may be performed by the control authority in lieu of the industrial user. Where the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certification required in paragraph (C)(6) of this rule. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report;

- (6) If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:
- (a) The control authority performs sampling at the industrial user at a frequency of at least once per month, or
 - (b) The control authority performs sampling at the user between the time when initial sampling was conducted and the time when the results of the initial sampling are received;
- (7) The reports required in paragraph (E) of this rule shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples shall be used for pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four-hour composite samples shall be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples shall be representative of the discharge and the decision to allow the alternative sampling shall be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 C.F.R. 136 and appropriate USEPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for hexavalent chromium, cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved USEPA methodologies may be authorized by the control authority, as appropriate;
- (8) For the reports required by paragraph (E) of this rule, the control authority shall

require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements;

- (9) If an industrial user subject to the reporting requirement in paragraph (E) of this rule monitors any regulated pollutant at the permitted sampling location more frequently than required by the control authority, using the procedures described in paragraph (H)(4) of this rule, the results of this monitoring shall be included in the report; and
- (10) The control authority may require an industrial user to install flow monitoring facilities, instruments, and recording devices to enable accurate measurement of flows as determined to be necessary.
- (I) All industrial users shall promptly notify the control authority and the POTW in the cases where the POTW does not have an approved pretreatment program in advance of any substantial change in the volume or character of pollutants in their discharge including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 C.F.R. 403.12(p). Significant industrial users shall notify the POTW immediately of any changes at its facility affecting potential for a slug discharge.
- (J) Annual certification by non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user pursuant to paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code shall annually submit the following certification statement, signed in accordance with the signatory requirements in paragraph (F) of this rule. This certification shall accompany any alternative report required by the POTW:
- "Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 C.F.R. [specify applicable national pretreatment standard part or parts], I certify that, to the best of my knowledge and belief, during the period from [specify month, day and year] to [specify month, day and year]:
- (1) "The facility described as [insert facility name] met the definition of a non-significant categorical industrial user as described in paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code;
 - (2) "The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
 - (3) "The facility never discharged more than one hundred gallons of total

categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information: [specify information]."

~~[Comment: "C.F.R." refers to the federal "Code of Federal Regulations," which can generally be found in public libraries, and can be viewed electronically online at <http://www.gpoaccess.gov/cfr/index.html> and purchased by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]~~

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Certification

08/30/2012

Date

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4/15/1991, 5/21/2001, 2/1/2007

3745-3-07

Trade secrets; request for confidentiality.

[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 3745-3-01 of the Administrative Code.]

- (A) Any record, report, or other information obtained under this chapter shall be available to the public, except upon a showing satisfactory to the director that all or part of such record, report, or other information, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, in which instance Ohio EPA shall consider such record, report, or other information or part thereof as confidential and administer such record, report, or other information pursuant to this rule. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. 2.302, shall not be considered confidential information and shall be available to the public without restriction. All other information that is submitted to the state or publicly owned treatment works (POTW) shall be available to the public at least to the extent provided by 40 C.F.R. 2.302.
- (B) A request for confidential treatment shall be submitted to Ohio EPA simultaneously with submission of the specific record, report, or other information with documentation sufficient to support that the record, report, or other information is confidential. Failure to make such timely request shall constitute a waiver of the right to prevent public disclosure. A request at a later time will be entertained by Ohio EPA, but Ohio EPA will not be liable for any information released prior to receiving the request.
- (C) A decision as to whether to treat the record, report, or other information as confidential shall be made by the director within forty-five days of receipt of the request and accompanying documentation. Until such decision is made, the record, report, or other information or part thereof, shall be treated as confidential. The person requesting confidentiality shall be notified in writing of the director's decision.
- (D) Any record, report or other information determined to be confidential may be disclosed, without such person's consent:
- (1) To officers, employees, or authorized representatives of the state or a federal agency;
 - (2) In any judicial proceeding; and
 - (3) In any hearing conducted by Ohio EPA.

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3745-3-09

General requirements governing application of pretreatment standards.

[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 3745-3-01 of the Administrative Code.]

- (A) The provisions of this rule provide general requirements concerning the application of pretreatment standards to industrial users.
- (B) Industrial users subject to categorical pretreatment standards shall also comply with the limits under rule 3745-3-04 of the Administrative Code - "Prohibited discharges," and with any more stringent pretreatment standards applicable under an approved POTW pretreatment program.
- (C) Existing sources that become industrial users subsequent to promulgation of an applicable national categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of a new source as defined in rule 3745-3-01 of the Administrative Code.
- (D) New sources shall comply with the pretreatment standard for new sources (PSNS) that is specified in the applicable subcategory of the national categorical pretreatment standard.
- (E) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The director or a POTW under an approved POTW pretreatment program may impose mass limitations on industrial users that are using, or attempt to use, dilution to meet applicable pretreatment standards or requirement, or in such other cases where the imposition of mass limitations is appropriate.
- (F) Pollutant discharge limits in categorical pretreatment standards are expressed either as concentration or mass limits or both. Wherever possible, equivalent mass limits are provided, and the director or a POTW may use either concentration or mass limits for enforcement purposes. Limits in categorical pretreatment standards shall apply to the effluent of the process regulated by the standard, or as otherwise specified by the standard.
- (G) Unless otherwise provided in an applicable categorical pretreatment standard, compliance with such standards shall be measured in accordance with the methods of analyses and sampling procedures specified under rule 3745-3-06 of the Administrative Code.

(H) In all cases in which a determination is sought by an industrial user concerning the applicability of a particular subcategory under the national categorical pretreatment standards, the final determination issued under 40 C.F.R. 403.6 shall control the application of the appropriate subcategory. There shall be no right or procedure implied under this chapter for industrial users or POTWs to seek such categorical determinations from the director other than through the procedures and within the requirements of 40 C.F.R. 403.6.

(I)

(1) National categorical pretreatment standards shall apply to an industrial user unless an enforceable alternative limit to the standard is applicable to the industrial user under:

- (a) 40 C.F.R. 403.7 (removal credits) to reflect the removal at a POTW of pollutants discharged by the industrial user of pollutants;
- (b) 40 C.F.R. 403.6(e) (combined wastestream formulas) to reflect the mixing prior to treatment of process effluent with wastewater other than that generated by the regulated process;
- (c) 40 C.F.R. 403.13 (fundamentally different factor variance) to reflect the existence of data and information that was not considered or available when the national categorical pretreatment standard was promulgated;
- (d) 40 C.F.R. 403.15 (net/gross calculation) to reflect the presence of pollutants in the intake water of an industrial user;
- (e) 40 C.F.R. 403.6(c)(1) to reflect the conversion of mass-based limits only into equivalent limits expressed either as mass of pollutant discharged per day or effluent concentration;
- (f) 40 C.F.R. 403.6(c)(5) to reflect the conversion of concentration-based limits only into equivalent mass-based limits; or
- (g) 40 C.F.R. 403.6(c)(6) to reflect the conversion of mass-based limits of the categorical pretreatment standards in 40 C.F.R. 414, 40 C.F.R. 419, and 40 C.F.R. 455 to concentration-based limits.

(2) In order for the alternative limit referenced in paragraph (I)(1) of this rule to be considered enforceable against an industrial user, compliance with the

alternative limit shall be required by local ordinance or contract administered under an approved pretreatment program, or by orders issued to the industrial user by the director under section 6111.03 of the Revised Code.

- (3) There shall be no right or procedure implied under this chapter for an industrial user, POTW, or any other person to seek an alternative limit to a national categorical pretreatment standard other than through the procedures and within the requirements set forth in paragraphs (I)(1) and (I)(2) of this rule.

~~[Comment: "C.F.R." refers to the federal "Code of Federal Regulations," which can generally be found in public libraries, and can be viewed electronically online at <http://www.gpoaccess.gov/cfr/index.html> and purchased by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]~~

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5/21/2001, 2/1/2007

3745-36-02 **Definitions.**

As used in this chapter:

- (A) "Act" means the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) 33 U.S.C. sections 1251 et seq. to 1387 as amended through July 1, ~~2006~~2011.
- (B) "Applicant" means any person who files for an Ohio indirect discharge permit.
- (C) "Application" means the Ohio environmental protection agency form used to apply for an Ohio individual indirect discharge permit.
- (D) "Approved pretreatment program" means a program administered by a POTW that meets the criteria established in 40 C.F.R. 403 and section 6111.032 of the Revised Code and that has been approved by the director in accordance with 40 C.F.R. 403 and section 6111.03 of the Revised Code.
- (E) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in rule 3745-3-04 of the Administrative Code. BMPs also include, but are not limited to, treatment requirements, operating procedures, and practices to control wastewater discharges, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (F) "Categorical pretreatment standard" means any standard, including national categorical pretreatment standards as defined in rule 3745-3-01 of the Administrative Code, specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by new or existing industrial users in specific industrial categories.
- (G) "Director" means the director of the Ohio environmental protection agency.
- (H) "Indirect discharge" means the introduction of pollutants into a POTW from any nondomestic source including, but not limited to, those regulated under section 307(b), (c), or (d) of the act.
- (I) "Individual indirect discharge permit" means an authorization to discharge issued by the director to a significant industrial user specifying the terms and conditions of discharge. These terms and conditions may include, but are not limited to, effluent limits, monitoring requirements, pretreatment requirements, BMPs, pollution prevention plans and any other elements as deemed necessary by the director.

(J) "Industrial user" or "user" means a source of indirect discharge.

(K) "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and
- (2) Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder:

(a) Section 405 of the act;

(b) The Solid Waste Disposal Act (SWDA) 42 U.S.C. sections 6901 et seq. to 6992 as amended through July 1, ~~2006~~2011 (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA);

(c) The standards for the use and disposal of sewage sludge (40 C.F.R. 503);

(d) The Clean Air Act (CAA) 42 U.S.C. sections 7401 et seq. to 7671 as amended through July 1, ~~2006~~2011; and

(e) The Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2601 et seq. to 2692 as amended through July 1, ~~2006~~2011.

(L) "Noncontact cooling water" means the water used to reduce temperature that does not come into contact with any raw material, intermediate product, waste product (other than heat), or finished product. Noncontact cooling water does not include any process waters or other type of wastewaters, nor is it exposed to anything but the inside of the pipe. Noncontact cooling water should be reasonably free from contaminants like metals, ammonia, organics, and total dissolved solids so that Ohio's water quality standards in Chapter 3745-1 of the Administrative Code are not violated.

~~(L)~~(M) "Ohio EPA" means the Ohio environmental protection agency.

~~(M)~~(N) "Pass through" means a discharge that exits the POTW into waters of the state in

quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, cause a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

~~(N)~~(O) "Person" means the same as defined in section 6111.01 of the Revised Code.

~~(O)~~(P) "Pollutant" means sewage, industrial waste, or other waste as defined by divisions (B) to (D) of section 6111.01 of the Revised Code.

~~(P)~~(Q) "Pollution prevention" means the use of source reduction techniques in order to reduce risk to public health, safety, and welfare and the environment and, as a second preference, the use of environmentally sound recycling to achieve these same goals. Pollution prevention avoids cross-media transfers of waste or pollutants and is multi-media in scope; it addresses all types of waste and environmental releases to the air, water, and land.

~~(Q)~~(R) "POTW" or "publicly owned treatment works" means a treatment works that is owned or operated by a public authority. This definition includes any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the public authority that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

~~(R)~~(S) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological treatment processes, by BMPs, by pollution prevention alternatives including process changes, material substitutions, improved operating practices and recycling, or by other means, except as prohibited by paragraph (E) of rule 3745-3-09 of the Administrative Code.

~~(S)~~(T) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

~~(T)~~(U) "Pretreatment standard" means a discharge limit related to pretreatment that is imposed on an industrial user by Chapter 3745-3 of the Administrative Code or by local ordinance or contract, including categorical pretreatment standards, prohibited discharge limits established pursuant to rule 3745-3-04 of the Administrative Code, and any enforceable schedule designed to achieve compliance with such limit.

~~(U)~~(V) "Significant industrial user" means, except as provided in paragraph ~~(U)~~(3)~~(V)~~(3) of this rule:

- (1) All industrial users subject to categorical pretreatment standards; and
- (2) Any other user that:
 - (a) Discharges an average of twenty-five thousand gallons per day or more of process wastewater to the POTW (process wastewater excludes sanitary, non-contact cooling and boiler blowdown wastewaters);
 - (b) Contributes a process wastestream that makes up five per cent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
 - (c) Is designated as such by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon finding that an industrial user meeting the criteria in paragraph ~~(U)~~(2)~~(V)~~(3) of this rule has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on ~~his~~the director's own initiative or in response to a petition received from an industrial user or POTW, determine that such industrial user is not a significant industrial user.

(W) "40 C.F.R." means Title 40 of the Code of Federal Regulations effective July 1, 2006~~2011~~.

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

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3745-36-03

Individual indirect discharge 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 3745-36-02 of the Administrative Code.]

- (A) Any significant industrial user, as defined in rule 3745-36-02 of the Administrative Code, is required to apply for and obtain an individual indirect discharge permit in accordance with the requirements of this chapter.
- (B) The requirement to obtain an individual indirect discharge permit in accordance with this rule or coverage under an indirect discharge permit-by-rule as specified in rule 3745-36-06 of the Administrative Code shall not apply to any industrial user that is under the regulatory jurisdiction of a POTW that has an approved pretreatment program in accordance with the provisions of Chapter 3745-3 of the Administrative Code, except in the context of an enforcement action.
- (C) Where a POTW's pretreatment program approval has been withdrawn or revoked, all significant industrial users of the POTW shall be required to apply for an indirect discharge permit no later than ninety days from the date of pretreatment program approval withdrawal or revocation.
- (D) Applications for individual indirect discharge permits.
- (1) Applications for individual indirect discharge permits shall be filed on forms prepared by and obtained from Ohio EPA and shall contain such information as Ohio EPA deems necessary.
 - (2) Any person proposing to commence the discharge of pollutants to a POTW and required to obtain an individual indirect discharge permit as a significant industrial user shall file an application at least one hundred eighty days prior to commencement of the discharge.
 - (3) Any application that fails to provide Ohio EPA with requested information needed for ascertaining compliance with applicable provisions of this chapter may be considered incomplete. Ohio EPA may either request additional information or return the application to the applicant without further processing. A written explanation of the deficiency shall accompany the application returned.
 - (4) An application submitted to the director pursuant to this chapter shall be signed as follows:
 - (a) In the case of a corporation, by a responsible corporate officer. For the

purpose of this paragraph, a "responsible corporate officer" means:

- (i) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (ii) The manager of one or more manufacturing, production, or operation facilities, provided the manager:
 - (a) Is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and of initiating and directing other comprehensive measures, to assure long-term environmental compliance with environmental laws and regulations;
 - (b) Can ensure that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements; and
 - (c) Is assigned or delegated the authority to sign documents in accordance with corporate procedures.
- (b) In the case of a partnership, by a general partner.
- (c) In the case of a sole proprietorship, by the proprietor.
- (d) In the case of a limited liability company, by an authorized member or manager.

(E) Authorization to discharge by a POTW.

- (1) A significant industrial user of a POTW shall be issued an individual indirect discharge permit only upon the written authorization of the POTW. The applicant shall obtain written authorization from the POTW and shall submit said authorization to Ohio EPA with the individual indirect discharge permit application.

- (2) The written authorization letter from the POTW to the significant industrial user shall be submitted to Ohio EPA and shall include, but not be limited to, the following information and signatory requirements:
- (a) A description of the discharge being authorized based on the industrial user's individual indirect discharge permit application;
 - (b) Any conditions set by the POTW for accepting the discharge that may include, but not be limited to, specific prohibitions or local limits and any other conditions deemed necessary by the POTW; and
 - (c) A signature by a principal executive officer or ranking elected official with the authority to bind the POTW to legal obligations, or by any other duly authorized employee if such employee is responsible for overall operation of the POTW.

(F) Criteria for issuing individual indirect discharge permits.

- (1) The director may issue an individual indirect discharge permit for the discharge if, on the basis of all information available to Ohio EPA, the director determines that:
- (a) The discharge levels comply with pretreatment requirements pursuant to Chapter 3745-3 of the Administrative Code; and
 - (b) BMPs, pollution prevention plans ~~and/or~~ monitoring to obtain required pollutant discharge information are provided for; and
 - (c) If required by Ohio EPA, performance tests, conducted at the applicant's expense after the application was filed and in accordance with methods prescribed by Ohio EPA, demonstrate that the discharge is in compliance with the authorized discharge levels pursuant to Chapter 3745-3 of the Administrative Code.
- (2) The director shall have the authority to disqualify any non-significant industrial discharger from coverage under an indirect discharge permit-by-rule or deny an application for an individual indirect discharge permit if:
- (a) The director has reason to believe that any of the following will be discharged:

- (i) Pollutants that create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty degrees ~~F~~Fahrenheit or sixty degrees ~~C~~Celsius using the test methods specified in 40 C.F.R. 261.21;
- (ii) Pollutants that will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges;
- (iii) Solid or viscous pollutants in amounts that will cause obstruction to the flow in sewers, or other interference with the operation of the POTW;
- (iv) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate or pollutant concentration as to cause interference in the POTW;
- (v) Heat in amounts that will inhibit biological activity in the POTW treatment plant resulting in interference or causing damage, but in no case heat in such quantities that the temperature exceeds forty degrees ~~C~~Celsius (one hundred four degrees ~~F~~Fahrenheit) at the POTW treatment plant unless the director, upon request of the POTW, approves an alternative temperature limit;
- (vi) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
or
- (vii) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; or

(b) The discharge will interfere with, pass through, or be incompatible with the POTW's treatment process.

(G) Renewal of individual indirect discharge permits.

- (1) Any permittee who wishes to continue to discharge after the expiration of ~~his~~the individual indirect discharge permit shall submit a complete application for renewal of the permit at least one hundred eighty days prior to ~~its~~the

expiration of the permit. Except as provided in paragraph (G)(2) of this rule, individual indirect discharge permits shall be renewed in accordance with the provisions for issuance of permits under this chapter.

- (2) An individual indirect discharge permit shall not be renewed unless the permittee is in substantial compliance with, or has substantially complied with, all of the terms, conditions, and requirements of the effective permit.

(H) Individual indirect discharge permit duration.

- (1) An individual indirect discharge permit shall be effective for a fixed term not to exceed five years.
- (2) An individual indirect discharge permit may be issued for a duration that is less than the full allowable term under this rule.

(I) Modification of individual indirect discharge permits.

- (1) The director may modify individual indirect discharge permits. When a permit is modified, only the conditions subject to modification are reopened.
- (2) The following are causes for modification of individual indirect discharge permits:
 - (a) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance and that justify the application of permit conditions that are different or absent in the existing permit;
 - (b) Information. The director has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance;
 - (c) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:
 - (i) For promulgation of amended standards or regulations, when:

- (a) The permit condition requested to be modified was based on a promulgated categorical pretreatment standard or general pretreatment standard; and
 - (b) That portion of the pretreatment standard on which the permit condition was based has been revised, withdrawn, or modified; and
 - (c) The permittee requests modification of his indirect discharge permit within ninety days of the effective date of the state action on which the request is based;
- (ii) For judicial decisions, when a court of competent jurisdiction has remanded and stayed promulgated regulations or categorical pretreatment standards, if the remand and stay concern that portion of the regulations or standards on which the permit condition was based and a request is filed by the permittee within ninety days of judicial remand;
- (d) When a permittee has received a variance under the act or pretreatment regulations;
 - (e) When required to incorporate an applicable toxic effluent standard or prohibition under section 307(a) of the act;
 - (f) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions; or
 - (g) When required by reopener conditions in a permit.
- (3) Minor modifications of individual indirect discharge permits.
- (a) Upon the consent of the permittee, the director may modify a permit to make the 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:
 - (i) Correct typographical errors;

- (ii) Require more frequent monitoring or reporting by the permittee;
 - (iii) Allow for a change in ownership or operational control of a facility where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the director;
 - (iv) Change facility name when no change of ownership has occurred.
- (4) Applications for modifications of individual indirect discharge permits at the request of the permittee shall be filed on forms prepared by and obtained from Ohio EPA and shall contain such information as Ohio EPA deems necessary.
- (5) A modification application for an individual indirect discharge permit submitted by the permittee shall be signed using the same signatory requirements required for a permit application pursuant to paragraph (D) of this rule.
- (J) Transfer of individual indirect discharge permits. An individual indirect discharge permit may be transferred by the permittee to a new owner or operator only through a minor permit modification, in accordance with paragraph (I)(3) of this rule, to identify the new permittee and to incorporate such other requirements as deemed necessary by the director to effect the transfer.
- (K) Revocation of individual indirect discharge permits. The director may revoke an individual indirect discharge permit during ~~the~~ the permit term for cause, including, but not limited to:
- (1) Noncompliance by the permittee with any terms or conditions of the permit;
 - (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
 - (3) An industrial user, holding an individual indirect discharge permit, that undergoes changes that result in them being no longer classified as a significant industrial user as defined in rule 3745-36-02 of the Administrative Code;

- (4) A determination that the permitted activity endangers human health, POTW worker safety, or the environment and can only be regulated to acceptable levels by permit revocation;
 - (5) Revocation by the POTW of the written authorization to discharge obtained pursuant to paragraph (E) of this rule;
 - (6) When the POTW is damaged or disabled and, as a result, continued discharge of wastewaters by the significant industrial user may endanger public health, damage public or private property, or cause serious environmental harm; or
 - (7) The authorized discharge has been permanently discontinued.
- (L) Applicability of rules of procedure. Indirect discharge permit applications and modification requests shall be acted upon and challenged in accordance with provisions of the "rules of procedure," ~~Chapter~~Chapters 3745-47 and 3745-49 of the Administrative Code.

~~[Comment: "C.F.R." refers to the federal "Code of Federal Regulations," which can generally be found in public libraries, and can be viewed electronically online at <http://www.gpoaccess.gov/cfr/index.html> and purchased by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]~~

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