



## Response to Comments on Draft Rules

**Rules:** OAC Chapter 3745-3 (Pretreatment Program)  
OAC Chapter 3745-36 (Indirect Discharge Program)

### Agency Contact for this Package

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On June 7, 2012, Ohio EPA made available for review and comment eight rules regarding the surface water pretreatment and indirect discharge permit programs. This document identifies the comments and questions received during the associated comment period, which ended on July 11, 2012.

Ohio EPA reviewed and considered all comments received during the public comment periods. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the comments and questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

### OAC 3745-3-03 POTW pretreatment programs.

**Comment 1:** OAC 3745-3-03(L) Records: Pursuant to 40 CFR Section 403.12(o)(2), the records should be made available to the Director as well as the Regional Administrator (and POTW in the case of an Industrial User). The State rule only references the Director. Please revise the language to make it consistent with Federal regulation. (Kevin Pierard, U.S. EPA Region 5)

**Response 1:** The Division will consider this revision in the next rule review.

### OAC 3745-3-06 Reporting requirements for industrial users.

**Comment 2:** General Applicability 3745-3-06(E)(3). Issue: Categorical users for electroplating (40 CFR 413), metal finishing (40 CFR 433), and electrical and electronic component manufacturing (40 CFR 469), in lieu of required

monitoring, must develop and implement a toxic organics management plan (TOMP).

PRO-TEC requests supporting information as to why the agency feels these specific categories need additional regulation for total toxic organics (TTO). Not all categorical users in the referenced categories utilize toxic organics as part of their operations or in products used in the operations. As such, there would be no reason for a TOMP.

Recommended Change: PRO-TEC requests that Section (E)(3) be removed in its entirety unless the OEPA can provide definitive justification for imposing specific requirements on the referenced categorical discharge classes.

If OEPA still feels additional regulation is justified, categorical facilities under 413, 433, and 469, which demonstrate they do not use or store any TTO should default back to the requirements under (E)(1) – submit compliance monitoring report in June and December. This language would address situations where permit writers do not feel they can exclude TTO from permits when not present due categorical limitations. (B.P. Vaughn, PRO-TEC Coating Company)

**Response 2:** For comments 2-5: The Division spoke with a company representative from Pro-Tec on July 10<sup>th</sup> about the comments made about the inclusion of the TOMP language in the pretreatment rules. The company was under the impression that the TOMP was to be done with sampling for TTOs. It was explained that the company would only have to submit a TOMP if they choose not to perform TTO sampling. It was also explained that the language that was added to the rules is the same language that was in the TOMP policy. The company was satisfied with the explanation and was told that there would be no changes to the proposed rules.

**Comment 3:** Pollution Prevention Assessment 3745-3-06(E)(3)(a)(iii). Issue: The referenced section requires categorical users to conduct a pollution prevention assessment for Total Toxic Organics (TTO). The assessment is to include “an assessment of pollution prevention options that could be implemented to minimize or eliminate the discharge of toxic organics introduced into the waste stream under current and future conditions.” [emphasis added]

A pollution prevention assessment should first determine whether additional controls or management practices are necessary before developing a list of solutions. If a facility has demonstrated that its current program is effective, by means of avoiding or minimizing spills, then it should be allowed to account for these already implemented controls and

management practices. Additional implementation would then not be necessary.

Recommended Change: Revise language in referenced section to read, (iii) A pollution prevention assessment for TTOs. This will include an assessment of pollution prevention options already implemented. If permittee demonstrates existing pollution prevention program is effective, permittee shall insure existing program is maintained. If facility pollution prevention program is deficient or no program exists, the pollution prevention assessment will include an assessment of options that could be implemented to minimize or eliminate the discharge of toxic organics introduced into the waste streams, as follows. (B.P. Vaughn, PRO-TEC Coating Company)

**Response 3:** Please see the response to comment 2, above.

**Comment 4:** Spill Prevention Requirements 3745-3-06(E)(3)(a)(v). Issue: The referenced section requires categorical users to describe procedures and practices to be followed to ensure 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 discharge of the compounds.

These requirements are redundant with numerous other regulatory obligations for tank management, chemical inventory, and hazardous waste handling that already require mapping, tank labeling, inspection, secondary containment, overfill protection, and employee training. Requiring another management plan that requires permittees to track redundant information only leads to documentation errors with no tangible improvement in the effectiveness of the management program.

Recommended Change: Since all the requirements under this section are covered by the other applicable regulatory requirements, PRO-TEC recommends removing section (v) in its entirety or at least allowing the permittee to reference the other plans and programs in the TOMP. (B.P. Vaughn, PRO-TEC Coating Company)

**Response 4:** Please see the response to comment 2, above.

**Comment 5:** Spill Notification Requirements 3745-3-06(E)(3)(a)(vi). Issue: The referenced section requires categorical users to develop a spill or leak notification plan. This requirement is also redundant for facilities required to have a facility response plan, where emergency responders and agency listings are already defined. Again, this requirement for TTO only adds additional potential for documentation errors and paperwork with minimal benefit.

Recommended Change: Since all the requirements under this section are covered by other applicable regulatory requirements, PRO-TEC recommends removing section (vi) in its entirety or at least allowing the permittee to reference the other plans and programs in the TOMP. As an alternative, facilities can add TTO to the corresponding response plans, as appropriate. (B.P. Vaughn, PRO-TEC Coating Company)

**Response 5:** Please see the response to comment 2, above.

**End of Response to Comments**