

STATE OF OHIO

Industrial Discharges to Publicly Owned Treatment Works
(Pretreatment Rules)

Chapter 3745-3 of the ADMINISTRATIVE CODE

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

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3745-3-01 Definitions.

As used in this chapter:

(A)

- (1) "Act" means the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) 33 U.S.C. sections 1251 to 1387.
- (2) "Administrator" means the administrator of the United States environmental protection agency.
- (3) "Approved POTW pretreatment program" or "POTW pretreatment program" or "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.

(B) "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 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(C)

- (1) "Categorical industrial user" means an industrial user subject to categorical pretreatment standards.
- (2) "Categorical pretreatment standard" means any national pretreatment standard specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by new or existing industrial users in specific subcategories, promulgated by the administrator in accordance with section 307 of the act and established under 40 C.F.R. chapter I, subchapter N.
- (3) "Control authority" means one of the following:
 - (a) The POTW, if it is administering an approved pretreatment program.
 - (b) Ohio EPA, if the POTW is not administering an approved pretreatment program.
- (4) "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.

(D) "Director" means the director of the Ohio environmental protection agency or the director's duly authorized representative.

(E) [Reserved.]

(F) [Reserved.]

(G) [Reserved.]

(H) "Historical data" means data that are more than five years old.

(I)

(1) "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.

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

(3) "Interference" means a discharge, that alone or in conjunction with a discharge or discharges from other sources, results in either of the following:

(a) Inhibits or disrupts the POTW, the POTW's treatment processes or operations, or the POTW's sludge processes, use or disposal.

(b) Causes 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 all of the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations):

(i) Section 405 of the act.

(ii) The Solid Waste Disposal Act (SWDA) 42 U.S.C. sections 6901 to 6992 (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).

(iii) The standards for the use and disposal of sewage sludge (40 C.F.R. 503, and Chapter 3745-40 of the Administrative Code).

(iv) The Clean Air Act (CAA) 42 U.S.C. sections 7401 to 7671.

(v) The Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2601 to 2692.

(J) [Reserved.]

(K) [Reserved.]

(L) "Local limits" means limits on industrial users, developed by a POTW, that are technically based on site-specific factors to protect the POTW's operations from interference and pass through and to ensure that the POTW's discharges comply with state and federal requirements. Local limits may be expressed as numerical values, narrative statements, best management practices, or a combination of these. Local limits are considered pretreatment

standards upon approval by the Ohio EPA.

- (M) "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 following conditions:
- (1) The industrial user's total categorical wastewater flow does not exceed 0.01 per cent of any of the following:
 - (a) 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) The design dry weather organic treatment capacity of the POTW.
 - (c) 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 amount of 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 (G)(1) and (G)(6) 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 Ohio EPA's or the POTW's program modification request submitted to the director, and one of the following:
 - (a) The Ohio EPA's or the POTW's approved long term control plan.
 - (b) The Ohio EPA's or the POTW's approved combined sewer system operation plan implementing the nine minimum controls.
- (N)
- (1) "National pretreatment standard" means any regulation of the U.S. EPA, 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.
 - (2) "New source" means any of the following:

- (a) 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 one of the following applies:
 - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located.
 - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source.
 - (iii) 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.
- (b) 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 (N)(2)(a)(ii) or (N)(2)(a)(iii) of this rule, but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has done any of the following:
 - (i) Begun, or caused to begin as part of a continuous onsite construction program in either of the following ways:
 - (a) Any placement, assembly, or installation of facilities or equipment.
 - (b) 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.
 - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in the 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.
- (3) "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 types of wastewaters, nor is the water 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 discharge of noncontact cooling water to the POTW does not result in any of the following:

- (a) An exceedance of Ohio's water quality standards in Chapter 3745-1 of the Administrative Code.
 - (b) Interference with the operation of the POTW.
 - (c) Pass through of the POTW.
- (4) "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, noncontact cooling, and boiler blowdown wastewater, unless specifically included in the categorical pretreatment standard) and all of the following conditions are met:
- (a) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements.
 - (b) The industrial user annually submits the certification statement required in paragraph (I) of rule 3745-3-06 of the Administrative Code together with any additional information necessary to support the certification statement.
 - (c) The industrial user never discharges any untreated concentrated wastewater.
 - (d) The industrial user's discharge does not result in pass through or interference of the POTW.
 - (e) The industrial user is not located upstream of a combined sewer overflow or a sanitary sewer overflow, unless the industrial user does not discharge wastewater regulated by categorical pretreatment standards at any time, or the following conditions are met:
 - (i) 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.
 - (ii) 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 Ohio EPA's or the POTW's program modification request submitted to the director, and one of the following:
 - (a) The Ohio EPA's or the POTW's approved long term control plan.
 - (b) The Ohio EPA's or the POTW's approved combined sewer system operation plan implementing the nine minimum controls.

- (5) "NPDES permit" means a 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.
- (O) "Ohio EPA" means the Ohio environmental protection agency.
- (P)
- (1) "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).
- (2) "Person" means person as defined in section 6111.01 of the Revised Code.
- (3) "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.
- (4) "Pollutant" means sewage, industrial waste or other waste as defined by divisions (B) to (D) of section 6111.01 of the Revised Code.
- (5) "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. Pollution prevention addresses all types of waste and environmental releases to the air, water, and land.
- (6) "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.
- (7) "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.
- (8) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user or POTW.
- (9) "Pretreatment standard" means a discharge limit related to pretreatment that is imposed on an industrial user through regulations promulgated by U.S. EPA in accordance with section 307(b) and (c) of the act, by this chapter, by local ordinance, or control mechanism. This term includes all of the following:
- (a) Categorical pretreatment standards.

- (b) Prohibited discharges established pursuant to rule 3745-3-04 of the Administrative Code.
 - (c) Local limits developed by the POTW and approved by Ohio EPA.
 - (d) Any enforceable schedule designed to achieve compliance with limits in paragraphs (P)(9)(a) to (P)(9)(c) of this rule.
 - (10) "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.
 - (11) "Process wastewater pollutants" means pollutants present in process wastewater.
 - (12) "PSES" means categorical pretreatment standards for existing sources.
 - (13) "PSNS" means categorical pretreatment standards for new sources.
 - (14) "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.
 - (15) "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 owns or operates the POTW and that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (Q) [Reserved.]
- (R) [Reserved.]
- (S)
- (1) "Significant industrial user" means any of the following, except as provided in paragraph (S)(1)(c) of this rule:
 - (a) Any industrial user subject to categorical pretreatment standards, except the industrial users considered non-significant categorical industrial users, as defined in paragraph (N) of this rule.
 - (b) Any other industrial user that meets one of the following:
 - (i) 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).

- (ii) 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.
 - (iii) 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.
- (c) Upon finding that an industrial user designated as a significant industrial user for meeting the criteria in paragraph (S)(1)(c) 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 the control authority's 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.
- (2) "Significant noncompliance" means the same as defined in paragraph (C)(2)(h) of rule 3745-3-03 of the Administrative Code.
- (3) "Slug discharge" or "slug load" means 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.
- (T) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, building sewer connected directly to treatment works, incinerator, or other works used for the purpose of treating, stabilizing, blending, composting, or holding sewage, sludge, sludge materials, industrial waste, or other wastes, except as otherwise defined.
- (U) "U.S. EPA" means the United States environmental protection agency.
- (V) [Reserved.]
- (W)
 - (1) "Water quality standards" means the regulations in Chapter 3745-1 of the Administrative Code.
 - (2) "Waters of the state" means waters of the state as defined in section 6111.01 of the Revised Code.
- (X) [Reserved.]
- (Y) [Reserved.]
- (Z) [Reserved.]
- (AA) Incorporation by reference. The text of the incorporated materials is not included in the rules contained in this chapter. The materials are hereby made a part of this chapter. For

materials subject to change, only the version specified in this rule is incorporated. Any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new version.

- (1) Availability. The materials incorporated by reference are available as follows:
- (a) Code of federal regulations (C.F.R.). Information and copies may be obtained by writing to: "U.S. Government Publishing Office Bookstore, 710 North Capitol Street N.W., Washington, D.C. 20403." The full text of the C.F.R. is also available in electronic format at <http://www.gpoaccess.gov/cfr/>. The C.F.R. compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."
 - (b) Federal statutes. The full text is available in electronic format at <http://www.gpo.gov/fdsys>. These laws are also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (2) Incorporated materials.
- (a) Appropriate "Federal Statutes." The statutes listed in this rule are those versions of the laws amended through July 1, 2017, including the following:
 - (i) Solid Waste Disposal Act (SWDA), 42 U.S.C. sections 6901 to 6992.
 - (ii) Clean Air Act (CAA), 42 U.S.C. sections 7401 to 7671.
 - (iii) Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2601 to 2692.
 - (iv) Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), 33 U.S.C. sections 1251 to 1387.
 - (v) Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 to 6992.
- (3) Appropriate "Code of Federal Regulations." As used in this chapter "40 C.F.R." means Title 40 of the Code of Federal Regulations as amended through July 1, 2017.

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3745-3-02 Purpose and applicability.

- (A) The purpose of this chapter is to establish as part of a state pretreatment program under Chapter 6111. of the Revised Code, enforceable state requirements and standards regulating the introduction of pollutants into POTWs by industrial users.
- (B) This chapter has the following objectives:
 - (1) To prevent the introduction of pollutants into POTWs that will do either of the following:
 - (a) Interfere with the operation of a POTW, including interference with the use or disposal of the POTW's sludge.
 - (b) Pass through the POTW or otherwise be incompatible with such works.
 - (2) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.
- (C) The provisions of this chapter apply to all of the following:
 - (1) Pollutants from non-domestic sources covered by pretreatment standards that are indirectly discharged into, or transported by truck or rail or otherwise introduced into a POTW administering an approved pretreatment program. Pollutants introduced into a POTW that is not administering an approved pretreatment program are regulated under Chapter 3745-36 of the Administrative Code.
 - (2) POTWs that receive wastewater from sources subject to pretreatment standards.
 - (3) Any new or existing source subject to pretreatment standards discharging to a POTW administering an approved pretreatment program. Any new or existing source subject to pretreatment standards discharging to a POTW that is not administering an approved pretreatment program is regulated under Chapter 3745-36 of the Administrative Code. Pretreatment standards do not apply to sources connected to a sewer that is neither connected to a POTW, nor discharging directly into a POTW.
- (D) In accordance with section 6111.032 of the Revised Code, nothing in this chapter shall be interpreted to prevent the director or a POTW from imposing additional or more stringent requirements or standards on any industrial user pursuant to applicable provisions of law. All local laws, regulations, and ordinances shall apply as long as these requirements are as stringent as, or more stringent than, any requirement set forth in this chapter.

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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 a 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 Ohio EPA does not exercise the option to assume local responsibilities as the control authority where any of the following apply:
- (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.
 - (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 determines that such a program is necessary to prevent interference or pass through. The director shall consider and base the determination on any of the following:
 - (a) The nature or volume of the indirect discharges.
 - (b) The number, nature, or frequency of violations of effluent limitations contained in the POTW's NPDES permit.
 - (c) The nature, frequency, or duration of POTW treatment process upsets.
 - (d) The actual or potential for contamination of municipal sludge.
 - (e) Whether the indirect discharges are subject to categorical pretreatment standards.
 - (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 all of 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, 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 take all of the following actions:

- (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 the 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 (S) 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 all of the following:
 - (i) A statement of duration (in no case more than five years).
 - (ii) If determined by the POTW 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 rule 3745-3-04 of the Administrative Code, categorical pretreatment standards, local limits, and state and local law.
- (iv) Requirements for all of the following:
 - (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 rule 3745-3-04 of the Administrative Code, categorical pretreatment standards, local limits, state, and local law.
 - (b) Reporting.
 - (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 the POTW's 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 forgo 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 all of the following conditions:
- (i) The POTW 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 paragraph (F)(1) of rule 3745-3-06 of the Administrative Code. Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the U.S. EPA approved analytical method from 40 C.F.R. 136 with the lowest method detection limit for that pollutant was used.
 - (iv) The POTW shall include any monitoring waiver as a condition in the industrial user's control mechanism. However, the control mechanism shall still contain a monitoring schedule for the situation described in paragraph (C)(1)(d)(vii) of this rule.
 - (v) The reasons supporting any monitoring waiver and any information submitted by the user in the request for the waiver shall be maintained by the POTW 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 POTW, the industrial user shall certify on each periodic compliance monitoring report required by paragraph (E)(1) 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)(1) of rule 3745-3-06 of the Administrative Code."

- (vii) The POTW shall include provisions within the control mechanism which addresses a situation where 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. In this situation, the user shall be required to immediately meet both of the following:
 - (a) Notify the POTW in writing.
 - (b) Comply with the monitoring requirements specified in the POTW's pretreatment program and control mechanism, as required by paragraphs (C)(1)(c)(iv) and (C)(1)(d)(iv) of this rule.
- (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 paragraphs (J) to (M) 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 6111.05 of the Revised Code.
- (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.

- (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.

- (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 do all of the following:

- (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 to 6992. Within thirty days of approval of a list of industrial users pursuant to paragraph (C)(6) of this rule, notify each significant industrial user of the 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 per year, except as follows:
- (i) Where the POTW has authorized the industrial user subject to a categorical pretreatment standard to forgo 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 (N) 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 (M) 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. Additional significant industrial users shall be evaluated within one year of being identified as a significant industrial user. The results of slug discharges shall be made available to the director upon request. If the POTW or Ohio EPA decides that a slug control plan is needed, the plan shall contain, at a minimum, all of 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.
- (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. A POTW is not required to provide this public notice if there were no industrial users in significant noncompliance at any time during the previous twelve months. For the purposes of this provision, an industrial user is in significant noncompliance if the 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 the 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 in paragraph (P) 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 the POTW's 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.
 - (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 technically supported 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 upon approval by Ohio EPA.
- (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 detail the following, 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.
 - (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 the POTW's industrial users, as defined in rule 3745-3-01 of the Administrative Code. The list shall conform to both of the following:
- (a) Identify the criteria in paragraphs (S)(1)(a) and (S)(1)(b) 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 one of the following:

- (i) Paragraphs (N)(4) and (S)(1)(c) of rule 3745-3-01 of the Administrative Code that such industrial user should not be considered a significant industrial user.
 - (ii) Paragraph (M) 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 the 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 shall meet all of the following requirements:
 - (i) Have the same or substantially similar types of operations.
 - (ii) Discharge the same types of wastes.
 - (iii) Require the same effluent limitations.
 - (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 the user's contact information, the user's 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.

(8) The POTW shall maintain records of all information resulting from any monitoring activities, regardless of whether such monitoring activities were required by this chapter, including documentation associated with BMPs. Such records shall be retained for a minimum of three years and shall include the following 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 the analyses were performed.

(c) The name and address of the laboratory that performed the analyses.

(d) The analytical techniques or methods used.

(e) The results of such analyses.

(9) In addition to the requirements in paragraph (C)(8) of this rule, the POTW shall retain all of the following for a minimum of three years:

(a) Any reports submitted by an industrial user pursuant to this chapter of the Administrative Code.

(b) Any documentation of industrial user inspections.

(c) Any record of communications pertaining to compliance with the pretreatment program.

(10) A POTW that chooses to receive electronic documents is required to satisfy the requirements in 40 C.F.R. part 3.

(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 Chapters 3745. and 119. of the Revised Code, and Chapters 3745-47 and 3745-49 of the Administrative Code.

(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 identify all of the following:

- (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).
 - (iii) Identify how the POTW intends to ensure compliance with pretreatment standards and requirements, and how 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 the 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.
- (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 paragraph (D)(1) of this rule.
- (1) The POTW shall submit a pretreatment program modification request to the director for any modification to the POTW's pretreatment program at least forty-five days prior to when it is to be implemented by the POTW.
- (a) At a minimum, a pretreatment program modification request shall contain the following:
 - (i) A statement of the basis for the desired modification.
 - (ii) The portions of the approved program being proposed for modification and the proposed changes.
 - (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 any of the following:

- (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 directly reflect a revision to this chapter, or 40 C.F.R. chapter I, subchapter N, 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 of conditions within the POTW's control mechanism, as described in paragraph (C)(1)(c) of this rule, except for modification that directly reflects a revision to this chapter or 40 C.F.R. chapter I, subchapter N.
- (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 (N) 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 (M) of rule 3745-3-01 of the Administrative Code.
- (j) A request for authorization to issue general control mechanisms, as described in paragraph (C)(7) of this rule.
- (k) A request for authorization to implement a monitoring waiver, as described in paragraph (C)(1)(d) of this rule. A request for this authorization is not required when implementing a monitoring waiver allowed by an applicable categorical

pretreatment standard.

- (l) A request for authorization to implement enforceable alternative limits, excluding the wastestream formula, as defined in paragraph (I) of rule 3745-3-09 of the Administrative Code.
- (m) Any other modification designated as a substantial modification by the director on the basis that the modification could result in any of the following:
 - (i) A significant impact on the operation of the POTW's pretreatment program.
 - (ii) An increase in pollutant loadings at the POTW.
 - (iii) Less stringent requirements being imposed on industrial users of the POTW.
- (3) Nonsubstantial modifications include both of the following:
 - (a) Any modification that is not a substantial modification, as described in paragraph (E)(2) of this rule.
 - (b) Any modification to correct typographical errors.
- (F) Approval procedures for substantial modifications.
 - (1) The director shall approve or disapprove the modification based on the requirements in paragraph (C) of this rule, and using the procedures in Chapters 3745. and 119. of the Revised Code, and Chapters 3745-47 and 3745-49 of the Administrative Code. The modification shall become effective upon approval by the director.
 - (2) 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 the director's 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 determines that such a program is no longer necessary. Prior to revoking a program, the director shall consider and base the determination on all of the following:
 - (1) The nature or volume of indirect discharges.

- (2) The number, nature, or frequency of violations of POTW effluent limitations contained in the POTW's 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.
 - (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.
- (1) These reports shall be signed by a principal executive officer, ranking elected official or other duly authorized employee. The duly authorized employee shall be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization shall be made in writing by the principal executive officer or ranking elected official, and submitted to the director prior to or together with the report being submitted.
 - (2) These reports shall be maintained in accordance with paragraphs (C)(8) to (C)(10) of this rule.
 - (3) The director may require, as an NPDES permit condition or otherwise, electronic submittal of these reports using information systems compatible with those of Ohio EPA.
- (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) 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 the treatment works or sewerage system.
- (1) In performing the review and final action on permits to install for indirect discharges by industrial users of the 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 the 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 (L) 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.

(M) POTWs administering an approved pretreatment program shall retain all records of pretreatment program modification requests, pretreatment program submissions, and control mechanisms and pollution prevention alternatives (i.e. slug control plan, toxic organic management plan) for as long as these documents are effective. Outdated versions of these documents shall be maintained for at least three years after the date on which the documents became ineffective. These documents are considered ineffective if relevant portions of the pretreatment program have been replaced with a revised document or if the document is no longer applicable. The POTW shall make such records available for inspection and copying by the director. The period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the director.

Effective:	2/1/2019
Five Year Review (FYR) Dates:	11/1/2018 and 02/01/2024
Promulgated Under:	119.03
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Rule Amplifies:	6111.03(P), 6111.042
Prior Effective Dates:	11/01/1984 (Emer.), 01/31/1985, 04/07/1988, 02/28/1990, 04/15/1991, 10/31/1994, 05/21/2001, 02/01/2007, 10/01/2012

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 sixty degrees Celsius (one hundred forty degrees Fahrenheit), 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 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 Celsius (one hundred four degrees Fahrenheit) at the POTW treatment plant unless the director, upon request of the POTW, approves an alternate temperature limit.
 - (6) Petroleum oil, non-biodegradable 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.
 - (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) In cases where pollutants contributed by an industrial user may result or have resulted in interference or pass through of the POTW and such violation is likely to recur, the director may 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 BMPs and specific technically supported effluent limits for an industrial 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.

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3745-3-05 Notification of potential problems, including slug loading.

- (A) All industrial users discharging to a POTW administering an approved pretreatment program shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loading, as defined in paragraph (S) of rule 3745-3-01 of the Administrative Code. The industrial user shall immediately notify the POTW upon discovery of any slug load by completing the following:
- (1) If the discharge is to a POTW administering an approved POTW pretreatment program, the industrial user shall follow the notification procedure specified in the POTW's approved pretreatment program.
 - (2) If the discharge is to a POTW that is not administering an approved pretreatment program, the industrial user shall notify the POTW and Ohio EPA and provide all of the following information:
 - (a) A description of the discharge and the cause of the slug loading.
 - (b) The period of slug loading including exact dates and times and, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (c) The steps taken or planned to reduce, eliminate and prevent recurrence of the slug loading.
 - (3) Within five business days of the date that the slug load occurred, a written report containing the information required by paragraph (A)(2) of this rule shall be filed with the POTW. If Ohio EPA is the control authority, the industrial user shall also submit this report to the appropriate district office of Ohio EPA within the same time period.
- (B) The control authority may require industrial users to develop a slug control plan, pursuant to paragraph (C)(2)(f) of rule 3745-3-03 of the Administrative Code.
- (C) A significant industrial user determined by the control authority to need a slug control plan shall maintain posted signs in conspicuous places that are acceptable to the control authority, advising employees whom to call in the event of a slug load discharge. The signs shall instruct all employees who may cause or discover such a discharge with respect to the notification procedure required by this rule.

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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) Categorical industrial users are required to submit to the control authority a baseline report, as described in paragraph (C) of this rule. The baseline report shall include the following contents, as applicable, and be submitted to the control authority by the corresponding deadline:

(a) Existing industrial users subject to such categorical 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)(8) of this rule. The industrial user shall submit this information to the control authority within one hundred eighty days after the effective date of a 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.

(b) 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)(6) of this rule at least ninety days prior to commencement of discharge. 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, fundamentally different factor variance, or the combined wastestream formula under paragraph (I)(1) of rule 3745-3-09 of the Administrative Code, at the time the user submits the baseline report the information required by paragraphs (C)(6) and (C)(7) 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 the baseline report, any necessary amendments to the information requested by paragraphs (C)(6) and (C)(7) of this rule shall be submitted by the user to the control authority within sixty days after the modified limit is approved.

(C) The baseline report required by paragraph (B) of this rule shall contain all of 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 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 both of the following:
 - (a) Regulated process streams.
 - (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) Measurement of pollutants.
 - (a) The user shall identify the pretreatment standards applicable to each regulated process.
 - (b) The user shall submit 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.
 - (c) The user shall take a minimum of one representative sample from each sampling location, as approved by the control authority, to comply with the requirements of this paragraph.
 - (d) Sampling and analyses shall be performed in accordance with paragraph (G) of this rule.
 - (e) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis.
 - (f) 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) A statement, reviewed, signed, and certified by an authorized representative of the

industrial user, as defined in paragraph (F) of this rule, certifying that the information reported is representative of normal work cycles and expected pollutant discharges to the POTW.

- (7) A statement, reviewed, signed, and certified by an authorized representative of the industrial user, as defined in paragraph (F) of this rule, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance, or additional pretreatment is required by the industrial user to meet the pretreatment standards and requirements.
- (8) 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. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- (9) The schedule required by paragraph (C)(8) 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.
- (10) Not later than fourteen days following each date in the schedule required by paragraph (C)(8) 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 compliance with the increment of progress has been met on such date and, if not, the date on which compliance with this increment of progress is expected, 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)(7) 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) Significant industrial users subject to pretreatment standards 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. The periodic compliance monitoring report shall include all of the following information:
 - (a) A report indicating the nature and concentration of the pollutants in the discharge that are limited by applicable categorical pretreatment standards and pollutants required by the control authority.
 - (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 categorical 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.
 - (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.
 - (g) For industrial users granted a monitoring waiver by the control authority, the periodic compliance report shall include the signed certification requirements specified in paragraph (C)(1)(d) of rule 3745-3-03 of the Administrative Code, as well as the certification requirements specified in paragraph (F) of this rule.
- (2) For a mid-tier categorical industrial user as defined in paragraph (M) 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 per year, unless required more frequently in the pretreatment standard, by the control authority, or by the director. If the control authority includes this condition within an industrial user's control mechanism, both of the following conditions shall be met:
 - (a) The industrial user shall notify the control authority immediately of any changes at the facility causing the user to no longer meet conditions in paragraph (M) 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.

- (b) The control authority shall retain documentation to support the determination that an industrial user meets the definition of a mid-tier categorical industrial user in paragraph (M) 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) as follows:
 - (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 shall 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.
 - (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.
 - (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.
 - (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 by the industrial user 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, the following:

- (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.
 - (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, as follows:
- (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 shall be described.
 - (iv) The source where toxic organics could be introduced into the wastestream besides those referenced in paragraph (E)(3)(b)(iii) of this rule shall 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 shall be listed.
 - (vii) Evaluate any regulated TTO found in the effluent, other than those in 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 shall show compliance with the appropriate TTO standards.
 - (ii) An acceptable TOMP shall be submitted to the control authority.

- (iii) The following certification statement shall 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, and the POTW, as applicable, 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. To continue implementation of the alternate TTO monitoring, the industrial user shall submit an updated TOMP to the control authority for review and approval in accordance to the procedures described under the pretreatment program.
- (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.
- (g) TTO monitoring shall resume upon the end or revocation of certification.
- (F) The reports and certifications required by this rule shall include the following certification statement and shall be signed by an authorized representative of the industrial user, as follows:
- (1) "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- (2) An authorized representative may be any of the following:
- (a) 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 one of the following:
- (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-making or decision-making functions for the corporation.

- (ii) The manager of one or more manufacturing, production, or operation facilities, provided the manager meets all of the following:
 - (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.
 - (c) Is assigned or delegated the authority to sign documents in accordance with corporate procedures.
 - (b) A general partner or proprietor if the industrial user submitting the report is a partnership or sole proprietorship, respectively.
 - (c) A member or manager if the industrial user submitting the report is a limited liability company.
 - (d) A duly authorized representative of the individual designated in paragraph (F)(2)(a), (F)(2)(b), or (F)(2)(c) of this rule if all of the following apply:
 - (i) The authorization is made in writing by the individual described in paragraph (F)(2)(a), (F)(2)(b), or (F)(2)(c) of this rule.
 - (ii) 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.
 - (iii) The written authorization is submitted to the control authority.
 - (e) If an authorization under paragraph (F)(2)(d) 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)(2)(d) 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) Sampling and analysis performed in preparation of any report required by this rule shall be conducted in accordance with all of the following:
- (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 requirement of fewer grab samples. 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) Samples should be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. If the wastewaters regulated by categorical standards mix with other wastestreams 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.
- (3) 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.
- (4) 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 all of the following apply:
 - (a) The user will not be required to submit the compliance certification statement required in paragraph (C)(6) of this rule;
 - (b) The industrial user will not be required to submit the report if the POTW solely collects all of the information required for the report.
 - (c) These sampling and analysis results do not include the annual monitoring required in paragraph (C)(2)(e) of rule 3745-3-03 of the Administrative Code.
- (5) Resampling of a violation. Unless paragraph (G)(5)(c) of this rule applies, repeat sampling and analysis shall be performed within thirty days after the industrial user or control authority becomes aware of the violation. The responsible party for resampling is determined by the following:
 - (a) 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.

- (b) If sampling and analysis performed by the control authority under paragraph (G)(4) of this rule or paragraph (C)(2)(e) of rule 3745-3-03 of the Administrative Code indicates a violation, the control authority shall perform the repeat sampling and analysis unless the control authority notifies the user of the violation and requires the user to perform the repeat analysis.
- (c) Resampling is not required if either of the following apply:
 - (i) The control authority performs sampling at the industrial user at a frequency of at least once per month.
 - (ii) 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.
- (6) The reports required in paragraphs (B), (D), and (E) of this rule shall be conducted in accordance with all of the following:
 - (a) The reports 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.
 - (b) The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
 - (c) Grab samples shall be used for pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds.
 - (d) 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.
 - (e) 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.
 - (f) Using protocols (including appropriate preservation) specified in 40 C.F.R. 136 and appropriate U.S. EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows:
 - (i) For hexavalent chromium, cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field.
 - (ii) For volatile organics and oil and grease the samples may be composited in the laboratory.

- (iii) Composite samples for other parameters unaffected by the compositing procedures as documented in approved U.S. EPA methodologies may be authorized by the control authority, as appropriate.
- (7) 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.
- (8) 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 (G)(3) of this rule, the results of this monitoring shall be included in the report.
- (9) 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.
- (H) 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). Industrial users shall notify the POTW immediately of any changes at the facilities affecting potential for a slug discharge.
- (I) Annual certification by non-significant categorical industrial users. In addition to the certification statement in paragraph (F)(1) of this rule, a facility determined to be a non-significant categorical industrial user pursuant to paragraph (N) 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. The following certification shall accompany any 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 (N) of rule 3745-3-01 of the Administrative Code.
 - (2) The facility complied with all applicable pretreatment standards and requirements during this reporting period.
 - (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]."
- (J) All industrial users subject to this rule shall retain records of all information resulting from

any monitoring activities, regardless of whether such monitoring activities were required by the control mechanism, including documentation associated with BMPs. Such records shall be retained for a minimum of three years and shall include the following for all samples:

- (1) The date, exact place, method and time of sampling and the names of the person or persons taking the samples.
 - (2) The dates that the analyses were performed.
 - (3) The name and address of the laboratory that performed the analyses.
 - (4) The analytical techniques or methods used.
 - (5) The results of such analyses.
- (K) In addition to the requirement of paragraph (J) of this rule, any industrial user subject to this rule shall retain all of the following for a minimum of three years:
- (1) Any reports submitted to the POTW pursuant to this chapter.
 - (2) Any documentation of industrial user inspections.
 - (3) Any record of communications pertaining to compliance with the pretreatment program.
- (L) Industrial users subject to this rule shall retain all control mechanisms and pollution prevention alternatives (e.g. slug control plan, toxic organic management plan) for as long as these documents are effective and for at least three years after the date on which these documents become ineffective. These documents are considered ineffective if replaced with a revised document or if the document is no longer applicable to the industrial user.
- (M) Industrial users shall make the records described in paragraphs (J) to (L) of this rule available for inspection and copying by the POTW and the Ohio EPA. The period of retention described in paragraphs (J) to (L) of this rule shall be extended during the course of any unresolved litigation regarding the discharge of pollutants or the operation of the POTW pretreatment program or when requested by the director.

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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 control authority 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 the control authority 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 in 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 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 the control authority 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 the control authority, but the control authority 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 control authority 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 control authority's decision.
- (D) Any record, report, or other information determined to be confidential may be disclosed, without such person's consent in any of the following circumstances:
 - (1) To officers, employees, or authorized representatives of the state or a federal agency.
 - (2) In any judicial proceeding.
 - (3) In any administrative hearing.

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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 pretreatment standards shall 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 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 categorical pretreatment standard.
- (E) Except where expressly authorized to do so by an applicable categorical 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 administering 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 requirements, 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. When equivalent mass limits are provided, the control authority 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 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) Enforceable alternative limits.

- (1) Categorical pretreatment standards shall apply to an industrial user unless an enforceable alternative limit to the standard is applicable to the industrial user under any of the following regulations:
 - (a) 40 C.F.R. 403.7 (removal credits) to reflect the POTW's removal of pollutants discharged by the industrial user of pollutants.
 - (b) 40 C.F.R. 403.6(e) (combined wastestream formulas) to reflect a situation where process effluent is mixed 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 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 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 into equivalent mass-based limits.
 - (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 categorical pretreatment standard other than through the procedures and within the requirements set forth in paragraphs (I)(1) and (I)(2) of this rule.

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