

# For Interested Party Review – August 2011 Draft

## 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- (C) Where a POTW's pretreatment program approval has been withdrawn or revoked, all significant industrial users of the POTW shall be required to apply for an indirect discharge permit no later than ninety days from the date of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 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  $^{\circ}$ F Fahrenheit or sixty degrees  $^{\circ}$ 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 € Celsius (one hundred four degrees £ 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 permittee's 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~~the 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 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 ~~its~~ the permit's 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 3745-47 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."]~~

Effective:

R.C. 119.032 review date:

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Certification

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Date

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Rule Amplifies: R.C. 6111.03(Q), 6111.042

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