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# MONTGOMERY

C O U N T Y

MCWS

## MONTGOMERY COUNTY WATER SERVICES PRETREATMENT PROGRAM ENFORCEMENT RESPONSE PLAN

This Enforcement Response Plan (ERP) has been developed to comply with requirements contained in 40 CFR 403, the General Pretreatment Regulations, as promulgated at 55FR 30082, July 24, 1990. This ERP is intended to outline, in a step-by-step fashion, the procedures which will be followed by County staff to identify, document, and respond to pretreatment violations. The ERP provides guidance in selecting enforcement actions, indicates staff responsibilities, and specifies appropriate time frames in which to take enforcement actions.

The ERP is divided in five (5) sections. They are:

1. Primary Enforcement Responsibility of POTW
2. Key Personnel
3. Compliance Monitoring Protocol
4. Compliance Data Screening & Management
5. Enforcement Response Guide

## **1. PRIMARY ENFORCEMENT RESPONSIBILITY OF POTW**

The Montgomery County Board of County Commissioners own, operate and maintain two (2) Publicly Owned Treatment Works (POTW's). The Western Regional POTW is located in Moraine and West Carrollton, Ohio with a design treatment capacity of 20 million gallons per day (MGD). The Eastern Regional POTW is located in Kettering, Ohio, with a design flow of 13 MGD. Both POTW's have an approved Municipal and Industrial Pretreatment Program (MIPP). The MIPP is administered through Water Services, Water Reclamation Group.

The Commission asserts its primary responsibility to adequately enforce all applicable pretreatment regulations and requirements onto nondomestic sewer users and industrial users which discharge wastewaters to either POTW through the Pretreatment Program's Rules and Regulations. In as much, the Commission has the authority to:

1. Control through permit the contribution of pollutants from Significant Industrial Users (SIU's) to the POTW's;
2. Require SIU's to comply with all applicable pretreatment regulations;
3. Deny or condition new or increased contribution of pollutants from SIU's to the POTW's;
4. Require the development of compliance schedules of SIU's so that the SIU's may attain compliance with regulations in the shortest feasible time;
5. Require SIU's to submit self monitoring or other appropriate reports to assess or insure compliance with pretreatment regulations;

6. Carry out inspections and compliance procedures (sampling) at SIU's in order to independently determine if SIU's are in compliance with pretreatment regulations;
7. Obtain remedies for noncompliance from SIU's.

In order to ensure compliance by SIU's of pretreatment regulations, the Commission has the authority to develop and implement procedures to:

1. Identify and locate all possible SIU's which may be subject to pretreatment regulations;
2. Identify the character and volume of pollutants discharged to the POTW by the SIU's;
3. Notify SIU's of all applicable pretreatment regulations;
4. Receive and analyze self monitoring and other reports from SIU's;
5. Randomly sample and analyze discharges from the SIU's, which go to the POTW's;
6. Investigate instances of noncompliance by SIU's of pretreatment regulations;
7. Publish an annual list of SIU's which have met the conditions of significant noncompliance (SNC) as defined in the Rules and Regulations.

## **2. KEY PERSONNEL**

The following personnel will be responsible for certain types of enforcement actions which will be used by Montgomery County when SIU's non-compliances are documented.

### The Board of County Commissioners will:

- issue, modify, and revoke SIU's discharge permits
- determine sewer and water use rate
- publish SIU's name in newspaper for significant non compliance

### The County Prosecuting Attorney will:

- be legal representative for Commission
- act on behalf of Commission, seeks civil/criminal penalties
- review changes to appropriate sewer use regulations
- may represent Water Services during petition or judicial hearings

#### The Director of Water Services:

- recommends civil/criminal penalties to Commission
- authorizes sewer/water service terminations
- authorizes referral of IU SIU's significant noncompliance cases to Ohio EPA
- is able to issue all actions listed under Deputy Director, Manager, or MIPP Coordinator

#### The Deputy Director, Water Services

(acts in the absence of the Director)

- recommends civil/criminal penalties to Commission
- authorizes sewer/water service terminations
- authorizes referral of IU SIU's significant noncompliance cases to Ohio EPA
- is able to issue all action listed under Manager and MIPP Coordinator

#### The Manager of Wastewater Treatment Group

- issues Administrative Orders (AO's) and Compliance Schedules
- approves of administrative fines and prohibited discharge surcharges
- is able to issue all actions listed under MIPP Coordinator

#### The MIPP Coordinator:

- reviews Notice of Violations (NOV's)
- issues NOV's
- recommends AO's and fines, issues fines and prohibited discharge surcharges
- notifies SIU's of noncompliance by phone call or by correspondence
- performs inspections of SIU's
- coordinates sampling of SIU's; reviews self monitoring data
- develops compliance schedules for issuance by Manager
- maintains data management system used for compliance tracking

#### The Laboratory Manager

- will oversee the analysis of samples examined at the Montgomery County Environmental Laboratory
- will, if requested, assist in interpretation of data

### **3. COMPLIANCE MONITORING PROTOCOL**

MIPP personnel will routinely and randomly collect samples of SIUs discharges to ascertain compliance or noncompliance with applicable pretreatment regulations,

including compliance with discharge limitations and other discharge permit requirements.

The Montgomery County MIPP Section will collect representative samples in accordance with appropriate sampling protocol, which includes using clean sampling equipment, proper types of collection vessels, proper preservation techniques, and appropriate investigative techniques. All sample collection will conform to 40 CFR 136 requirements.

MIPP personnel will, when requested to do so by prior notice, supply a portion of wastewater samples collected to the SIU. Under normal operations, collected samples will be delivered to an appropriate lab (usually the Montgomery County Environmental Laboratory) where the sample will be logged in and a chain of custody completed by the person delivering the sample in accordance with EPA regulations. All analyses are to conform to protocols contained in 40 CFR 136.

Once all the analyses have been completed and the results recorded, the Lab Manager will sign-off on the form and forward a copy to the MIPP Coordinator for data review. A separate copy will be retained by the Lab Manager for secondary filing.

#### **4. COMPLIANCE DATA SCREENING & MANAGEMENT:**

Once a completed Chain-of-Custody form is received by the MIPP Coordinator, the data will be reviewed and compliance (or noncompliance) ascertained. If noncompliance is found, the enforcement action will be determined using the Enforcement Response Guide as contained in this ERP along with any other enforcement actions which may be available to Montgomery County. The criteria used to help in determining what enforcement action, if any, will be taken are:

- type, severity and frequency of the noncompliance
- number of violations cited
- duration of the violation
- impact of the violation on the POTW and environment (e.g. whether the violation caused pass through or interference)
- whether the violation threatened human health
- whether the SIU derived economic benefit or savings from the noncompliance
- the compliance history of the SIU
- whether the SIU is making good faith efforts to restore compliance
- other policy considerations that might normally be involved in an enforcement decision

The following enforcement actions will be utilized by Montgomery County in enforcing pretreatment violations and non-compliances. Each action has been abbreviated for easy reference in the Enforcement Response Guide (Section 5 of the ERP). For appropriate definitions, please reference the Definition section in the Municipal Industrial Pretreatment Program Rules and Regulations:

- 1) AO = Administrative Order
- 2) CS = Compliance Schedule
- 3) EPA = Referral to Ohio EPA for further enforcement
- 4) F = Administrative Fine
- 5) JA = Judicial Action (civil/criminal penalty)
- 6) NOV = Notice of Violation
- 7) PC = Phone Call
- 8) PN = Publication in newspaper (refer to SNC)
- 9) ST = Service Termination (water and/or sewer)
- 10) SNC = Significant non compliance
- 11) M = Meeting
- 12) E= Email Contact

The following time frames will usually be followed so that enforcement actions will be issued on a timely basis:

Phone call: SIUs contacted within 2 working days of MIPP Coordinator's knowledge of violation

NOV: issued within 10 working days of MIPP Coordinator's knowledge of violation

#### Compliance

Schedule: issued within 20 working days of Manager receiving recommendation from MIPP Coordinator

#### Administrative

Fine: issued within 30 working days of Manager receiving recommendation from MIPP Coordinator

The data from the analytical results will be retained on file.

## **5. ENFORCEMENT RESPONSE GUIDE**

The following matrices list several types of noncompliance, the circumstances surrounding each type of noncompliance, and a range of enforcement responses which may be utilized by Montgomery County as authorized in Montgomery County's Pretreatment Rules and Regulations. Montgomery County reserves the right to utilize any enforcement action available, including civil or criminal actions in any court of competent jurisdiction. For the purposes of this ERP, significant noncompliance of an SIU will be defined as follows (Also contained in definition section of Rules of Regulations):

Significant industrial user is in significant noncompliance if its violations meet one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter taken during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits, as defined by 40 CFR 403.3(l).
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Director of Water Services 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 to the environment, or has resulted in the Director of Water Services to exercise emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the Director of Water Services determines will adversely affect the operation or the implementation of the local pretreatment program.

## ENFORCEMENT RESPONSE GUIDE

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSES
<b>SAMPLING, MONITORING, AND REPORTING</b>		
Failure to sample, monitor or report as required (e.g. failed to submit report on time)	isolated or infrequent	PC, M, NOV
	SIU does not respond to NOV; does not follow through on verbal or written agreements	AO, F, ST
Failure to notify of slug discharge or discharge limit violation	isolated or infrequent no known effect on POTW	PC, M, NOV, AO, F
	continued non-compliance or SIU in SNC	AO, F, CS, PN, ST, JA
	known environmental or POTW damage	AO, F, JA, ST PN, EPA
Sampling, monitoring or reporting deficiencies (e.g. reports data using wrong forms)	minor or infrequent	PC, M, NOV, resubmit corrections
	continued or remains uncorrected or SNC	AO, F, JA, PN, ST
Knowingly reporting of false information	any instance	F, JA, ST, EPA

<b>NONCOMPLIANCE</b>	<b>CIRCUMSTANCES</b>	<b>RANGE OF RESPONSES</b>
<b>COMPLIANCE SCHEDULES</b>		
Missed date	will not affect final date, less than 30 days late	NOV, M
	will affect final date, more than 30 days late (no good reason)	NOV, AO, F, EPA
	pattern of missed dates	F, JA, ST, EPA
<b>DISCHARGE PERMIT VIOLATION AND BEST MANAGEMENT PRACTICES (BMP) VIOLATION</b>		
Exceedance of permit limitation (e.g. exceeds copper limitation) or Best Management Practices Violation	isolated	PC, M, NOV, F, E
	2nd similar violation in preceding 12 months	PC, M, NOV, AO, F
	causes pass through or interference	NOV, AO, F, JA, ST, EPA, M
	Significant Noncompliance	AO, F, PN, ST, M
	recurring, endangers human health	F, PN, ST, EPA
Violation of permit condition (e.g. SIU fails to resample when violation is noted)	isolated	PC, NOV, AO, F, M
	recurring	AO, F, JA, ST, PN
	failure to reapply for permit	AO, F, ST, PN

<b>NONCOMPLIANCE</b>	<b>CIRCUMSTANCES</b>	<b>RANGE OF RESPONSES</b>
<b>VIOLATIONS DETECTED DURING INSPECTIONS</b>		
Entry denial	entry denied; copies of records denied	AO, F, JA, ST, EPA
Unauthorized discharge	no interference to POTW no inhibition to treatment	AO, F, M, PN
	interference to POTW inhibition to treatment	AO, F, JA, ST, PN, EPA
	evidence of intent/negligence	AO, F, JA, ST, EPA
	recurring, violation of AO	F, JA, ST, EPA
Improper sampling	sampling at incorrect location; unintentional	PC, M, NOV
	using incorrect sample; techniques; unintentional	PC, M, NOV
	recurring; negligence	AO, F, JA, EPA
Inadequate recordkeeping	files incomplete or information missing; no evidence of intent	PC, M, NOV
	recurring	AO, F, PN, M, EPA
Failure to report all data data	inspection reveals other data	NOV, AO, F
	recurring	AO, F, JA, ST, PN