

STATE OF OHIO

Permit Program Regulating Discharge
of Nondomestic Wastewater into a POTW

Chapter 3745-36 of the ADMINISTRATIVE CODE

Most Recent Revision:

Effective May 1, 2013

Ohio Environmental Protection Agency
Division of Surface Water
Permits & Compliance Section

TABLE OF CONTENTS

OAC Rule #	Rule Title	Effective Date
3745-36-01	Purpose	2/1/2007
3745-36-02	Definitions	10/1/2012
3745-36-03	Individual indirect discharge permits	5/1/2013
3745-36-06	Indirect discharge permit-by-rule	2/1/2007

3745-36-01 **Purpose.**

- (A) The purpose of this chapter is to establish, as a part of the Ohio pretreatment program under Chapter 6111. of the Revised Code, a permit program regulating the discharge of nondomestic wastewater into a POTW to assure compliance with pretreatment standards under Chapter 3745-3 of the Administrative Code.

- (B) In accordance with section 6111.032 of the Revised Code, nothing in this chapter is intended to supersede the primacy of the POTW in the regulation of its collection system and treatment works. All local laws, regulations, and ordinances shall apply as long as these requirements are as stringent as, or more stringent than, any set forth in the pretreatment rules under Chapter 3745-3 of the Administrative Code.

Effective: 2/1/2007

R.C. 119.032 review dates: 6/7/2012 and 6/7/2017

Promulgated Under: R.C. 119.03

Statutory Authority: R.C. 6111.03(Q), 6111.042

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

Prior Effective Dates: 4/7/1988, 5/21/2001

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 to 1387 as amended through July 1, 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 to 6992 as amended through July 1, 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 to 7671 as amended through July 1, 2011; and
 - (e) The Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2601 to 2692 as amended through July 1, 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 waters quality standards in Chapter 3745-1 of the Administrative Code are not violated.
- (M) "Ohio EPA" means the Ohio environmental protection agency.
- (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).
- (O) "Person" means the same as defined in section 6111.01 of the Revised Code.

- (P) "Pollutant" means sewage, industrial waste, or other waste as defined by divisions (B) to (D) of section 6111.01 of the Revised Code.
- (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.
- (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.
- (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.
- (T) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
- (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.
- (V) "Significant industrial user" means, except as provided in paragraph (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 (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 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, 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.gpo.gov/fdsys/> and purchased by writing to: "Superintendent of Documents. Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]

Effective: 10/1/2012

R.C. 119.032 review dates: 6/7/2012 and 6/7/2017

Promulgated Under: R.C. 119.03

Statutory Authority: R.C. 6111.03(Q), 6111.042

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

Prior Effective Dates: 4/7/1988, 4/15/1991, 5/21/2001, 2/1/2007

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 3745-3-01 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 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 Fahrenheit or sixty degrees 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 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 the expiration of the permit. Individual indirect discharge permits shall be renewed in accordance with the provisions for issuance of permits under this chapter.
- (2) In renewing a permit, the director shall consider the compliance history of the permit holder and may deny the renewal if the director determines that the permit holder has not complied with the terms and conditions of the existing permit. If a permit renewal application is submitted at least one hundred eighty days prior to the expiration date of the existing permit, and the director proposes to deny the renewal of the permit in accordance with rule 3745-49-05 of the Administrative Code, the expired permit shall continue to be in effect in accordance with section 119.06 of the Revised Code until such time as the director issues a final action.

(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 3745-49 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 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," Chapters 3745-47 and 3745-49 of the Administrative Code.

Effective: 5/1/2013

R.C. 119.032 review dates: 6/7/2017

Promulgated Under: R.C. 119.03

Statutory Authority: R.C. 6111.03(Q), 6111.042

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

Prior Effective Dates: 4/7/1988, 2/28/1990, 4/15/1991, 5/21/2001, 2/1/2007, 10/1/2012

3745-36-06 **Indirect discharge permit-by-rule.**

- (A) Notwithstanding any other provision of this chapter, an industrial user shall be deemed to have an indirect discharge permit-by-rule if the industrial user meets the following conditions:
- (1) The industrial user is not a significant industrial user as defined in rule 3745-36-02 of the Administrative Code;
 - (2) The industrial user complies with all requirements in Chapter 3745-3 of the Administrative Code; and
 - (3) The industrial user is not under the regulatory jurisdiction of a POTW that has an approved pretreatment program pursuant to Chapter 3745-3 of the Administrative Code.
- (B) An industrial user that does not qualify for an indirect discharge permit-by-rule in accordance with this rule shall submit an application for an individual indirect discharge permit as specified in rule 3745-36-03 of the Administrative Code.

Effective: 2/1/2007

R.C. 119.032 review dates: 6/7/2012 and 6/7/2017

Promulgated Under: R.C. 119.03
Statutory Authority: R.C. 6111.03(Q), 6111.042
Rule Amplifies: R.C. 6111.03(Q), 6111.042
Prior Effective Dates: 4/7/1988, 5/21/2001