



Ohio Administrative Code Rule 3745-36-02 Definitions.

Effective: February 1, 2019

As used in this chapter:

- (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) "Applicant" means any person who files for an Ohio individual indirect discharge permit.
 - (4) "Application" means the Ohio environmental protection agency form used to apply for an Ohio individual indirect discharge permit.
 - (5) "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 3745-36-04 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.
- (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 which may be discharged to a



POTW by existing or new industrial users in specific industrial subcategories, promulgated by the administrator in accordance with section 307 of the act and established under 40 C.F.R. chapter I, subchapter N.

(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.

(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) "Individual indirect discharge permit" means an authorization to discharge issued by the director to a significant industrial user or non-significant categorical industrial user specifying the terms and conditions of discharge. These terms and conditions may include, but are not limited to, effluent limits, monitoring requirements, pretreatment requirements, and requirements for BMPs, pollution prevention plans and any other elements as deemed necessary by the director.

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

(4) "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 dischargers comply with state and federal requirements. Local limits may be expressed as numerical values, narrative statements or best management practices, or a combination of these.

(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 director may determine is subject to a reduction in the user's reporting requirement, upon satisfaction of all 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 (gpd), 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 and approved by Ohio EPA.

(2) The industrial user has not been in significant noncompliance, as defined in this rule, 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 paragraph (B) of rule 3745-36-08 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 one of the following:

(a) The POTW's or Ohio EPA's approved long term control plan.

(b) The POTW's or Ohio EPA's approved combined sewer system operation plan implementing the nine minimum controls.

(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. The 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 waters 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 director 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 director'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 (F)(3) of rule 3745-36-10 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 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 one of the following:

(a) The POTW's or Ohio EPA's approved long term control plan.

(b) The POTW's or Ohio EPA'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.

(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 (F) of rule 3745-36-09 of the Administrative Code.

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

(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 individual indirect discharge permit. This term



includes all of the following:

- (a) Categorical pretreatment standards.
- (b) Prohibited discharges established pursuant to rule 3745-36-04 of the Administrative Code.
- (c) Local limits developed by the POTW and approved by the 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.]

(1) "Significant industrial user" means either of the following, except as provided in paragraph (S)(1)(c) of this rule:

(a) Any industrial user subject to categorical pretreatment standards, except 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 director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) Upon finding that an industrial user designated as a significant industrial user for meeting the criteria in paragraph (S)(1)(b)(iii) of this rule has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on the director's own initiative or in response to a petition received from an industrial user or POTW, determine that such industrial user is not a significant industrial user.

(2) "Significant noncompliance" for a non-significant industrial user means a violation meets any of the criteria in paragraph (S)(2)(c), (S)(2)(d), or (S)(2)(h) of this rule. Significant noncompliance for a significant industrial user means a violation of any of the following criteria:



- (a) 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.
- (b) 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).
- (c) Any other violation of a pretreatment standard or requirement as defined in this rule (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the director 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).
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment, or has resulted in the director's exercise of emergency authority to halt or prevent such a discharge.
- (e) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in the individual indirect discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- (f) 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 director.
- (g) Failure to accurately report noncompliance.
- (h) Any other violation or group of violations, including a violation of BMPs, that the director determines adversely affects the operation of the POTW.



(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.]

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

(2) "Waters of the state" means the 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.