



Ohio Administrative Code

Rule 3745-36-10 Alternative conditions specific to categorical industrial users.

Effective: February 1, 2019

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules and federal statutory provisions referenced in this rule, see rule 3745-36-02 of the Administrative Code.]

(A) Categorical industrial users shall comply with the requirements in rules 3745-36-08 and 3745-36-09 of the Administrative Code, and any alternative condition described in this rule that has been approved by Ohio EPA and incorporated into the categorical industrial user's indirect discharge permit or the director's written approval.

(B) Categorical industrial users may apply for reduced reporting or monitoring requirements, or alternative limits as follows:

(1) The categorical industrial user shall first submit the initial compliance report as described in paragraph (A) of rule 3745-36-09 of the Administrative Code, or a periodic compliance report as described in paragraph (B) of rule 3745-36-08 of the Administrative Code.

(2) The categorical industrial user shall submit a formal request to Ohio EPA for the approval of an alternative condition initially and prior to each subsequent renewal of such condition. The request shall include the information described in paragraphs (D) to (H) of this rule, as applicable, and the certification statement in paragraph (C)(1) of rule 3745-36-08 of the Administrative Code, and shall be signed by an authorized representative, as defined in paragraph (C)(2) of rule 3745-36-08 of the Administrative Code.

(3) Alternative conditions described in paragraphs (D) to (H) of this rule may only be implemented and enforced through the following methods, as applicable:

(a) Renewal of modification of an individual indirect discharge permit that includes alternative conditions described in paragraphs (D), (E), (F), and (H) of this rule.



(b) Renewal or modification of an individual indirect discharge permit or the director's written approval for the alternative condition described in paragraph (G) of this rule.

(4) Conditions described in this rule may only be authorized by Ohio EPA for the duration of the indirect discharge permit, but in no case longer than five years.

(5) Industrial users implementing any of the alternative conditions described in paragraphs (D) to (H) of this rule shall maintain compliance with the records retention requirements described in paragraphs (F) to (I) of rule 3745-36-08 of the Administrative Code. In addition, the industrial user shall maintain both of the following for a minimum of three years after the date on which they become ineffective:

(a) Documentation of all requests to implement an alternative condition described in paragraphs (D) to (H) of this rule, regardless of whether Ohio EPA approved the request.

(b) Any records which demonstrate compliance with the applicable alternative conditions described in paragraphs (D) to (H) of this rule.

(6) Industrial users implementing any of the alternative conditions described in paragraphs (D) to (H) of this rule shall maintain compliance with the notification requirements described in rule 3745-36-05 of the Administrative Code.

(C) Removal, revocation, or modification of alternative conditions:

(1) At any time, the director may remove, revoke, or modify alternative conditions described in paragraphs (D) to (H) of this rule through the following actions, as applicable:

(a) Remove, revoke, or modify an alternative condition described in paragraph (D), (E), (F) or (H) of this rule from an individual indirect discharge permit.

(b) Revoke the director's written approval of the TTO monitoring alternative described in paragraph (G) of this rule, or remove, revoke, or modify the TTO monitoring alternative from an individual



indirect discharge permit.

(2) The director's decision to remove, revoke, or modify an alternative condition in accordance with paragraph (C)(1) of this rule may be based on:

(a) Noncompliance by the permittee with any terms or conditions of this rule or the individual indirect discharge permit.

(b) The industrial user's failure to disclose information in any application, or the industrial user's misrepresentation of facts.

(c) A categorical industrial user undergoes changes that result in the user no longer being classified as a categorical industrial user.

(d) Ohio EPA finds that the industrial user's discharge no longer meets the requirements for the applicable alternative conditions.

(D) Monitoring waivers. Ohio EPA may authorize an industrial user subject to at least one 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. This reduction in sampling may only be authorized by Ohio EPA 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:

(1) Ohio EPA 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.

(2) 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. 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.

(3) Upon Ohio EPA's approval of the monitoring waiver and implementation of the industrial user's individual indirect discharge permit, the industrial user shall certify on each periodic compliance monitoring report required by paragraph (A) of rule 3745-36-08 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 (A) of rule 3745-36-08 of the Administrative Code."

(4) In the event that 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, the user shall immediately meet both of the following:

(a) Notify Ohio EPA in writing.

(b) Comply with the monitoring requirements specified in the categorical pretreatment standards and the provisions of the individual indirect discharge permit.

(5) The provision for a monitoring waiver does not relieve the industrial user of any other certification processes and requirements established by Ohio EPA or in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(E) Mid-tier categorical industrial user. For a mid-tier categorical industrial user as defined in rule 3745-36-02 of the Administrative Code, Ohio EPA may reduce the frequency for the periodic compliance reports described in paragraph (A) of rule 3745-36-08 of the Administrative Code to no less than once per year, unless required more frequently in the pretreatment standard or by the director.



(1) The industrial user shall submit a request to Ohio EPA for a determination of the user's status as a mid-tier categorical industrial user which shall include documentation that the industrial user meets all of the criteria of a mid-tier categorical industrial user. This request shall be signed in accordance with paragraph (C) of rule 3745-36-08 of the Administrative Code, and include the certification statement in paragraph (C)(1) of rule 3745-36-08 of the Administrative Code.

(2) The industrial user shall notify Ohio EPA immediately of any changes at the facility causing the user to no longer meet the definition of a mid-tier categorical industrial user in rule 3745-36-02 of the Administrative Code. Upon notification, the industrial user shall immediately begin complying with the minimum reporting requirement specified in paragraph (A) of rule 3745-36-08 of the Administrative Code.

(3) In accordance with paragraphs (F) to (I) of rule 3745-36-08 of the Administrative Code, the industrial user shall retain documentation to support its compliance with the definition of a mid-tier categorical industrial user in rule 3745-36-02 of the Administrative Code. The industrial user shall maintain these records for a period of three years after the expiration of the individual indirect discharge permit.

(F) Non-significant categorical industrial users. For a non-significant categorical industrial user as defined in rule 3745-36-02 of the Administrative Code, Ohio EPA may reduce or remove sampling requirements from the indirect discharge permit.

(1) The industrial user shall submit a request to Ohio EPA for a determination of the user's status as a non-significant categorical industrial user which shall include documentation that the industrial user meets all of the criteria of a non-significant categorical industrial user, as defined in rule 3745-36-02 of the Administrative Code. This request shall be signed in accordance with paragraph (C) of rule 3745-36-08 of the Administrative Code, and include the certification statement in paragraph (C)(1) of rule 3745-36-08 of the Administrative Code.

(2) The industrial user shall notify Ohio EPA immediately in writing of any changes at the facility causing the user to no longer meet the definition of a non-significant categorical industrial user in rule 3745-36-02 of the Administrative Code. The director's determination of a significant industrial user may be made for any of the reasons described in paragraph (C) of this rule.



(3) Facilities determined by Ohio EPA to be a non-significant categorical industrial user shall annually submit the following certification statement, signed by an authorized representative, as defined in paragraph (C) of rule 3745-36-08 of the Administrative Code. Except for the periodic compliance report described in paragraph (A) of rule 3745-36-08 of the Administrative Code, this certification shall be accompanied by any additional reports required by Ohio EPA, if any:

"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]:

(a) The facility described as [insert facility name] met the definition of a non-significant categorical industrial user as defined in rule 3745-36-02 of the Administrative Code.

(b) The facility complied with all applicable pretreatment standards and requirements during this reporting period.

(c) 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]."

(G) Total toxic organic monitoring. The Ohio EPA may allow the implementation of a certified total organics management plan (TOMP) in lieu of requiring monitoring for total toxic organics (TTOs). The implementation of a certified TOMP is only applicable to 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).

(1) To implement this option, a TOMP shall be submitted to Ohio EPA for review and approval and shall include all of the following information. If the requested information is not applicable, an explanation shall be included in the plan.

(a) 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.

(b) 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.

(c) 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 wastewater under current and future conditions.

(i) Pollution prevention options include, but are not limited to, the following:

(a) Material substitution.

(b) Improved operating practices.

(c) Technology changes.

(d) Recycling.

(ii) 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.

(d) 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.



(e) 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:

(i) 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:

(a) Proper labeling and handling of containers of toxic organics.

(b) Storing a minimal amount of organics at the site.

(c) A centralized storage area designed and maintained to not allow leakage.

(d) Sealing floor drains when they are in the area where toxic organics are used or stored.

(e) Overfill control equipment.

(f) 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.

(ii) 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.

(iii) A description of how all employees are trained in the proper use, collection, and storage of all chemicals they work with.

(iv) 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.



(f) 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 Ohio EPA 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:

(i) The name of the individual responsible for implementing the TOMP.

(ii) The name of the facility's emergency response coordinator.

(iii) A list of agencies to be contacted during an emergency and their telephone numbers shall also be posted where organics are used and stored.

(iv) A description of practices to be followed in the event of a spill or leak.

(v) A description of equipment and supplies on site to contain and clean up spills and leaks.

(2) 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.

(a) Samples shall be collected and analyzed in accordance with 40 C.F.R. 136, with appropriate detection levels.

(b) The reporting form from the laboratory analyzing the samples shall be included in the TOMP.

(c) The steps in the regulated process in which toxic organics are used shall be described.

(d) The source where toxic organics could be introduced into the wastestream besides those referenced in paragraph (G)(2)(c) of this rule shall be described.

(e) A flow schematic showing all of the sources and pathways where toxic organics could enter the wastestream shall be provided.



(f) The approximate quantities of each toxic organic chemical used at each step in the regulated process shall be listed.

(g) An evaluation of any regulated TTO found in the effluent other than those in the TTO inventory list required in paragraph (G)(1)(a) of this rule. The evaluation shall state if the TTOs are formed as reaction products or by-products or from raw materials, impurities, equipment corrosion or other sources.

(3) Certification eligibility. In order to qualify for the alternative in paragraph (G) of this rule, the following criteria shall be met:

(a) The baseline analysis shall show compliance with the appropriate TTO standards.

(b) An acceptable TOMP shall be submitted to Ohio EPA.

(c) The certification statement in paragraph (C)(1) of rule 3745-36-08 of the Administrative Code, signed by an authorized representative of the industrial user, as defined in paragraph (C)(2) of rule 3745-36-08 of the Administrative Code.

(d) The following certification statement shall be signed by an authorized representative of the industrial user, as defined in paragraph (C)(2) of rule 3745-36-08 of the Administrative Code 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 Ohio EPA."

(4) Ohio EPA and the POTW shall be notified if any production process is modified or if conditions change that affect the use or storage of toxic organics. Ohio EPA may require that additional sampling be performed.



(5) Certification re-evaluation. To continue implementation of the alternate TTO monitoring, the industrial user shall update the TOMP at least every permit cycle and at intervals no longer than five years. In addition, within twelve months of requesting re-evaluation, the industrial user shall conduct the initial sampling requirements described in paragraph (G)(2) of this rule. The industrial user shall submit the sampling results and updated TOMP to Ohio EPA for review and approval. A copy of this submittal shall also be sent to the POTW.

(6) 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 or for any of the reasons described in paragraph (C) of this rule.

(7) TTO monitoring shall resume upon the end or revocation of certification.

(H) 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.

(b) 40 C.F.R. 403.6(e) (combined wastestream formulas) to reflect a situation where process effluent is mixed prior to treatment 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 (H)(1) of this rule to be considered enforceable, compliance with the alternative limit shall be required by the individual indirect discharge permit 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, 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 (H)(1) and (H)(2) of this rule.

(4) Categorical industrial users shall comply with the limits under rule 3745-36-04 of the Administrative Code, and with any more stringent pretreatment standards, including local limits.