



MONTGOMERY

C O U N T Y

ENVIRONMENTAL SERVICES

MONTGOMERY COUNTY ENVIRONMENTAL SERVICES
PRETREATMENT PROGRAM
ENFORCEMENT RESPONSE PLAN

REVISED: 8.3.18-DS

This Enforcement Response Plan (ERP) has been developed the Montgomery County Environmental Services Pretreatment Program with the intention 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 as follows:

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 Environmental Services / Water Reclamation Division / Environmental Laboratory.

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. Inasmuch, 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 / 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 Environmental Services during petition or judicial hearings

The Director of Environmental Services (acts as a representative of the Board of County Commissioners)

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

The Assistant Director, Environmental Services (acts in the absence of the Director)

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

The Environmental Lab Manager

- oversees the analysis of samples examined at the Montgomery County Environmental Laboratory
- will, if requested, assist in interpretation of data
- coordinates sampling of SIU's
- 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 Environmental Monitoring Coordinator:

- reviews data for Notice of Violations (NOV's)
- issues NOV's
- issues modifications to SIU's discharge permits
- 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
- reviews self-monitoring data
- develops compliance schedules for issuance by Lab Manager
- maintains data management system used for compliance tracking

COMPLIANCE MONITORING PROTOCOL

Environmental technician staff 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.

Environmental technicians 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.

Environmental technicians, when requested to do so by prior notice, will supply a split portion of wastewater samples collected to the SIU. Under normal operations, field 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.

4. COMPLIANCE DATA SCREENING & MANAGEMENT:

Once the analytical data and chain-of-custody forms are received by the Environmental Monitoring Coordinator, the data will be reviewed to determine compliance or noncompliance. If noncompliance is found, the enforcement action will be determined using the Enforcement Response Guide as contained in section 5 of 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, listed in ascending order of enforcement, 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. For more detailed information on enforcement action, see Montgomery County's Pretreatment Rules and Regulations:

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

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

Email/

Phone Call: SIUs contacted within 2 working days of Environmental Coordinator's confirmation of violation

NOV: Issued within 15 working days of Environmental Coordinator's confirmation of violation

Compliance

Schedule: Issued within 20 working days of Environmental Lab Manager's receiving recommendation from Environmental Coordinator

Administrative

Fine: Issued within 30 working days of receiving an NOV from the Environmental Coordinator or, when applicable, with the next regularly scheduled surcharge after the NOV has been received

All data will be retained on file for a minimum of three years.

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, SNC of an SIU will be defined as follows:

A SIU shall be considered in SNC if its violations meet one or more of the following criteria (as specified in Montgomery County's Pretreatment Rules):

A. Chronic violations of wastewater discharge limits, defined here as those cases where sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter at any permitted monitoring point during a six- (6-) month period exceed (by any amount) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined by 40 CFR 403.3(1);

B. Technical Review Criteria (TRC) violations, defined here as those cases where thirty-three percent (33%) or more of the measurements taken for the same pollutant parameter at any permitted monitoring point during a six- (6-) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by CFR 403.3(1), multiplied by the applicable TRC (the TRC is 1.4 for BOD, TSS, FOG, 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(1), including Daily Maximum, Long-term Average, Instantaneous Limits, as well as narrative standards that the Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, or has otherwise endangered 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 caused the Director to exercise emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days after the specified date, a compliance schedule milestone for starting construction, completing construction, or attaining final compliance as set forth in an Individual Discharge Permit or a General Permit or an enforcement order;

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 implementation schedules, and progress reports on compliance schedule implementation;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), including a violation of Best Management Practices, which [the Director determines will adversely affect the implementation of the County's pretreatment program.

ENFORCEMENT RESPONSE GUIDE
SAMPLING / MONITORING / REPORTING VIOLATION(S)

<u>Non-compliant Issue</u>	<u>Circumstances / Occurrences</u>	<u>Range of Responses</u>
<p>Failure to sample, monitor or report as required. i.e. failure to submit a self-monitoring report or accidental discharge report on time</p>	<p>Isolated or infrequent. SIU does not respond to NOV/ does not follow through on verbal or written agreements.</p>	<p>EM, PC, NOV, F, M M, F, EPA, AO, ST</p>
<p>Failure to notify Pretreatment Office of (1) slug discharge or (2) discharge limit violation.</p>	<p>Isolated or infrequent, no known impact on POTW.</p>	<p>EM, PC, NOV, F, M, AO</p>
<p>SNC.</p>	<p>Continued non-compliance Known environmental or POTW damage.</p>	<p>NOV, F, AO, CS, PN, EPA, ST, JA NOV, F, AO, PN, EPA, ST, JA,</p>
<p>Sampling, monitoring or reporting deficiencies. i.e. using incorrect reporting format, using wrong units or transcription errors on self-monitoring reports</p>	<p>Minor or infrequent. Continued or remains uncorrected or SNC.</p>	<p>EM, PC - (revised report submittal may be required) NOV, F, M, AO, PN, ST, JA</p>
<p>Knowingly reporting false information. or Denial of timely entry to facility for county monitoring</p>	<p>Any occurrence.</p>	<p>NOV, F, M, SNC, PN, EPA, ST, JA,</p>

**ENFORCEMENT RESPONSE GUIDE
COMPLIANCE SCHEDULE VIOLATION(S)**

<u>Non-compliant Issue</u>	<u>Circumstances / Occurrences</u>	<u>Range of Responses</u>
Missed date.	Does not affect final date, less than 30 days late.	EM, PC, NOV, M
	Does affect final date, greater than 30 days late (inadequate reason).	NOV, F, M, AO, EPA
	Pattern of missed reporting dates.	NOV, F, M, AO, SNC, PN, EPA, ST, JA

DISCHARGE PERMIT VIOLATION(S)

<u>Non-compliant Issue</u>	<u>Circumstances / Occurrences</u>	<u>Range of Responses</u>
Exceedance of permit limit. i.e. metals violation	Isolated.	EM, PC, NOV, F
	Multiple similar violations in preceding 12 months.	EM, PC, NOV, F, M, AO
	Results in pass through or interference.	NOV, F, M, AO, EPA ST, JA
	Results in SNC.	NOV, F, M, AO, PN, EPA, ST
	Re-occurring endangers human health.	NOV, F, M, AO, CS, SNC, PN, EPA, ST, JA
Violation of permit condition. i.e. SIU fails to re-sample for a parameter violation	Isolated.	EM, PC, NOV, F
	Re-occurring.	NOV, F, AO, CS, PN, EPA, ST

ENFORCEMENT RESPONSE GUIDE
VIOLATION(S) DETECTED DURING INSPECTIONS

<u>Non-compliant Issue</u>	<u>Circumstances / Occurrences</u>	<u>Range of Responses</u>
Denial of timely entry.	Entry denied or significantly delayed / records request denied.	NOV, F, M, AO, EPA ST, JA
Unauthorized discharge.	<p>No interference noted at POTW No inhibition to treatment.</p> <p>Interference or pass-through at POTW. Inhibition to treatment.</p> <p>Evidence of intent / negligence.</p> <p>Re-occurring or violation of AO.</p>	<p>NOV, F, M, AO</p> <p>NOV, F, M, AO, SNC, PN, EPA ST, JA</p> <p>F, SNC, PN, EPA, ST, JA</p> <p>F, SNC, PN, EPA ST, JA</p>
Improper sampling.	<p>Sampling at an incorrect location – unintentional.</p> <p>Using inappropriate sampling techniques – unintentional.</p> <p>Re-occurring or negligent.</p>	<p>NOV, F, M</p> <p>NOV, F, M</p> <p>NOV, F, M, AO, CS, SNC, PN, EPA ST, JA</p>
Inadequate record keeping.	<p>Files incomplete, inaccurate or missing information – no evidence of intent.</p> <p>Re-occurring or negligent.</p>	<p>NOV, F, M</p> <p>NOV, F, M, AO, CS, SNC, PN, EPA ST, JA</p>
Failure to report all data.	<p>Inspection reveals other data.</p> <p>Re-occurring or intentional.</p>	<p>NOV, F, M, AO</p> <p>NOV, F, M, AO, CS, SNC, PN, EPA ST, JA</p>