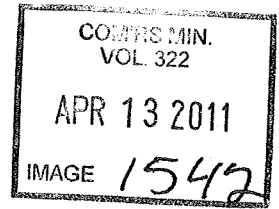


14-3  
City of Cincinnati



Office of the City Manager

Room 152, City Hall  
801 Plum Street  
Cincinnati, Ohio 45202-5706  
Phone (513) 352-3241  
Fax (513) 352-6284

January 12, 2011

Honorable Board of County Commissioners  
Hamilton County, Ohio  
% Mr. Patrick Thompson  
Hamilton County Administrator  
County Administration Building  
138 E. Court Street, Room 603  
Cincinnati, Ohio 45202

Milton Dohoney, Jr.  
*City Manager*

Honorable Commissioners:

Enclosed for your consideration and approval is a resolution pertaining to proposed changes to the Articles I, XV, and XXII of the Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati.

The Board conducted a public hearing, as required under Section 5.2 (b) of the 1968 Hamilton County-City of Cincinnati Management Agreement for the Metropolitan Sewer District, on January 12, 2011, which was continued until February 9, 2011. MSD advertised the public hearing in a newspaper of general circulation, as well as notified interested parties by mail of the public hearing.

The resolution amends the existing Rules and Regulations providing for the modifications to Articles I, XV, and XXII.

**RECOMMENDED:**

Approved:

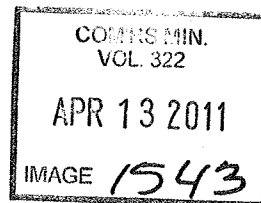
James A. Parrott  
Executive Director, MSD

Milton Dohoney, Jr.  
City Manager

Provided to the Hamilton County Compliance Coordinator on 1/27/2011

Reviewed by \_\_\_\_\_, and recommended by County Administration.

On motion of Mr. Hartmann, seconded by Mr. Portune, the following resolution was adopted....



MSD RESOLUTION

AMENDING THE RULES AND REGULATIONS OF  
THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI,  
ARTICLE I, "DEFINITIONS", ARTICLE XV, "INDUSTRIAL WASTES",  
AND ARTICLE XXII, "PENALTIES"

AND ADOPTING A REVISED ENFORCEMENT RESPONSE PLAN  
FOR THE DIVISION OF INDUSTRIAL WASTE

WHEREAS, Section 6117.01 of the Revised Code of Ohio and Section IV of the 1968 Management Agreement between Hamilton County and the City of Cincinnati for the Metropolitan Sewer District ("1968 Agreement") vests the Board of County Commissioners of Hamilton County, Ohio ("Board"), with the authority to adopt Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati ("MSD"); and

WHEREAS the Board did, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, after public hearing, adopt revised Rules and Regulations for MSD, and as subsequently amended, on January 24, 2001; and

WHEREAS, the Executive Director of MSD recommends to this Board that Article I of Rules and Regulations for MSD should be amended in order to include definitions as required by changes to Article XV, and has presented said amendments to this Board for their consideration, attached hereto and by this reference made a part hereof as Exhibit A; and

WHEREAS, the Executive Director of MSD recommends to this Board that Article XV of the Rules and Regulations for MSD should be amended in order to incorporate revisions to the General Pretreatment Regulations as required by the U.S. EPA and the Ohio EPA, said revisions addressing the requirements for, and oversight of, Industrial Users who discharge to the Wastewater Treatment Plants regulated by MSD and further recommends that this Board adopt the U.S. EPA "Model Pretreatment Ordinance" as the format for the presentation of the rules, and has presented said amendments to this Board for their consideration, attached hereto and by this reference made a part hereof as Exhibit B; and

WHEREAS, the Executive Director of MSD recommends to this Board that Article XXII of the Rules and Regulations for MSD should be amended in order to adopt the Model Pretreatment Ordinance definitions for Civil Penalties (Section 2203) and Criminal Prosecution (Section 2205), and transfer all tables and penalties for pH Violations referenced in Section 2204 to the MSD Enforcement Response Plan (ERP), and has presented said amendments to this Board for their consideration, attached hereto and by this reference made a part hereof as Exhibit C; and

WHEREAS, the Executive Director of MSD recommends to this Board that the MSD Division of Industrial Waste ERP should be revised in order to include changes to the MSD Pretreatment Program as a result of the incorporation of the General Pretreatment Regulations as they pertain to enforcement actions taken when violations occur; inclusion of the current Environmental Enhancement Activity Policy; modification of the pH fine schedule and its inclusion in the ERP; and a change in the Compliance Review Process requiring the issuance of a form letter as notification of minor errors to establish patterns of noncompliance and eliminating the use of the current "Notice of Noncompliance," and has presented said revised plan to this Board for their consideration, attached hereto and by this reference made a part hereof as Exhibit D; and

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IMAGE 1544

WHEREAS, the Board did, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement, did hold and conclude a public hearing on amendment to Articles I, XV, and XXII of the Rules and Regulations for MSD, affording public comment on the same; and

WHEREAS, legal counsel has reviewed said amendments of the Rules and Regulations for MSD.

NOW, THEREFORE, BE IT RESOLVED, by this Board of County Commissioners of Hamilton County, Ohio that Articles I, XV, and XXII of the Rules and Regulations for MSD is hereby amended by the clarifications and modifications as contained in Exhibits A - C.

BE IT FURTHER RESOLVED, that this Board hereby adopts the revised MSD Division of Industrial Waste Enforcement Response Plan as contained in Exhibit D.

BE IT FURTHER RESOLVED, that Article XV, "INDUSTRIAL WASTES," of the Rules and Regulations for MSD, as adopted January 24, 2001 is hereby repealed.

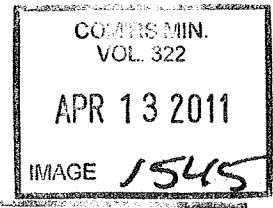
BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 13th day of April, 2011.

Mr. Hartmann YES

Mr. Monzel ABSTAINED

Mr. Portune YES



CERTIFICATE OF CLERK

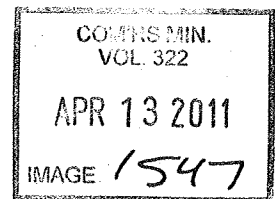
IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution adopted by the Board of County Commissioners in session this 13th day of April, 2011.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Office of the Board of County Commissioners of Hamilton County, Ohio this 13th day of April, 2011.

  
Jacqueline Panioto, Clerk  
Board of County Commissioners  
Hamilton County, Ohio

**EXHIBIT A**

COMPTON MIN.  
VOL. 322  
APR 13 2011  
IMAGE 1546



## ARTICLE I

### DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms in these Rules and Regulations shall be as follows:

**"Acreage Charge - (associated with Trunk Sewers)"** shall mean a charge established by resolution of the Board pertaining to sewer assessment projects. These charges are on file at the District's office.

**"Act" or "the Act"** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

**"Analytical Testing"** shall mean all methods of sample collection, preservation, and analysis as prescribed in 40 CFR -136, "Test Procedures for the Analysis of Pollutants."

**"Approval Authority"** For the Pretreatment Program is the Ohio EPA

**"Authorized" or "Duly Authorized Representative"** of the User.

(1) If the User is a corporation:

- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production, or operating facilities, provided the manager 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 initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater or general discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

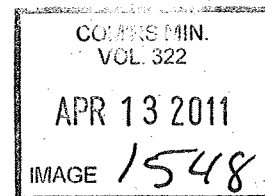
(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.

**"Auxiliary Sewage Meter"** shall mean a meter used by commercial and industrial customers to measure water that reduces and/or increases the consumption on which to base sewer and effluent charges using a combination of measurements. Customers must receive approval to install meters through an application and review process by the Metropolitan Sewer District.

**"Base Flood"** shall mean that flood having a one (1) percent chance of being equaled or exceeded in any given year.



**"Base Flood Level"** shall mean the elevation in feet above mean sea level (NGVD) of the base flood discharge.

**"Batch Discharge"** shall mean a discrete quantifiable discharge of a quantity of wastewater that is a homogeneous mixture, such that a grab sample taken at any time during discharge shall be representative, that is it has all the same characteristics of any other portion of the batch. The Director shall have approval of the allowable volumetric flow rate. To satisfy the MSD monitoring requirements, the discharge shall be made in accordance with a schedule approved by MSD or with a 48 hour prior notice to the Division of Industrial Waste.

**"Beneficial Uses"** shall mean uses of the waters of the State that may be protected against quality degradation, including but not limited to, domestic, municipal, agricultural and industrial water supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by Federal or State Law.

**"Best Management Practices" (BMPs)** shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in MSD R&R Section 1502. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**"Biochemical Oxygen Demand (BOD)"** shall mean oxygen utilized in the biochemical oxidation of organic matter in five days at 20 deg. C., expressed in milligrams per liter. The values shall be as determined by the methods of Analytical Testing, except that when the BOD value is to be used in determining wastewater treatment system charges, and the BOD test does not produce an accurate measure of the oxygen demand actually exerted by the waste when undergoing treatment, then for use in determining said charges the BOD shall be calculated by whichever of the following formulae gives the more accurate measure of oxygen demand actually exerted.

$$\text{BOD} = (\text{F1}) (\text{COD})$$

or

$$\text{BOD} = (\text{F2}) (\text{TVR})$$

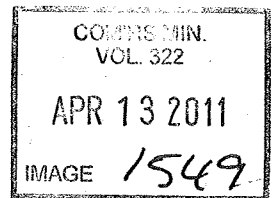
Wherein F1 and F2 are constants to be determined for each wastewater treatment plant and TVR is the Total Volatile Residue in milligrams per liter as determined by the methods of Analytical Testing.

**"Board"** shall mean the Board of County Commissioners of Hamilton County, Ohio.

**"Building Drain"** shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer. The building drain shall extend to three (3) feet outside the building wall.

**"Building Drain - Combined."** A building drain which conveys both sewage and storm water or other drainage.

**"Building Drain - Sanitary."** A building drain which conveys sewage only.



**"Building Drain - Storm."** A building drain which conveys storm water or other drainage, but no sewage.

**"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

**"Building Sewer - Combined."** A building sewer which conveys both sewage and storm water, or other drainage.

**"Building Sewer - Sanitary."** A building sewer which conveys sewage only.

**"Building Sewer - Storm."** A building sewer which conveys storm water or other drainage, but no sewage.

**"Bypass"** means the intentional diversion of a waste stream from any portion of an Industrial User's treatment facility.

**"Categorical Pretreatment Standards"**-Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

**"Categorical Industrial User" (CIU)** any Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

**"CFR"** shall mean the Code of Federal Regulations.

**"Chemical Oxygen Demand - COD"** shall mean the oxygen equivalent of that portion of the organic matter that is susceptible to oxidation by a strong chemical oxidant. The values shall be as determined by the methods of Analytical Testing.

**"City"** shall mean the City of Cincinnati, Ohio.

**"City Manager"** shall mean the City Manager of Cincinnati, Ohio.

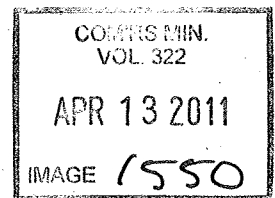
**"Cleaned Waste Waters"** shall mean those liquid wastes which meet the criteria established by the NPDES Permit issued by the Ohio Environmental Protection Agency for effluents discharged to the particular watercourse receiving the discharge.

**"Combined Sewer"** shall mean a sewer that is intended to serve as a storm sewer and a sanitary sewer.

**"Commercial User"** shall mean any and all users of the wastewater treatment system not otherwise classified.

**"Compatible Pollutant"** shall mean: biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria plus additional pollutants identified by the Director if the treatment works, in fact, does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Minor incidental removals in the order of 10 to 30 percent are not considered substantial. Examples of the additional





pollutants that may be considered compatible include:

- ▶ Chemical oxygen demand
- ▶ Total organic carbon
- ▶ Phosphorus and phosphorus compounds
- ▶ Nitrogen and nitrogen compounds
- ▶ Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the wastewater treatment works.)

**"Connection Charge - (Also referred to as tap-in charge)"** shall mean a charge established by resolution of the Board pertaining to sewer assessment projects. These charges are on file at the District's office.

**"Contamination"** shall mean an impairment of the quality of the Waters of the State by waste to a degree that creates a hazard to the public health, e.g., through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not Waters of the State are affected.

**"Control Authority"** shall mean the Board.

**"Cooling Water"** shall mean the cleaned wastewater discharged from any system of heat transfer such as condensation, air conditioning, cooling or refrigeration.

**"County"** shall mean Hamilton County, Ohio.

**"Days"** shall mean calendar days in reference to time period requirements.

**"Daily Maximum"** The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

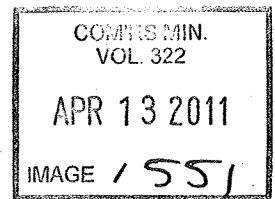
**"Daily Maximum Limit"** The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

**"Degree of Protection from Flooding"** shall mean the extent of protection from flooding designed and achieved.

**"Department"** shall mean the District established by the City of Cincinnati for the purpose of managing and operating The Metropolitan Sewer District of Greater Cincinnati for the Board of County Commissioners of Hamilton County, Ohio, and its authorized employees.

**"Department of Water Works"** shall mean the Department of Water Works of the City of Cincinnati.

**"Development"** shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.



**"Director"** shall mean the Director of the District, or his authorized agent.

**"District"** shall mean The Metropolitan Sewer District of Greater Cincinnati.

**"EPA"** shall mean The United States Environmental Protection Agency (Distinguished from the Ohio EPA).

**"Existing Source"** Any source of discharge that is not a "New Source."

**"Family Units"** shall mean the number of single-family residential equivalent units served as one customer. Such equivalents are determined and are to be as assigned by the District. One single-family residential unit equals 400 g.p.d. of sanitary sewage.

**"Federal Act"** shall mean The Federal Water Pollution Control Act (PL 92-500), the Clean Water Act of 1977 (PL 95-217), the Water Quality Act of 1987, and any amendments thereto; as well as the guidelines, limitations, and standards promulgated by the Environmental Protection Agency pursuant to the Act.

**"Flood" or "Flooding"** shall mean a general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; and the usual and rapid accumulations or runoff of surface waters from any source.

**"Flood Plain"** shall mean any land susceptible to being inundated by water from any source.

**"Floodway"** shall mean that portion of any flood plain area which is needed to carry the flow of water during a base (100 year) flood without causing an increase in the base flood level of more than one (1) foot NGVD (mean sea level).

**"Floodway Fringe"** shall mean that part of any flood plain that is outside of the floodway area.

**"Foundation Drain"** shall mean any subsurface drain used to collect subsurface water from a footer or substructure of a building.

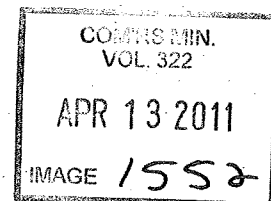
**"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, or dispensing of food, or from the handling, storage, or sale of produce. (Distinguished from Shredded Garbage).

**"General Wastewater Discharge Permit"** shall mean a single Wastewater Discharge Permit that covers facilities with similar and types of discharge. Categorical Industrial Users are not eligible for a General Wastewater Discharge Permit.

**"Grab Sample"** A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

**"Holding Tank Waste"** shall mean any sanitary waste from holding tanks or chambers such as are used in connection with boats, chemical toilets, campers, trailers, or other isolated facilities from which sanitary wastes emanate. This definition includes sanitary wastes from septic tanks.

**"Incompatible Pollutant"** shall mean any pollutant that is not a compatible pollutant as defined in this



section.

**"Indirect Discharge or Discharge"** The introduction of pollutants into the POTW from any nondomestic source.

**"Industrial Plant"** shall mean any facility that discharges industrial wastes.

**"Industrial User"** ("IU") shall be any user that discharges industrial wastes.

**"Industrial Wastes"** shall mean the wastes admissible to the wastewater treatment system from industrial manufacturing processes, trade or business; or from the development, recovery, or processing of natural resources, as distinct from sanitary sewage.

**"Instantaneous Limit"** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**"Interference"** A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the District's NPDES permits or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**"Kjeldahl Nitrogen"** shall mean the sum of free-ammonia and organic nitrogen compounds that are converted to ammonium sulfate  $(\text{NH}_4)_2\text{SO}_4$ , under test conditions. The values shall be as determined by the methods of Analytical Testing.

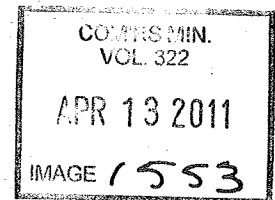
**"Local Limits"** specific discharge limits developed and enforced by the District upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5 (a)(1) and (b).

**"Long Term Discharge"** shall mean the discharge of industrial waste or contaminated stormwater/groundwater for a continuous, non-discrete period.

**"Maintenance"** shall mean keeping the wastewater treatment works in a state of repair and shall include expenditures necessary during the service life of the treatment works to maintain the capacity (capability) for which said works were designed and constructed.

**"Mass Emission Rate"** shall mean the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean kilograms per day of a particular constituent or combination of constituents.

**"Medical Waste"** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.



**“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 has determined is subject to a reduction in the user’s reporting requirements and the District’s monitoring and inspection requirements, upon satisfaction of the conditions as provided in paragraphs 1 to 4 of this definition:

- (1) The Industrial User’s total categorical wastewater flow does not exceed any of the following:
  - a. Zero point zero one per cent of 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. Zero point zero one per cent of the design dry weather organic treatment capacity of the POTW; and
  - c. Zero point zero one per cent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standards for which approved local limits were developed by the District in accordance with paragraph (C)(4) of rule 3745-3-03 of the Ohio Administrative Code;
- (2) The Industrial User has not been in significant noncompliance, as defined in Section 1509 of these Rules and Regulations, for any 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 Sections 1506.1 and 1506.3 of these Rules and Regulations;
- (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:
  - a. The District’s approved long term control plan;
  - b. The District’s approved combined sewer system operation plan implementing the nine minimum controls; or
  - c. The District’s program modification request submitted to the director.

**“mg/l”** shall mean milligrams per liter.

**“Monitoring Waiver”** shall mean a statement certifying that there has been no increase in a pollutant concentration in a wastestream due to the activities of an Industrial User. Where granted by the Director, a monitoring waiver shall fulfill the requirements of monitoring for the approved pollutants.

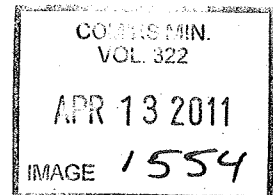
**“Monthly Average”** The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

**“Monthly Average Limit”** The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

**“MSD”** shall mean the Metropolitan Sewer District of Greater Cincinnati.

**“MSD R & R”** shall mean these Rules and Regulations where cited as such.

**“Natural Outlet”** shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.



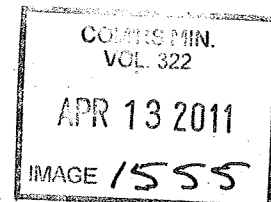
**"New Source"**

- (1) 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:
  - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
  - c. 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.
- (2) 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 Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
  - a. Begun, or caused to begin, as part of a continuous onsite construction program
- (4) any placement, assembly, or installation of facilities or equipment; or
- (5) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment;
  - a. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which 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

**"Non-contact Cooling Water"** Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**"Non-Significant Categorical Industrial User" (NSCIU)** is an Industrial User subject to 40 C.F.R. chapter I, subchapter N that the District 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, non-contact cooling and boiler blowdown wastewater, unless specifically included in the categorical pretreatment standard) and the conditions in paragraphs (1) to (4) of this definition are met:

- (1) The Industrial User, prior to the District's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- (2) The Industrial User annually submits the certification statement required in Section 1506.14.B of these Rules and Regulations [See 40 CFR 403.12(q)] together with any additional information necessary to support the certification statement;
- (3) The Industrial User never discharges any untreated concentrated wastewater; and
- (4) The Industrial User is not located upstream of a combined sewer overflow or a sanitary sewer overflow, unless the following conditions are met:



- a. The Industrial User does not discharge wastewater regulated by categorical pretreatment standards at any time; or
- b. The Industrial User has not been in significant noncompliance, as defined in Section 1509 of these Rules and Regulations, for any time in the past two years; and
- c. 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:
  - i. The control authority's approved long term control plan;
  - ii. The control authority's approved combined sewer system operation plan implementing the nine minimum controls; or
  - iii. The control authority's program modification request submitted to the director.

**"Non Significant Industrial User" ("NIU")** An Industrial User that discharges LESS THAN an average of twenty-five thousand (25,000) gallons per day (gpd) of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); AND/OR is designated as such by the District on the basis that it does NOT have a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

**"Normal Strength Sewage"** shall mean sewage having average concentration values of not more than the following in the pollutant categories indicated:

Biochemical Oxygen Demand	240 mg/l
Suspended Solids	300 mg/l
Total Phosphorus as P	20 mg/l
Total Kjeldahl Nitrogen as N	25 mg/l
Biodegradable oils and greases	in less than floating amounts.

**"NPDES Permit"** shall mean National Pollutant Discharge Elimination System Permit.

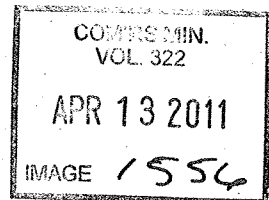
**"Nuisance"** shall mean anything which is injurious to health, or is indecent or offensive to the senses, or is an obstruction to the free use of property so as to interfere with human comfort or enjoyment of life or property, whether affecting individual interests per se or affecting at the same time an entire community or neighborhood of any considerable number of persons; although the extent of the annoyance, interference or damage may not be inflicted equally upon the persons therein.

**"OEPA"** shall mean The Ohio Environmental Protection Agency.

**"Operation"** shall mean causing the wastewater treatment works to function for its intended purposes and shall include expenditures necessary during the service life of the wastewater treatment works to maintain the performance for which said works were designed and constructed.

**"Pass Through"** shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of a District permit, including an increase in the magnitude or duration of a violation.

**"Person"** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.



**"pH"** A measure of the acidity or alkalinity of a solution, expressed in standard units.

**"Phosphorus"** shall mean total phosphorus content in wastewater as determined by the methods of Analytical Testing.

**"Pollutant"** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

**"Pollution"** shall mean an alteration of the quality of the Water of the State by waste to a degree that affects such waters for beneficial use or facilities that serve such beneficial uses. Pollution may include contamination.

**"Publicly Owned Treatment Works" (POTW)** shall mean the same as "Wastewater Treatment System" ("WTS"). A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

**"Pretreatment"** 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, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

**"Pretreatment Requirements"** Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

**"Pretreatment Standards or Standards"** Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

**"Premises"** shall mean a parcel of real estate including any improvements thereon that is determined by the District to be a single user for purposes of using the services of the wastewater treatment system.

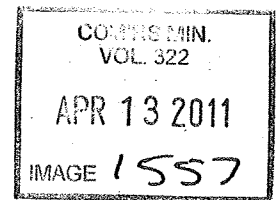
**"Private Sewer"** shall mean a sewer that is owned, operated, and maintained by a person other than a public authority.

**"Prohibited Discharge Standards or Prohibited Discharges"** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 1502.1 of this ordinance.

**"Public Authority"** shall mean any government entity having jurisdiction.

**"Public Sewer"** shall mean a sewer that is controlled, owned, operated, and maintained by a public authority.

**"Regional Administrator"** shall mean the Regional Administrator of the United States Environmental



Protection Agency for Region V.

**"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which said works were designed and constructed. Operation and maintenance includes replacement.

**"Residential User"** shall mean any single- or two-family housing unit.

**"Sanitary Sewage"** shall mean sewage containing water-carried wastes contributed from premises by reason of human occupancy.

**"Sanitary Sewer"** shall mean a sewer that carries sanitary sewage and industrial wastes and to which storm, surface and groundwaters are not intentionally admitted.

**"Scheduled Monitoring"** shall mean monitoring performed by MSD.

**"Self-monitoring"** shall mean monitoring performed by the User.

**"Septic Tank Waste"** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and household sewage treatment systems or small flow on-site sewage treatment systems (as defined in ORC 3718.01).

**"Service Area"** shall mean the local jurisdictions designated by the Board to which the services of the wastewater treatment system are provided by MSD.

**"Severe Property Damage"** in connection with a bypass means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

**"Sewage"** shall mean a combination of the liquid and water-carried waste discharged from premises.

**"Sewer"** shall mean any pipe or conduit for conveying wastewater or drainage water.

**"Sewer System"** shall mean all facilities for collecting, pumping, and transporting wastewater to the treatment facilities.

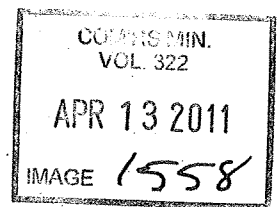
**"Shall"** is mandatory; **"May"** is permissive.

**"Shredded Garbage"** shall mean garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 2 inch in dimension (Distinguished from "Garbage").

**"Significant Industrial User" (SIU)** Except as provided in paragraph (3) of this definition a Significant Industrial User is:

- (1) Industrial Users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N, except the Industrial Users considered Non-Significant Categorical Industrial Users (NSCIU), as defined in these Rules and Regulations; and





(2) Any other Industrial User that:

- a. 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);
- b. 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; or
- c. Is designated as such by the District 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.

(3) Upon a finding that an Industrial User meeting the criteria in paragraph (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the District may at any time, on its 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 or 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

**"Significant Non Compliance"** (SNC) see Article XV, Section 1509, Publication of Users in Significant Non Compliance.

**"Single-family Residence"** shall mean one room, or a suite of two or more rooms, with sanitary facilities in a dwelling, designed for or used by a family for living and sleeping purposes. "Family" is defined as an individual or any number of individuals who live together in a single household unit.

**"Slug Load" or "Slug Discharge"** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Article XV, Section 1502.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which 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.

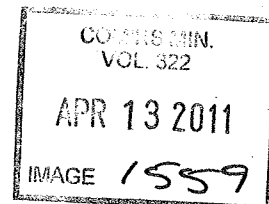
**"Special Flood Hazard Areas"** shall mean all that area within Zones A1-30 and unnumbered A Zones on the Flood Insurance Rate Maps of any community within the jurisdiction of the Metropolitan Sewer District of Greater Cincinnati, Hamilton County, Ohio; and all that area within said jurisdiction which is designated as being within the flood plain of various streams in Appendix A of the Storm Drainage and Open Space Master Plan for Hamilton County, Ohio.

**"Special Permit"** shall mean a permit issued for special conditions as directed by the District.

**"Standard Industrial Classification"** shall mean the classification of users based on the 1972 Standard Industrial Classification Manual (SIC), Office of Manpower and Budget of the United States of America.

**"Standard Methods"** shall mean the publication: STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTEWATER, latest edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation.

**"Storm Sewer" or "Storm Drain"** shall mean a sewer which carries storm waters, surface runoff, street wash waters and drainage, foundation drains, ground water, roof runoff, subsoil drains, subsurface drainage, swimming pool water, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water and unpolluted industrial process water.



**"Storm Water"** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**"Tap-in-Fee"** shall mean a fee established by the Board for the benefit of connecting to the sewage treatment system operated by the District. The fee is the proportionate share of the capitalized cost of the facilities (refer to Section 1215 of these Rules and Regulations).

**"Total Solids"** shall mean solids that remain after all liquid has been evaporated, expressed in milligrams per liter. The values shall be as determined by the methods of Analytical Testing.

**"Total Suspended Solids or Suspended Solids"** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

**"Toxic Pollutant"** shall mean any pollutant which is identified as such by the U.S. EPA or which is designated as toxic by the Director.

**"Unpolluted Water"** shall mean water to which no constituent has been added either intentionally or accidentally or which is designated as unpolluted by the Director.

**"User"** shall mean any person that discharges, causes, or permits the discharge of wastewater into a public sewer.

**"User Charge"** shall mean the amount levied on users of a treatment works for the cost of operation, maintenance and interim replacement of such works. Expenditures for obtaining and installing replacement equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance of such works for their normal life expectancy may be termed as interim replacements and are items to be included in the user charge.

**"User Classification"** shall mean the identification of a user as to the type of premises from which wastewater is discharged. Such classification shall be assigned by the District and shall include residential, industrial, public and commercial user.

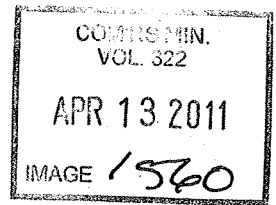
**"Viscous"** shall mean the characterization of a physical property of a fluid or semi-fluid which can result in detrimental resistance to wastewater flow from the fluid or semi-fluid itself or in combination with other substances.

**"Waste"** shall mean sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation; or of human or animal origin; or from any production, manufacturing, or processing operation of whatever nature, including such wastes placed within containers of whatever nature prior to, and for purposes of disposal.

**"Wastewater"** shall mean a combination of the liquid and water-carried wastes from premises together with any groundwater, surface water, or storm water that may be present.

**"Wastewater Constituents and Characteristics"** shall mean the individual chemical, physical, bacteriological and radiological parameters including volume and flow rate; and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

**"Wastewater Treatment Plant"** (WWTP) shall mean any arrangement of devices and structures used



for treatment of wastewater.

**"Wastewater Treatment System" (WTS)** shall mean the same as "POTW," and shall mean all of the connected treatment works necessary to meet the requirements of Title III of the Federal Act and involved in: (a) the transport of wastewater from premises to a plant or facility wherein treatment of the wastewater is accomplished; (b) the treatment of the wastewater to remove pollutants; and (c) the ultimate disposal, including recycling or reuse, of the treated wastewater and residues resulting from the treatment process. One wastewater treatment system normally would include one wastewater treatment plant or facility, but in instances where two or more wastewater treatment plants are interconnected, all of the interconnected wastewater treatment works thereof shall be considered as one wastewater treatment system.

**"Wastewater Treatment System (WTS) Service Charge"** shall mean the charge levied against users to recover the costs of rendering wastewater treatment system service for normal strength sewage. This charge is a combination of the user charge and a charge for the local share of the capital cost of rendering such service.

**"Wastewater Treatment System (WTS) Surcharge"** shall mean the charge, over and above the WTS Service Charge, levied against users to recover the costs of rendering wastewater treatment system service for discharges whose strength is in excess of that of normal strength.

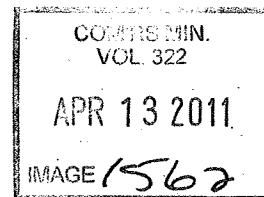
**"Wastewater Treatment Works"** shall mean any devices and systems used to develop and implement wastewater treatment management plans and practices which will achieve the goals of the Federal Act and the Board of County Commissioners of Hamilton County, Ohio. Wastewater Treatment Works include intercepting sewers, or outfall sewers; sewage collection systems; pumping, power, and other equipment and their appurtenances; and any other works which will be an integral part of the wastewater treatment process or treatment residue disposal system.

**"Waterway or Watercourse"** shall mean a channel in which Waters of the State flow either continuously or intermittently.

**"Waters of the State"** shall mean any water, surface or underground, including saline waters within the boundaries of the State, except those private waters which do not combine or effect a junction with natural surface or underground waters.

**EXHIBIT B**

COMPS MIN.  
VOL. 322  
APR 13 2011  
IMAGE 1561



## ARTICLE XV

### PRETREATMENT

#### **Section 1501 General Provisions**

##### **1501.1 Purpose and Policy**

This Article sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the Metropolitan Sewer District of Greater Cincinnati and enables the District to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this Article are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW; and
- E. To enable the District to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

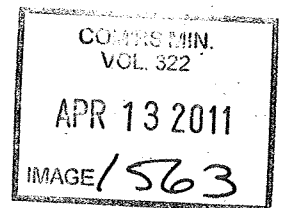
This Article shall apply to all Users that are not Residential Users of the POTW. The Article authorizes the issuance of individual wastewater discharge permits or General Wastewater Discharge Permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

##### **1501.2 Administration**

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the Director may be delegated by the Director to a duly authorized employee of the District.

##### **1501.3 Abbreviations**

The following abbreviations, when used in this Article, shall have the designated meanings:



- BOD – Biochemical Oxygen Demand
- BMP – Best Management Practice
- BMR – Baseline Monitoring Report
- CFR – Code of Federal Regulations
- CIU – Categorical Industrial User
- COD – Chemical Oxygen Demand
- EPA – U.S. Environmental Protection Agency
- gpd – gallons per day
- IU – Industrial User
- mg/L – milligrams per liter
- NPDES – National Pollutant Discharge Elimination System
- NSCIU – Non-Significant Categorical Industrial User
- O&M – Operation and Maintenance
- O.A.C. – Ohio Administrative Code
- OEPA – Ohio Environmental Protection Agency
- O.R.C. – Ohio Revised Code
- POTW – Publicly Owned Treatment Works
- RCRA – Resource Conservation and Recovery Act
- SIU – Significant Industrial User
- SNC – Significant Noncompliance
- TSS – Total Suspended Solids
- U.S.C. – United States Code

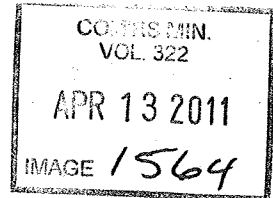
**1501.4 Definitions**

Definitions pertinent to this Article XV are included in Article I of these MSD Rules and Regulations.

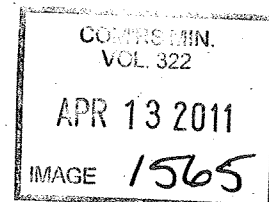
**Section 1502 General Sewer Use Requirements**

**1502.1 Prohibited Discharge Standards**

- A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other Federal, State, or local Pretreatment Standards or Requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - 1. Pollutants that create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;



2. Wastewater having a pH less than 5.0 or more than 12.5 standard units, or otherwise causing corrosive structural damage or any other adverse impact to the POTW or equipment; but in no case wastewater that causes the pH at the introduction into the wastewater treatment plant to be outside the range of 6 to 10 standard units; if there is a pH BMP approved by the Director, only occurrences exceeding the pH criteria of Table 3 and Table 4 of the Enforcement Response Plan will be considered in violation.
3. Solid or viscous substances in amounts that will cause obstruction of the flow in the POTW resulting in Interference, but in no case solids greater than 1/4 inch (0.25") or 0.6 centimeter (0.6 cm) in any dimension;
4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause Interference with the POTW;
5. Wastewater having a temperature greater than 150 degrees F (65 degrees C), or that will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
6. Floating oils, fat, or grease; petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through or containing more than 50 milligrams per liter of silica gel treated n-hexane extractable material (total petroleum hydrocarbons) as determined by analysis of a grab sample;
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. Trucked or hauled pollutants, except at discharge points designated by the Director in accordance with Section 1503.4 of this Article;
9. Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater which imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the District's NPDES permit;
11. Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable State or Federal regulations;



12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes, except as specifically authorized by the Director;
14. Medical wastes, except as specifically authorized by the Director in an individual wastewater discharge permit or a General Wastewater Discharge Permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
16. Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;
17. Wastes from garbage grinders except: wastes generated in preparation of food normally consumed on the premises, or wastes of a specific character whose discharge after grinding is authorized by a written permit signed by the Director. All garbage grinders shall shred the waste such that all particles will be carried freely under normal prevailing flow conditions in the public sewer. Wastes from garbage grinders used for grinding plastic, paper products, inert materials, or garden refuse shall not be discharged to the wastewater treatment system; and
18. Direct discharge of any substances into a manhole or other opening in the wastewater treatment system other than an approved building sewer, unless, upon written application to the Director and payment of the applicable User charges and fees, the Director issues a permit for such direct discharges.

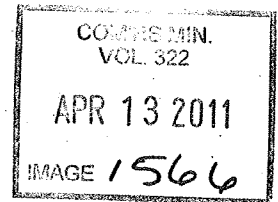
Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

#### **1502.2 National Categorical Pretreatment Standards**

Users must comply with the Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405 to 471.

- A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the District may impose equivalent concentration or mass limits in accordance with Sections 1502.2D and 1502.2E of this Section.
- B. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the District may convert the limits to equivalent





limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual IUs.

- C. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the District shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- D. The District may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual IUs. The conversion is at the discretion of the Director.
- E. Once included in its permit, the IU must comply with the equivalent limitations developed in this Section in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived.
- F. Many Categorical Pretreatment Standards specify one limit for calculating Daily Maximum Limits and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitations.
- G. Any IU operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the District within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the District of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

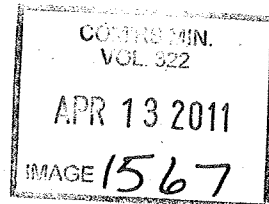
### 1502.3 State Pretreatment Standards

Users must comply with OEPA pretreatment standards codified in O.A.C. Rule 3745-3-03 *et sequens* ("State Pretreatment Standards"), incorporated herein by reference.

### 1502.4 Local Limits

- A. The Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- B. The following pollutant limits are established to protect against Pass Through and Interference. Wastewater containing pollutants in excess of the limits listed below shall not be discharged. Local Limits are determined as required for each NPDES permit and are applicable to the sewer drainage into that treatment plant. MIA = Little Miami WWTP; MIL = Mill Creek WWTP; MUD = Muddy Creek WWTP; SYC = Sycamore Creek WWTP; LOV = Polk Run WWTP.

Pollutant	MIA	MIL	MUD	SYC	LOV
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Cadmium (Total) mg/L	0.3	6.0	6.0	6.0	6.0
Chromium (Total) mg/L	10.0	10.0	10.0	10.0	10.0
Chromium (+6) mg/L	0.9	NA	NA	NA	NA
Copper (Total) mg/L	2.2	10.0	10.0	1.53	1.53
Lead (Total) mg/L	5.7	6.0	6.0	6.0	6.0
Mercury (Total) mg/L	0.02	0.02	0.02	0.0005	0.0005
Nickel (Total) mg/L	10.0	10.0	10.0	10.0	10.0
Silver (Total) mg/L	1.0	NA	NA	NA	NA
Zinc (Total) mg/L	10.0	10.0	10.0	2.0	2.0
Cyanide (Total) mg/L	15.0	15.0	15.0	15.0	15.0
Cyanide (Free) mg/L	3.0	3.0	3.0	3.0	3.0
Cyanide (Amenable) mg/L	3.0	NA	NA	3.0	3.0

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Director may impose mass limitations in addition to the concentration-based limitations above.

- C. The Director may develop Best Management Practices (BMPs), by MSD R & R or in individual wastewater discharge permits or in General Wastewater Discharge Permits, to implement Local Limits and the requirements of Article XV.

#### **1502.5 The District's Right of Revision**

The District reserves the right to establish, by MSD R & R or in individual wastewater discharge permits or in General Wastewater Discharge Permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Article.

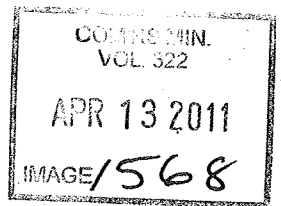
#### **1502.6 Dilution**

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

### **Section 1503 Pretreatment of Wastewater**

#### **1503.1 Pretreatment Facilities**

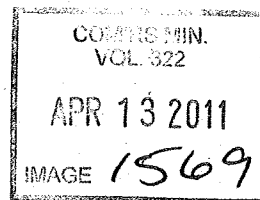
Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 1502.1 of this Article within the time limitations specified by



EPA, the State, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before such facilities are constructed. Approval of proposed facilities or equipment by the Director does not, in any way, guarantee that these facilities or equipment will function in the manner described by the User, its owner, designer, constructor, or manufacturer; nor shall it relieve a User of the responsibility to enlarge or otherwise modify such facilities to accomplish the intended purpose. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the District under the provisions of this Article. The User shall maintain operating records as required by the Director and, upon request, shall submit to the District reports of the character of influent and effluent to show the performance of the pretreatment or control facilities.

### **1503.2 Additional Pretreatment Measures**

- A. Whenever deemed necessary, the Director may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Article.
- B. The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a General Wastewater Discharge Permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand; except that such interceptors shall not be required for Residential Users. All interception units shall be of a type and capacity approved by the Director and shall be located so as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense. The owner, or User, shall have on site and available for inspection maintenance and cleaning records for each interception device. Notwithstanding the above, these devices shall be installed in all food service establishments such as restaurants, cafeterias, etc.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- E. Monitoring Facilities. The Director may require any IU to construct, at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems, and may also require sampling or metering equipment to be provided, installed, and operated at the User's expense. The District shall also have the right to set up monitoring devices at the facilities.



Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the District's requirements and all applicable local agency construction standards and specifications. Construction of the monitoring facility shall not begin until plans have been submitted to and approved by the District. Unless a time extension is granted in writing by the Director, construction shall be completed within ninety (90) days following the issuance of written approval by the District.

The monitoring facility shall be situated on the User's premises and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such monitoring facilities to allow accurate sampling and compositing of samples for analysis. The monitoring facilities and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.

The personnel of the District shall have unimpeded access to the monitoring facilities at all times for inspection and sample collection. If the facilities are locked, special arrangements shall be made to allow access.

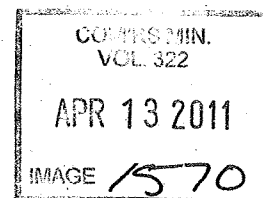
### **1503.3 Accidental Discharge/Slug Discharge Control Plans**

The Director shall evaluate whether each SIU needs an Accidental Discharge/Slug Discharge Control Plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Director of any Accidental or Slug Discharge, as required by Section 1506.6 of this Article; and
- D. Procedures to prevent adverse impact from any Accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

### **1503.4 Hauled Wastewater**

- A. For general rules on hauled waste see Article XIV of these MSD R & R.



- B. The Director may require haulers of industrial waste to obtain individual wastewater discharge permits or General Wastewater Discharge Permits. The Director may require generators of hauled industrial waste to obtain individual wastewater discharge permits or General Wastewater Discharge Permits. The Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Article.
- C. Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

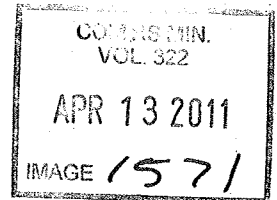
## **Section 1504 Individual Wastewater Discharge Permits and General Wastewater Discharge Permits**

### **1504.1 Wastewater Analysis**

When requested by the Director, a User must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require Users to update this information.

### **1504.2 Requirement for Individual Wastewater Discharge Permit or General Wastewater Discharge Permit**

- A. No SIU shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or a General Wastewater Discharge Permit from the Director, except that an SIU that has filed a timely application pursuant to Section 1504.3 of this Article may continue to discharge for the time period specified therein.
- B. The Director may require other Users to obtain individual wastewater discharge permits or General Wastewater Discharge Permits as necessary to carry out the purposes of this Article.
- C. Any violation of the terms and conditions of an individual wastewater discharge permit or a General Wastewater Discharge Permit shall be deemed a violation of this Article and subjects the wastewater discharge permittee to the sanctions set out in Sections 1510 through 1512 of this Article. Obtaining an individual wastewater discharge permit or a



General Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

**1504.3 Individual Wastewater Discharge and General Wastewater Discharge Permitting:  
Existing Connections**

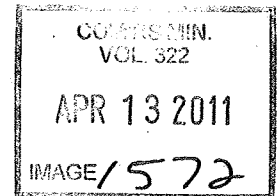
Any User required to obtain an individual wastewater discharge permit or a General Wastewater Discharge Permit who was discharging wastewater into the POTW prior to the effective date of this Article and who wishes to continue such discharges in the future shall, within ninety (90) days after said date, apply to the Director for an individual wastewater discharge permit or a General Wastewater Discharge Permit in accordance with Section 1504.5 of this Article, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this Article, except in accordance with an individual wastewater discharge permit or a General Wastewater Discharge Permit issued by the Director.

**1504.4 Individual Wastewater Discharge and General Wastewater Discharge Permitting:  
New Connections**

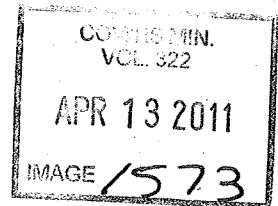
Any User required to obtain an individual wastewater discharge permit or a General Wastewater Discharge Permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or General Wastewater Discharge Permit, in accordance with Section 1504.5 of this Article, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

**1504.5 Individual Wastewater Discharge and General Wastewater Discharge Permit  
Application Contents**

- A. All Users required to obtain an individual wastewater discharge permit or a General Wastewater Discharge Permit must submit a permit application. Users that are eligible may request a General Wastewater Discharge Permit under Section 1504.6. The Director may require Users to submit all or some of the following information as part of a permit application:
1. Identifying information, including the following:
    - a. The name and address of the facility, including the name of the operator and owner;
    - b. Contact information; and
    - c. Description of activities, facilities, and plant production processes on the premises;
  2. A list of any environmental control permits held by or for the facility;
  3. Description of operations, including the following:



- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes;
  - b. Types of wastes generated and a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the POTW;
  - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - d. Type and amount of raw materials processed (average and maximum per day); and
  - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
4. Time and duration of discharges;
  5. The location for monitoring all wastes covered by the permit;
  6. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 1502.2C [40 CFR 403.6(e)];
  7. Measurement of Pollutants.
    - a. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
    - b. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the Director, of regulated pollutants in the discharge from each regulated process.
    - c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
    - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 1506.10 of this Article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.
    - e. Sampling must be performed in accordance with procedures set out in Section 1506.11 of this Article.

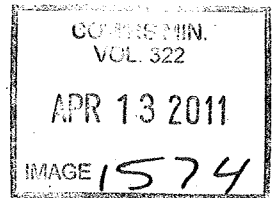


8. Any requests for a Monitoring Waiver (or a renewal of an approved Monitoring Waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 1506.4B [40 CFR 403.12(e)(2)];
  9. Any request to be covered by a General Wastewater Discharge Permit based on Section 1504.6; and
  10. Any other information as may be deemed necessary by the Director to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

#### **1504.6 Wastewater Discharge Permitting: General Wastewater Discharge Permits**

- A. At the discretion of the Director, the Director may use General Wastewater Discharge Permits to control SIU discharges to the POTW if the conditions listed in paragraphs B through D, below, are met. All facilities to be covered by a General Wastewater Discharge Permit must:
1. Involve the same or substantially similar types of operations;
  2. Discharge the same types of wastes;
  3. Require the same effluent limitations;
  4. Require the same or similar monitoring; and
  5. In the opinion of the Director, are more appropriately controlled under a General Wastewater Discharge Permit than under individual wastewater discharge permits.
- B. To be covered by the General Wastewater Discharge Permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the General Wastewater Discharge Permit, any requests in accordance with Section 1506.4B 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 Wastewater Discharge Permit until after the Director has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 1506.4B.
- C. The Director will retain a copy of the General Wastewater Discharge Permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Section 1504.6A(1) to (5) and applicable State regulations, and a copy of the





User's written request for coverage for three (3) years after the expiration of the General Wastewater Discharge Permit.

- D. The Director may not control an SIU through a General Wastewater Discharge Permit where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass of pollutant discharged per day, or for IUs whose limits are based on the combined waste stream formula (Section 1502.2C) or net/gross calculations (Section 1502.2D).

#### **1504.7 Application Signatories and Certifications**

- A. All wastewater discharge permit applications, User reports, and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 1506.14A.
- B. If the designation of an Authorized Representative 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 written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.
- C. A facility determined to be a Non-Significant Categorical Industrial User (NSCIU) by the Director must annually submit the signed certification statement in Section 1506.14B.

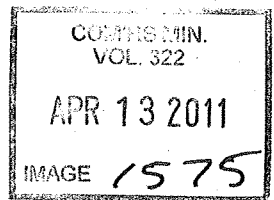
#### **1504.8 Individual Wastewater Discharge Permit and General Wastewater Discharge Permit Decisions**

The Director will evaluate the data furnished by the User and may require additional information. Within ninety (90) days of receipt of a complete permit application, the Director will determine whether to issue an individual wastewater discharge permit or a General Wastewater Discharge Permit. The Director may deny any application for an individual wastewater discharge permit or a General Wastewater Discharge Permit.

#### **Section 1505 Individual Wastewater Discharge and General Wastewater Discharge Permit Issuance**

##### **1505.1 Individual Wastewater Discharge and General Wastewater Discharge Permit Duration**

An individual wastewater discharge permit or a General Wastewater Discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a General Wastewater Discharge Permit may be issued for a period less than five (5) years, at the discretion of the Director. Each



individual wastewater discharge permit or General Wastewater Discharge Permit will indicate a specific date upon which it will expire.

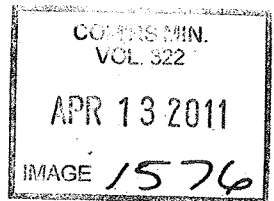
### **1505.2 Individual Wastewater Discharge Permit and General Wastewater Discharge Permit Contents**

An individual wastewater discharge permit or a General Wastewater Discharge Permit shall include such conditions as deemed reasonably necessary by the Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits and General Wastewater Discharge Permits may contain:

1. A statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date;
2. A statement that the wastewater discharge permit is nontransferable without prior notification to the District in accordance with Section 1505.5 of this Article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
3. Effluent limits, including BMPs, based on applicable Pretreatment Standards;
4. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
5. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with Section 1506.4B;
6. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
7. Requirements to control Slug Discharge, if determined by the Director to be necessary; and
8. Any grant of the Monitoring Waiver by the Director (Section 1506.4B).

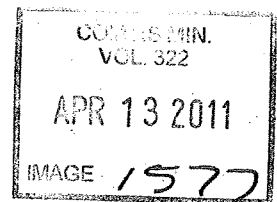
B. Individual wastewater discharge permits or General Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:



1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements for the installation or construction of pretreatment technology, pollution control, or appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
3. Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
7. A statement that compliance with the individual wastewater discharge permit or the General Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit or the General Wastewater Discharge Permit; and
8. Other conditions as deemed appropriate by the Director to ensure compliance with this Article and State and Federal laws, rules, and regulations.

### **1505.3 Permit Issuance Process**

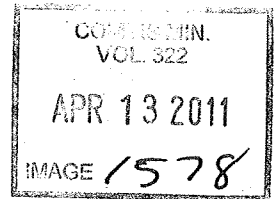
- A. The Director shall publish the list of permitted Users on the District website.
- B. The District shall provide a copy of a proposed individual or general wastewater discharge permit, whether a new permit or renewal permit, to the User at least fifteen (15) days prior to its effective date. The User shall have the right to petition the Director for a modified permit or meet with the Director's designee at any time prior to the effective date of the permit. Within fifteen (15) days after meeting with the Director, the Director will issue a final permit. Until the Director issues a final permit, all previous conditions regarding wastewater discharge, before the new or renewal permit was proposed, shall remain in effect.
- C. The User shall have the right to appeal the terms and conditions of a final permit to the Hamilton County Court of Common Pleas pursuant to O.R.C. Chapter 2506 and any other remedy of appeal provided by law. Wastewater discharge limits contained in any



renewal permit shall take effect upon the effective date of the renewal permit; all other new terms and conditions of any renewal permit that is appealed shall be stayed, and the remaining terms and conditions of the existing permit shall continue in full force and effect, provided that the District or User may seek relief from such stay or lack thereof in accordance with law from the Hamilton County Court of Common Pleas pending adjudication of any appeal. The terms and conditions of a new permit to a new User that is appealed shall take effect upon the effective date of the new permit, subject to modification by the Hamilton County Court of Common Pleas pending adjudication of any appeal.

#### **1505.4 Permit Modification**

- A. The Director may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
  2. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
  3. In response to a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  4. Information indicating that the permitted discharge poses a threat to the POTW, operating personnel, or the receiving waters;
  5. Violation of any terms or conditions of the individual wastewater discharge permit;
  6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  7. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
  8. To correct typographical or other errors in the individual wastewater discharge permit; or
  9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 1505.5.
- B. The Director may modify a General Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:



1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
2. In response to a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
3. To correct typographical or other errors in the General Wastewater Discharge Permit; or
4. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 1505.5.

#### **1505.5 Individual Wastewater Discharge Permit and General Wastewater Discharge Permit Transfer**

Individual wastewater discharge permits or coverage under General Wastewater Discharge Permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the Director and the Director approves the individual wastewater discharge permit or the General Wastewater Discharge Permit coverage transfer. The notice to the Director must include a written certification by the new owner or operator which:

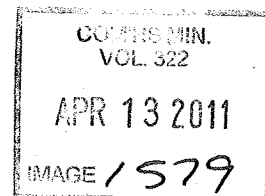
- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or General Wastewater Discharge Permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the General Wastewater Discharge Permit void as of the date of facility transfer.

#### **1505.6 Individual Wastewater Discharge Permit and General Wastewater Discharge Permit Revocation**

The Director may revoke an individual wastewater discharge permit or coverage under a General Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Director of changed conditions pursuant to Section 1506.5 of this Article;



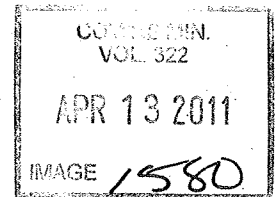
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the District representatives timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges, including permit fees, monitoring fees, and any other fee derived from activities authorized by these Rules and Regulations;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the individual wastewater discharge permit or the General Wastewater Discharge Permit or this Article.

Individual wastewater discharge permits or coverage under General Wastewater Discharge Permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or General Wastewater Discharge Permits issued to a User are void upon the issuance of a new individual wastewater discharge permit or a General Wastewater Discharge Permit to that User.

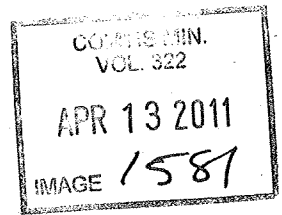
#### **1505.7 Individual Wastewater Discharge Permit and General Wastewater Discharge Permit Reissuance**

A User with an expiring individual wastewater discharge permit or General Wastewater Discharge Permit shall apply for individual wastewater discharge permit or General Wastewater Discharge Permit reissuance by submitting a complete permit application, in accordance with Section 1504.5 of this Article, a minimum of sixty (60) days prior to the expiration of the User's existing individual wastewater discharge permit or General Wastewater Discharge Permit.

#### **1505.8 Regulation of Waste Received from Other Jurisdictions**



- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Control Authority shall enter into an intermunicipal agreement with the contributing municipality.
  
- B. Prior to entering into an agreement required by paragraph A, above, the Director shall request the following information from the contributing municipality:
  - 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - 2. An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
  - 3. Such other information as the Director may deem necessary.
  
- C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:
  - 1. A requirement for the contributing municipality to adopt a sewer use ordinance that is at least as stringent as this Article and Local Limits, including required BMPs that are at least as stringent as those set out in Section 1502.4 of this Article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the District's Article or Local Limits;
  - 2. A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
  - 3. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit or General Wastewater Discharge Permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;
  - 4. A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  - 5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
  - 6. Requirements for monitoring the contributing municipality's discharge;



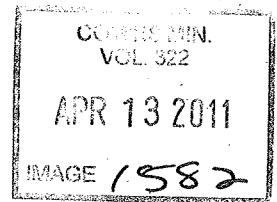
7. A provision ensuring the Director access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and
8. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

## **Section 1506 Reporting Requirements**

### **1506.1 Baseline Monitoring Reports**

- A. Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report that contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become CIUs subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Director a report that contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
  1. All information required in Section 1504.5A(1)(a), Section 1504.5A(2), Section 1504.5A(3)(a), and Section 1504.5A(6).
  2. Measurement of Pollutants.
    - a. The User shall provide the information required in Section 1504.5A(7)(a) through (d);
    - b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph;
    - c. Samples should be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process, if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit, along with supporting data, shall be submitted to the Control Authority;
    - d. Sampling and analysis shall be performed in accordance with Section 1506.10;



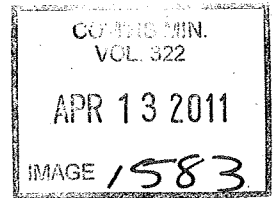


- e. The Director may allow the submission of a baseline report that utilizes only historical data so long as the data provide information sufficient to determine the need for industrial pretreatment measures; and
  - f. The baseline report shall indicate the time, date, and place of sampling and the methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
3. **Compliance Certification.** A statement, reviewed by the User's Authorized Representative as defined in Article I and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
4. **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 1506.2 of this Article.
5. **Signature and Report Certification.** All BMRs must be certified in accordance with Section 1506.14A of this Article and signed by an Authorized Representative as defined in Article I.

### **1506.2 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by Section 1506.1B(4) of this Article:

- A. The schedule shall contain progress increments 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 User to meet the applicable Pretreatment Standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and



- D. In no event shall more than nine (9) months elapse between such progress reports to the Director.

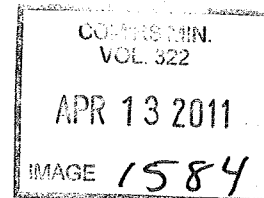
**1506.3 Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) 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 User subject to such Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in Sections 1504.5A(6) and (7) and 1506.1B(2) of this Article. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 1502.2, this report shall contain a reasonable measure of the User's long-term production rate. For all other 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. All compliance reports must be signed and certified in accordance with Section 1506.14A of this Article. All sampling will be done in conformance with Section 1506.11.

**1506.4 Periodic Compliance Reports**

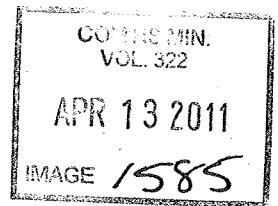
[Note: All SIUs are required to submit periodic compliance reports even if they have been designated an NSCIU under the provisions of Section 1506.4C.]

- A. Except as specified in Section 1506.4C, all SIUs must, at a frequency determined by the Director, submit no less than twice per year (June and December or on dates specified) reports indicating the nature and concentration of pollutants in the discharge that are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User.
- B. The District may authorize an IU subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the IU 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 IU [see 40 CFR 403.12(e)(2)]. This authorization is subject to the following conditions:
  - 1. The Monitoring Waiver may be authorized 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. The Monitoring Waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years.



The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit [see Section 1504.5A(8)].

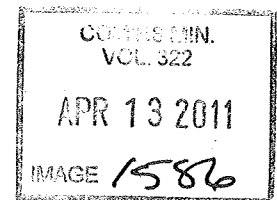
3. In making a demonstration that a pollutant is not present, the IU must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  4. The request for a Monitoring Waiver must be signed in accordance with Article I and include the certification statement in 1506.14A [see 40 CFR 403.6(a)(2)(ii)].
  5. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  6. Any grant of the Monitoring Waiver by the Director must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Director for three (3) years after expiration of the waiver.
  7. Upon approval of the Monitoring Waiver and revision of the User's permit by the Director, the IU must certify on each report, with the statement in Section 1506.14C below, that there has been no increase in the pollutant in its waste stream due to activities of the IU.
  8. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately comply with the monitoring requirements of Section 1506.4A, or other more frequent monitoring requirements imposed by the Director, and notify the Director.
  9. This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.
- C. The District may reduce the requirement for periodic compliance reports (see Section 1506.4A [40 CFR 403.12(e)(1)]) to a requirement to report no less frequently than once a year for Mid-Tier Categorical Industrial Users, unless required more frequently in the Pretreatment Standard or by the OEPA, where the IU's total categorical wastewater flow does not exceed any of the following:
- (1) The Industrial User's total categorical wastewater flow does not exceed any of the following:
    - a. Zero point zero one per cent of 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. Zero point zero one per cent of the design dry weather organic treatment capacity of the POTW; and
  - c. Zero point zero one per cent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standards for which approved local limits were developed by the District in accordance with paragraph (C)(4) of rule 3745-3-03 of the Ohio Administrative Code;
- (2) The Industrial User has not been in significant noncompliance, as defined in Section 1509 of these Rules and Regulations, for any 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 Sections 1506.1 and 1506.3 of these Rules and Regulations;
- (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:
- a. The District's approved long term control plan;
  - b. The District's approved combined sewer system operation plan implementing the nine minimum controls; or
  - c. The District's program modification request submitted to the director.
- D. All periodic compliance reports must be signed and certified in accordance with Section 1506.14A of this Article.
- E. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- F. If a User subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section 1506.11 of this Article, the results of this monitoring shall be included in the report.
- G. Users that send electronic (digital) documents to the District to satisfy the requirements of this Section must meet the criteria of the District's electronic reporting protocol applicable on the date the report is submitted.

#### **1506.5 Reports of Changed Conditions**

Each User must notify the Director of any significant changes to the User's operations or system that might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.



- A. The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 1504.5 of this Article.
- B. The Director may issue an individual wastewater discharge permit or a General Wastewater Discharge Permit under Section 1505.7 of this Article or modify an existing wastewater discharge permit or a General Wastewater Discharge Permit under Section 1505.4 of this Article in response to changed conditions or anticipated changed conditions.

#### **1506.6 Reports of Potential Problems**

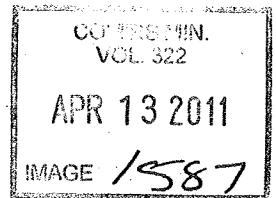
- A. In the case of any discharge, including, but not limited to, Accidental Discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. Within five (5) days following such discharge, the User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability that might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability that may be imposed pursuant to this Article.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.
- D. SIUs are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

#### **1506.7 Reports from Unpermitted Users**

All Users not required to obtain an individual wastewater discharge permit or a General Wastewater Discharge Permit shall provide appropriate reports to the Director as the Director may require.

#### **1506.8 Notice of Violation/Repeat Sampling and Reporting**

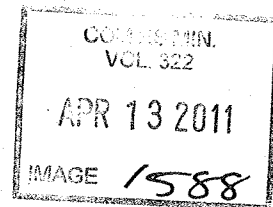
If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the



sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the IU is not required if the District performs sampling at the User's facility at least once a month, or if the District performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the District receives the results of this sampling, or if the District has performed the sampling and analysis in lieu of the IU.

#### **1506.9 Notification of the Discharge of Hazardous Waste**

- A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: 1) an identification of the hazardous constituents contained in the wastes; 2) an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and 3) an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 1506.5 of this Article. The notification requirement in this Section does not apply to pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 1506.1, 1506.3, and 1506.4 of this Article.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.



- D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Article, a permit issued thereunder, or any applicable Federal or State law.

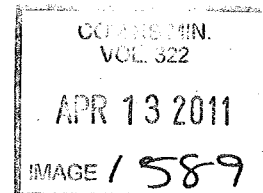
#### **1506.10 Analytical Requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

#### **1506.11 Sample Collection**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that are representative of conditions occurring during the reporting period.

- A. Except as indicated in paragraphs B and C, below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the District, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- B. Samples for oil and grease, temperature, pH, cyanide, hexavalent chrome, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of BMRs and 90-day compliance reports required in Sections 1506.1 and 1506.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab



samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by Section 1506.4 [40 CFR 403.12(e) and (h)], the IU is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

#### **.1506.12 Date of Receipt of Reports**

Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

#### **.1506.13 Recordkeeping**

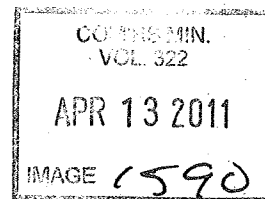
Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 1502.4C. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the District, or where the User has been specifically notified of a longer retention period by the Director.

#### **.1506.14 Certification Statements**

- A. Certification of Permit Applications, User Reports, and Initial Monitoring Waivers. The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 1504.7; Users submitting BMRs under Section 1506.1B(5); Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 1506.3; Users submitting periodic compliance reports required by Sections 1506.4A through D; and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 1506.4B(4). The following certification statement must be signed by an Authorized Representative as defined in Article I:

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.

- B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to Article I and 1504.7C must annually submit the following certification statement signed in accordance with the signatory requirements in 1501.4C. This certification must accompany an alternative report required by the Director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief, during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]:

- (a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Article I;
- (b) The facility complied with all applicable Pretreatment Standards and Requirements during this reporting period; and
- (c) The facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period.

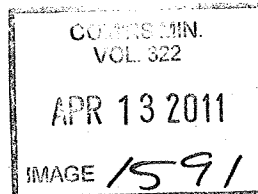
This compliance certification is based on the following information.  
\_\_\_\_\_ [specify information]

- C. Certification of Pollutants Not Present. Users that have an approved Monitoring Waiver based on Section 1506.4B must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 1506.4A.

## Section 1507 Compliance Monitoring

### 1507.1 Right of Entry: Inspection and Sampling



The Director shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Article and any individual wastewater discharge permit, General Wastewater Discharge Permit, or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

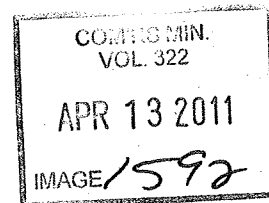
- A. Where a User has security measures in force that require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- C. The Director may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this Article.

#### **1507.2 Search Warrants**

If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the District designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Director may seek issuance of a search warrant from the appropriate Court.

#### **Section 1508 Confidential Information**

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, General Wastewater Discharge Permits, and monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge

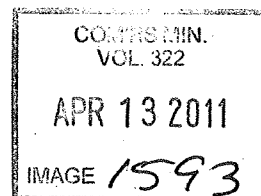


information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction.

### **Section 1509 Publication of Users in Significant Noncompliance**

The Director shall publish annually, in The Cincinnati Enquirer, a list of the Users that, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all SIUs (or any other IU that violates paragraphs C, D, or H of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits, as defined in Section 1502;
- B. Technical Review Criteria violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits, as defined by Section 1502 multiplied by the applicable criteria (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 Section 1502 (Daily Maximum, long-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 the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit, General Wastewater



Discharge 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 BMRs, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), including a violation of BMPs, that the Director determines will adversely affect the operation or implementation of the local pretreatment program.

## **Section 1510 Administrative Enforcement Remedies**

### **1510.1 Notification of Violation**

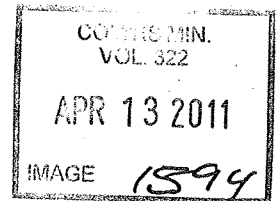
When the Director finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may serve upon that User a written Notice of Violation. Within thirty (30) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Director. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### **1510.2 Consent Orders**

The Director may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 1510.4 and 1510.5 of this Article and shall be judicially enforceable.

### **1510.3 Show Cause Hearing**

The Director may order a User that has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the



proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Article I and required by Section 1504.7A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

#### **1510.4 Compliance Orders**

When the Director finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

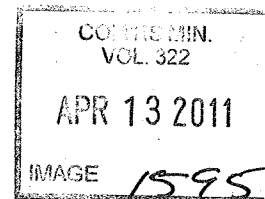
#### **1510.5 Cease and Desist Orders**

When the Director finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

#### **1510.6 Administrative Fines**

- A. When the Director finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may fine such User in an amount not to exceed \$10,000. Such fines shall be assessed on a per-violation, per-day basis.



- B. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

### **1510.7 Emergency Suspensions**

The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or that presents, or may present, an endangerment to the environment.

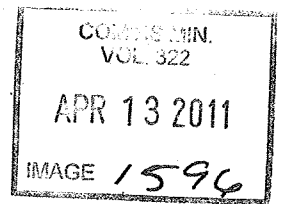
- A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Section 1510.8 of this Article are initiated against the User.
- B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director prior to the date of any show cause or termination hearing under Sections 1510.3 or 1510.8 of this Article.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

### **1510.8 Termination of Discharge**

In addition to the provisions in Section 1505.6 of this Article, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit or General Wastewater Discharge Permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or



E. Violation of the Pretreatment Standards in Section 1502 of this Article.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 1510.3 of this Article why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

### **Section 1511 Judicial Enforcement Remedies**

#### **1511.1 Injunctive Relief**

See Section 2109 of these Rules and Regulations

#### **1511.2 Civil Penalties**

See Section 2203 of these Rule and Regulations

#### **1511.3 Criminal Prosecution**

See Section 2205 of these Rules and Regulations

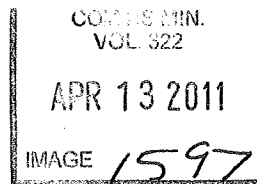
#### **1511.4 Remedies Nonexclusive**

The remedies provided for in this Article are not exclusive. The Director may take any, all, or a combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the District's Enforcement Response Plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

### **Section 1512 Supplemental Enforcement Action**

#### **1512.1 Penalties for Late Reports**

A penalty of \$100 shall be assessed to any User for each day that a report required by this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder is late, beginning five (5) days after the date the report is due [higher penalties may also be assessed where reports are more than thirty (30) to forty-five (45) days late]. Actions taken by the Director to collect late reporting penalties shall not limit the Director's authority to initiate other enforcement actions that may include penalties for late reporting violations.



### **.1512.2 Payment of Outstanding Fees and Penalties**

The Director may decline to issue or reissue an individual wastewater discharge permit or General Wastewater Discharge Permit to any User who has failed to pay any outstanding fees, fines, or penalties incurred as a result of any provision of this Article, a previous individual wastewater discharge permit, a previous General Wastewater Discharge Permit, or an order issued hereunder.

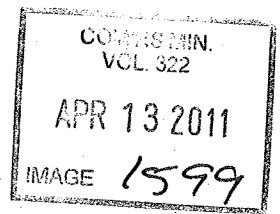
### **.1512.3 Public Nuisances**

Upon a violation of any provision of this Article, an individual wastewater discharge permit, a General Wastewater Discharge Permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may determine that the violation is a public nuisance and shall take all actions necessary to obtain a judicial order for the abatement of such nuisance.



**EXHIBIT C**

COMPTON MIN.  
VOL. 322  
APR 13 2011  
IMAGE 1598



## ARTICLE XXII

### PENALTIES

#### **Section 2201 Noncompliance**

The Director may impose a civil penalty of up to \$100 per violation, or such other fines and penalties as are authorized by these Rules and Regulations upon any person who fails to comply with any provision of these Rules and Regulations.

All fines and penalties authorized by these Rules and Regulations shall be in conformity with applicable law and shall be in accord with fines or fine ranges approved by the Board.

#### **Section 2202 Industrial Waste Violations**

The Director may impose a civil penalty as set forth in Sections 2203 and/or 2204 of this Article upon any person who violates Section 409 of Article IV or any provision of Articles XIV or XV of these Rules and Regulations or any permit condition, effluent limitation, or pretreatment or toxicity standard, issued or established by the Board to implement these Rules and Regulations.

#### **Section 2203 Civil Penalties**

A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the District for a maximum civil penalty of \$10,000 per violation, per day.

B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the District.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

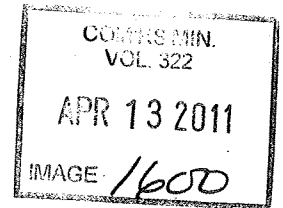
D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

#### **Section 2204 pH Violations**

The Director may impose the penalties established by the Board for pH ranges and periods of flow as set forth in Table 3 and 4 of the District's Enforcement Response Plan.

#### **Section 2205 Criminal Prosecution**

A. A User who willfully or negligently violates any provision of these Rules and Regulations, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor,



punishable by a fine of not more than \$25,000 per violation, per day, or imprisonment for not more than six (6) months, or both.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$25,000, or be subject to imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or general permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$25,000 per violation, per day, or imprisonment for not more than six (6) months, or both.

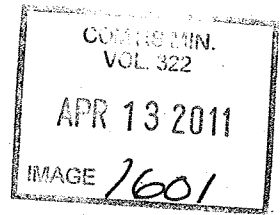
#### **Section 2206 Failure to Obtain Permit**

The Director may impose an administrative penalty of up to \$1,000.00 per violation upon any person who violates Section 1201, Article XII by failing to obtain a permit for making any connection with, altering, or disturbing a public or private sanitary or combined sewer or appurtenance thereof, in addition to such other fines, fees, tap-in-fees, and penalties as are authorized by these Rules and Regulations.

It shall be the obligation of the person causing the violation to expose the work area or provide proof, to the satisfaction of the District that the work was done in accordance with these Rules and Regulations. The Director may revoke the Sewer Tapper's License, cause the forfeiture of the Sewer Tapper's bond, or both, for failure of the violator to cooperate.

#### **Section 2207 Clean Water Violation**

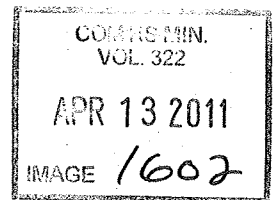
Any person who violates Section 1201a, Article XII by allowing clean water to enter a sanitary sewer system building lateral or appurtenance thereof shall be subject to a fine of up to \$25,000 per violation in addition to any liability for any consequential damage resulting from the violation for which the penalty is imposed. Consequential damages shall include, but not be limited to, fines and penalties imposed upon the District, or the Board by other public authorities.



**THE METROPOLITAN SEWER  
DISTRICT  
of Greater Cincinnati**

**ENFORCEMENT RESPONSE PLAN**

**EFFECTIVE JULY 1, 2011**



## Pretreatment Program Enforcement Response Plan

### **Introduction**

The Clean Water Act of 1977 has set forth basic requirements to regulate the nature and quantity of industrial wastes discharged to publicly owned treatment works; such legislation is found in 40 CFR part 403. The United States Environmental Protection Agency has revised part 403 pursuant to sections 307(b) and 402(b)(8) of the Act. The most recent revision to part 403 resulted in the promulgation of a final rule on July 24, 1990. Contained within part 403.8(f)(5) are a list of minimum requirements for the development of an Enforcement Response Plan (ERP).

The actions required of the Metropolitan Sewer District of Greater Cincinnati, as outlined in this document, are intended to satisfy the Ohio EPA requirement for the development of an ERP.

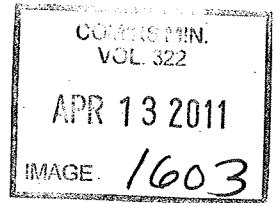
The principles of the Plan identified below describe a process to identify, document and respond to pretreatment violations in a timely and equitable manner consistent with relevant State and Federal law and with the legal authority contained in the Rules and Regulations.<sup>1</sup> The principles establish a framework for the management of enforcement matters and emphasize flexibility in controlling the overall operation.

The key principles of the Plan include:

- a) Establishment of responsibilities, procedures and time-frames that provide information to all levels of the organization;
- b) Maintenance of an accurate and complete industrial user inventory;
- c) A systematic plan devised to inspect and sample industrial users;
- d) Development of an enforcement response guide and compliance screening mechanism;
- e) Performance of an enforcement evaluation where necessary;
- f) Institution of an enforcement action and follow-up where deemed appropriate.

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<sup>1</sup> Where mentioned, "Rules and Regulations" shall refer to the Rules and Regulations Governing The Design, Construction, Maintenance, Operation And Use Of Sanitary and Combined Sewers In The Metropolitan Sewer District Of Greater Cincinnati, Hamilton County, Ohio and Issued by the Board of County Commissioners of Hamilton County, Ohio.



## Pretreatment Program Enforcement Response Plan

Many of these principles have heretofore been incorporated into the District's existing approved pretreatment program. The goal of this Plan is to describe the manner in which the District enforces its pretreatment program in light of Federal legislation. The existing general pretreatment requirements are contained within the Rules and Regulations.

### **Industrial User Inventory**

The District maintains a current inventory of its industrial users. The inventory consists of the industrial waste survey, baseline monitoring reports, periodic compliance reports, records of facility inspections, enforcement documentation and miscellaneous correspondence. The responsibility for maintenance of industrial user inventories has been assigned to specific pretreatment staff. The flow of information is organized to ensure that all relevant data is directed to the proper individual.

The control mechanism utilized by the District to monitor industrial user (IU) discharges is an individual or general Wastewater Discharge Permit, as provided for in Article XV of the Rules and Regulations. These Permits contain specific requirements for each industrial user concerning discharge limitations and reporting frequency.

In addition to industrial user self-monitoring, industrial users are monitored by the District. Significant Industrial Users (SIU) are inspected and monitored by the District at least one day per annum. Discretion will be exercised in determining whether sampling is necessary by District personnel for all other Users not in the significant industrial user category. Monitoring by the District is classified as scheduled, demand, unscheduled, additional or surcharge depending on the following criteria.

**Scheduled Monitoring** Undertaken to demonstrate continued compliance.

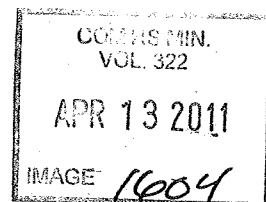
**Demand Monitoring** Intended to establish whether a violation(s) has been corrected once it has been detected. This may consist of one or more consecutive sampling days.

**Unscheduled Monitoring** Undertaken as a further check on industrial user compliance status.

**Additional Monitoring** Undertaken to aid in the assessment of Significant Industrial User (SIU) status. Normally consists of grab samples taken on a given day.

**Surcharge Monitoring** Undertaken to develop surcharge billing costs.

**Industrial User Self-monitoring** Undertaken by the industrial user in fulfillment of



## **Pretreatment Program Enforcement Response Plan**

federal, state and local pretreatment requirements.

The District then receives, evaluates and retains the data to ensure their availability when needed to make decisions on compliance activities, and, if necessary, as evidence in enforcement proceedings.

The District endeavors to inform the industrial users of changes in pretreatment requirements, results of inspections and other relevant information. The industrial users shall also be apprised of the enforcement principles outlined herein and the generalized responses to non-compliant episodes.

### **Pretreatment Staff**

The Division of Industrial Waste comprises a staff to sample, analyze, and assure compliance of industrial waste discharges. Sampling is carried out for the division exclusive of industrial user self-monitoring. Its pretreatment responsibility lies chiefly in conducting the necessary sampling and field inspections.

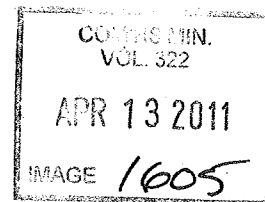
The Division's Laboratory performs in-house analysis of the effluent samples. EPA-approved QC/QA procedures are employed.

Evaluation of compliance with an individual or general Wastewater Discharge Permit includes screening the analytical data to match applicable permit limits. Evidence of a violation is compiled at the investigator level. These individuals are then responsible for completing the initial notice of noncompliance covering the specific violation. The supervisor performs a cursory quality control check and then allows issuance. Level 1 notices of noncompliance, without proposed fines or penalties, are issued under the signature of the Superintendent of Industrial Waste; Enforcement actions with proposed fines or penalties require the Director's signature.

### **Compliance Review Process**

The compliance review process includes review of all relevant data to screen out non-compliant industrial users for appropriate enforcement action.

The initial review confirms whether the discharge reports are submitted on time, encompasses the proper time period, are complete and properly signed. The secondary review assesses compliance with appropriate pretreatment standards (i.e. local or categorical) and any other information supplied by the industrial user in accordance with its individual or general Wastewater Discharge Permit.



## Pretreatment Program Enforcement Response Plan

For minor errors in practice the District will notify the user via verbal notification at inspections that are recorded in the inspection report, email, fax or other documented form of communication. For minor errors in reporting the District will issue a form letter notification. These notifications issued for minor errors form the paper trail that is used to establish patterns of recurring noncompliance that may lead to escalating enforcement.

### **Enforcement Evaluation**

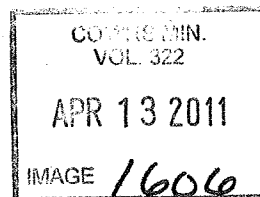
In general terms, the format used to enforce the Metropolitan Sewer District Rules and Regulations as they relate to pretreatment consists of the following:

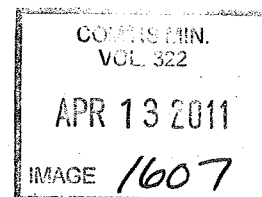
- a) All violations disclosed by the District or industrial user are reviewed by appropriate staff;
- b) The industrial user is notified by a notice of violation (NOV) when an enforcement official becomes aware of a violation;
- c) In the case of effluent violations, the industrial user is scheduled for demand monitoring. Generally, a facility inspection is also conducted;
- d) Every notice of violation requires the industrial user to take immediate action to prevent recurrence;
- e) When necessary the notice of violation requires the industrial user to submit an explanation and/or plan to prevent recurrence;
- f) The District will increase communications with the industrial user in response to violations. Additional inspections, meetings, and monitoring may be conducted;
- g) If the violations persist or the explanation/plan submitted is inadequate, the District responds with escalating enforcement such as requiring commitments in the form of additional pretreatment equipment with a construction plan/schedule;
- h) The District will issue fines in accordance with the Rules and Regulations using a series of fine schedules and EPA guidance documents.

In more specific terms, the District uses a tiered response approach geared to a twelve month time cycle to enforce its pretreatment program. A first occurrence of a violation triggers the cycle and sets it in motion. Multiple occurrences within a twelve month period (not necessarily related to the same violation) carry an escalating form of enforcement and extend the cycle. After twelve months have elapsed from the most recent violation, the cycle concludes. Subsequent violations begin a new cycle. However, the District will consider the user's previous history dating back to five or more years in setting the initial response level at the beginning of each new cycle. A user's compliance history will be



**EXHIBIT D**





## Pretreatment Program Enforcement Response Plan

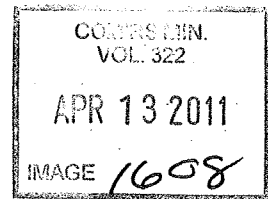
considered to determine whether any pattern or trend in violations exists. This information is to be used not only to aid in diagnosing the cause of the violation but also to assist in selecting enforcement options and in imposing fines and penalties.

It is recognized that some egregious or flagrant violations may warrant a response beyond Level 1 despite a first occurrence in twelve months. Depending on such factors as the number and severity of violations disclosed and impacts on human health and safety, the general enforcement levels are applied in accordance with the enforcement action tier.

Generally, the District will review industrial user reports within five days of receipt and for minor errors may issue the form letter notification within an additional seven days. Formal notices of violation will generally be issued within 30 days of receipt of the report.

Follow-up compliance activities such as inspections and monitoring generally begin within 30 to 45 days after the initial enforcement response is taken. Should these activities disclose continued noncompliance the District will escalate enforcement within 60 to 90 days.

The District is expected to diligently discharge these duties. Failure to serve any required notice in accordance with the time periods set forth herein shall not invalidate any proceeding or action of the District. However, any delay in issuing notices which causes an industrial user prejudice shall be considered in mitigation of any fine or other enforcement action of the District.



## Pretreatment Program Enforcement Response Plan

### Enforcement Action Tier

<u>Frequency of Violation</u>	<u>Nature</u>	<u>Enforcement Action</u>
First occurrence within twelve months	Moderate	Level 1
	Severe	Level 2
Multiple occurrences within twelve months	Moderate	Level 2
	Severe	Level 3
Chronic occurrence	Moderate	Level 3
	Severe	Level 4

### Enforcement Action Characterization

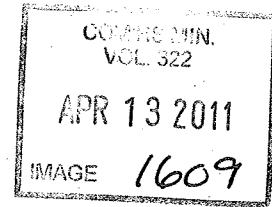
**Level 0** Industrial User has had no violations in more than twelve months.

**Level 1** DIW issues a Notice of Violation (NOV) identifying the violation and its date of occurrence. This Notice of Violation requires a written response from the industrial user within 30 days of notification describing the cause of the violation and the corrective actions taken to prevent recurrence. In order to monitor compliance, demand monitoring may be required. A follow-up investigation is conducted as necessary.

**Level 2** A Compliance Attainment Meeting (CAM) is scheduled within which a Consent Order (CO) or Remedial Action Plan (RAP) is developed within 30 days of the meeting. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document.

In order to monitor compliance, a follow-up investigation and monitoring event are conducted by DIW after a review of the adequacy of the RAP or Consent Order is made.

**Level 3** Compliance Orders or Administrative Orders requiring the User come into compliance within a specified period of time and may require the User to install and properly operate adequate treatment facilities, devices, or other related appurtenances. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and



## Pretreatment Program Enforcement Response Plan

management practices designed to minimize the amount of pollutants discharged to the sewer.

In order to monitor compliance, a follow-up investigation and monitoring event are conducted by DIW after a review of the adequacy of the treatment facilities or management practices is made.

**Level 4** Issuance of orders to cease and desist, revoke permit to discharge or terminate service, or refer to City Solicitor and other agencies.

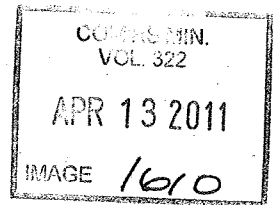
### **Enforcement Response Guide**

One of the minimum criteria set forth in 40 CFR 403.8 (f)(5) is a description of all anticipated types of industrial user violations, the prescribed form of enforcement to be taken and the time-frame within which the industrial user is required to respond. A predetermination of all types of violations is clearly not possible; however, a range of responses have been developed for the more common occurrences. Violations that occur but which are not contained in the Guide will be responded to on a case-by-case basis.

For the determination of the level of response necessary for a given violation or an occurrence outside permit limitations the District will carefully consider the number of occurrences in the current cycle and the Industrial User's history dating back five or more years, the number and severity of violations per occurrence and impacts on human health and physical structures, the presence of pretreatment technology and its adequacy for compliance, and the level of cooperation exhibited by the industrial user. The District's goal is ongoing compliance with all Rules and Regulations. To achieve this goal it is necessary to be flexible, yet even-handed in the implementation of the Guide, in a manner consistent with the Rules and Regulations, such that the resolution of any form of noncompliance is expedient and decisive.

Table 1 presents the Enforcement Response Guide for the Metropolitan Sewer District of Greater Cincinnati. The Guide incorporates the tiered approach to enforcement and all provisions set forth in the Rules and Regulations.

As noted in the Enforcement Response Guide, there are four (4) basic levels of response. In general, Level 1 means that the discharger has no prior violations during the preceding year; Level 2 means that prior violations have occurred but that the discharger is working cooperatively with the District in complying with regulations; Level 3 implies a lack of good faith efforts by the discharger and escalating enforcement by the District; Level 4 means a failure to address the issues in the informal administrative process.



## Pretreatment Program Enforcement Response Plan

Escalation from Level 1 to Level 2 is automatic when a second violation occurs within twelve months of a previous violation, except for minor errors of reporting. The step from Level 2 to Level 3 is made when the remedial actions taken or proposed by the industrial user are deemed by the District to be inadequate or inappropriate and the industrial user appears unwilling to fully resolve the issue. The District will consider factors such as threat to human health, potential damage to environment by interference or pass-through, damage to the sewer system, the duration, type and severity of noncompliance, deterrence, and additional costs to the District in determining the adequacy or appropriateness of the enforcement actions. Level 3 actions by the District will generally be taken unilaterally. For example, the District may issue a temporary cease and desist order to the industrial user pending implementation of interim operating procedures or until installation of pretreatment technology. Level 4 actions may be taken upon consultation with the City Solicitor or other agencies.

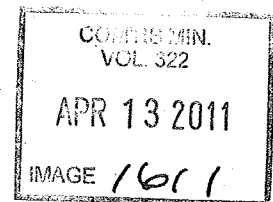
Where pretreatment equipment is to be installed, the District will coordinate with other agencies in order to track and discourage cross media shift; for example, an air permit with The Hamilton County Department of Environmental Services or a Permit-to-Install with the Ohio EPA.

### **Pollution Prevention**

The District has developed a pollution prevention program. Reducing pollution at its source is the preferable method of obtaining compliance with effluent limitations. The District will assist the industrial user with technology transfer and other available means to reduce, at the source, pollutants in the user's process operations.

A strong preference will be given to remedial alternatives which achieve compliance through pollution prevention by means of source reduction. However, the shifting of emissions from one environmental medium to a different environmental medium in order to achieve compliance may be considered as an acceptable alternative only after all other processes have been investigated. A user will not be allowed to achieve wastewater compliance by causing a violation of any other environmental law.

Best Management Practices (BMPs) may be required as a local limit. BMPs as local limits will be specifically described and written in a user's permit. Users with applicable standards that require compliance with a BMP or a pollution prevention alternative shall submit documentation to determine compliance with the standard when submitting baseline or periodic compliance reports.



## Pretreatment Program Enforcement Response Plan

### **Environmental Enhancement Action Policy**

The Enforcement Response Plan (ERP) establishes the procedure to determine fines and penalties MSD will assess for violations of conditions of the Pretreatment Program. The ERP also allows for the use of innovation and creative solutions to environmental problems. In conjunction with the ERP, MSD developed the Environmental Enhancement Action (EEA) policy.

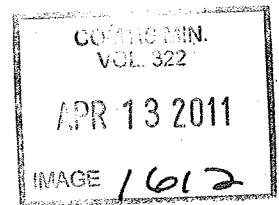
The MSD EEA policy uses, as its foundation, the U.S. EPA Supplemental Environmental Projects (SEP) policy. This policy allows for environmentally beneficial projects or activities that improve, protect, or reduce risks to public health to be considered in settlement of enforcement actions. The U.S. EPA SEP policy was originally published in February 1991 and revised in May 1998. The MSD policy was created after the 1998 revision.

As administered by MSD, once a Company reaches the ERP level that requires a proposed penalty, the Company may be required to attend a Compliance Attainment Meeting (CAM). The purpose of this meeting is to discuss the violation and begin to take steps to address and eliminate the root cause. Once these remedial actions have been identified, an Order may be issued that specifies the portion of the total fine that is to be paid immediately, a compliance schedule, and any other EEA projects that must be completed. The remaining portion of the fine is held in abeyance until the project is completed. Fines and penalties may be added if during this time additional violations occur. The user is required to implement measures that will minimize these occurrences while developing a strategy for long term compliance.

The user may be required to bear the cost of installing pretreatment equipment, additional monitoring, development and implementation of a Best Management Plan (BMP), and/or funding an environmental project. Additionally, a user must demonstrate compliance after implementation of the solution. Once the action is complete, documentation of the costs incurred by the user will be reviewed by MSD. In determining the final amount to be paid, the costs incurred, as well as the length of time it took the user to become compliant, are taken into consideration.

The following table describes the timeline and ERP Level that affects penalty offsets when allowing an EEA.

<b>MSD Action</b>	<b>NON/NOV/AO</b>	<b>NOV/NOV</b>	<b>NON/NOV</b>	<b>NON/NOV</b>	<b>NON/NOV</b>
<b>Fines Assessed</b>	25%	25%	50%	75%	100%



**Pretreatment Program Enforcement Response Plan**

<b>Fines Held</b>	75%	75%	50%	25%	0%
<b>Enforcement Time</b>	0 Months or Level 1-2	6 Months or Level 2	12 Months or Level 2	18 Months or Level 2	24 Months or Level 3

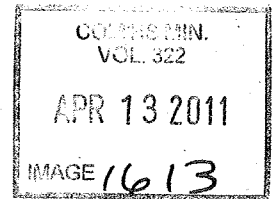
Once items of the Orders are complete, a decision on what to assess will be made based on total remaining fines and expenses incurred for compliance projects (assess 25% and evaluate 75%).

- a) If the length of the AO exceeds 12 months, heavier penalties may be sought.
- b) If like violations occur that should be resolved by the AO, then these would require no separate enforcement document, but would proceed as a part of the current order, fines being assessed with that document timeline. However, if violations not related or resolved by current actions occur, then a separate Order would need to be agreed on and attached to the existing Order.
- c) MSD must be able to justify actions taken to offset fines. Inspections, files that identify costs of compliance items, and cost summaries from the user as documentation of the actions implemented, which may include but are not limited to, purchase orders and invoices will be required prior to termination of the Order.
- d) An EEA offsets a maximum of 75% of the proposed fines. MSD may term these projects EEAs-Environmental Enforcement Actions. Examples of EEAs are pollution prevention, waste minimization, audits (TechSolve, consultant services, and internal staff), training, monitoring, and construction or modification of a sample location.
- e) At ERP Level 3, MSD may examine the benefit of non-compliance.
- f) The timeline for enforcement actions shall be explained in the CAM. Conditions pertaining to escalated enforcement actions are included in the Administrative Order.

**Compliance Schedule Policy**

In certain cases the District may negotiate with an Industrial User regarding occurrences outside of permitted limitations when the following circumstances apply:

- a) The Industrial User has agreed to construct a pretreatment facility, place it in operation and achieve compliance with all of the following: the industrial user's wastewater discharge permit; the Metropolitan Sewer District Rules



## **Pretreatment Program Enforcement Response Plan**

- and Regulations; Chapter 6111 of the Ohio Revised Code; Ohio Administrative Code 3745-3-12; and the General Pretreatment Regulations 40 CFR 403 and Subchapter N as may be amended; and such other laws, rules and regulations that may apply; and
- b) Where the Industrial User has demonstrated that the occurrences outside limitations do not pose a threat of pollution to the environment and/or jeopardize health, safety, welfare, and property; and
  - c) Where the Industrial User has demonstrated that the occurrences outside limitations, do not pose a threat of interference and pass through or damage to the POTW; and
  - d) Where no Alternative Interim Measures are available to reduce the discharges below permit limits. In such event, the agreement negotiated will include Alternative Interim Measures, which minimize the amount by which the discharges exceed permit limits.

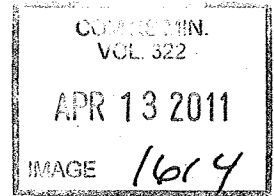
The agreement negotiated shall include the Industrial User's adoption of Alternative Interim Measures to prevent or minimize the exceeding of limitations during the interim period. The District and the Industrial User may agree upon a fine schedule for the interim occurrences outside limitations. The agreement shall include a time frame for the following: completion of a treatability study of the Industrial User's wastewater; selection of pretreatment technology; completion of pretreatment specifications; submission of a complete application for a permit to install including detailed plans and specifications for the installation of pretreatment facilities to the Ohio EPA; submission of purchase orders for the approved pretreatment equipment; beginning date for construction; date for completion of construction; and date for demonstration of compliance to the District.

Prior to entering into a compliance schedule which allows the discharge of contaminants beyond permit limits, the District will consider Alternative Interim Measures. These Alternative Interim Measures are temporary measures which reduce discharges into the sewer system below permits limits pending the implementation of the final remedy, such as the construction of a pretreatment facility.

Such Alternative Interim Measures may include temporary process or operational changes, or temporary volume reduction (i.e. reduction in production output). Such measures may also include off-site disposal or on-site holding or a temporary alternative pretreatment operation. Measures that involve media shifting will be discouraged and a preference will be given to measures which involve pollution prevention.

### **Cost Recovery**





## Pretreatment Program Enforcement Response Plan

The user will be held liable for cleanup costs and/or damages resulting from discharges in violation of District limitations. These costs will be derived separate and distinct from imposed fines and are generally the actual cost of cleanup and/or repair/replacement.

In addition, a non-compliant user may be assessed the cost for increased inspection and monitoring events required by the District to evaluate the users' return to compliance.

Economic benefit of noncompliance may be assessed separate and distinct from imposed fines. The District will refer to State and Federal guidelines such as EPA's Guidance Manual for POTWs to Calculate the Economic Benefit of Noncompliance.

### **Significant Noncompliance**

The "significant noncompliance (SNC)" concept shall also be utilized to set priorities for enforcement response. Article XV, Section 1509 contains a provision to publish the names of industrial users found in significant noncompliance with the Rules and Regulations during the previous twelve (12) months. The term "significant noncompliance" applies to an industrial user meeting at least one of the following criteria:

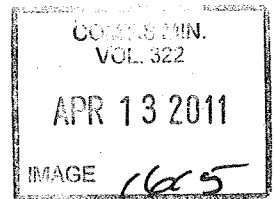
Chronic violations of an individual or general Wastewater Discharge Permit as described in the Rules and Regulations; Technical Review Criteria (TRC) violations as described in the Rules and Regulations; Any other violation that the District believes has caused interference or pass-through phenomena; or has caused eminent endangerment to human health/welfare; d) Violations of construction and/or implementation schedule milestones contained in administrative orders; Failure to provide reports in the allotted time; Failure to accurately report noncompliance. Any other violation(s), which may include a violation of Best Management Practices, which MSD determines will adversely affect the operation or implementation of the local pretreatment program.

More severe enforcement actions will be taken against industrial users that frequently exceed pretreatment requirements as opposed to those that report isolated violations. In any case, if compliance is not achieved, escalated forms of enforcement will be taken to attain compliance in a timely fashion.

### **Fine Schedule**

Monetary penalties will also be used as part of the enforcement program. USEPA guidance offers four criteria that will be reviewed before penalties are assessed:

- a) Recover the cost to the District of the noncompliance.



## Pretreatment Program Enforcement Response Plan

- b) Size penalty to deter future incidence of noncompliance.
- c) Maintain a program of fairness, equity and consistency.
- d) Provide a logical and systematic basis for penalty calculation.

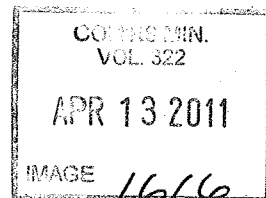
To implement the recommended criteria in setting penalties the District has developed a series of fine schedules to use as a guide for establishing proposed penalties. These schedules are presented in the following tables.

**Occurrences Outside Permit Concentration Limits - TABLE 2** This fine schedule is used to determine fines for violation of effluent limits. The fines increase as the percentage over the limit increases and as the facility wastewater flow increases. The schedule includes an adjustment for history of violations which directly relates to the enforcement level determined by the District. (Flow values used in this table are long term average total facility flows certified by the user and generally obtained through the wastewater discharge permit process.)

**Occurrences Outside Continuous pH Periods - TABLE 3** Discharge to the wastewater treatment system of wastewater in violation of Section 1502.1 B(2) of MSD's Rules and Regulations (R&R) shall be subject to penalties for pH ranges and periods of flow as set forth in Table 3. Each occurrence for a range and period listed in Table 3 shall be a separate violation so long as the period for that occurrence contains no element of time in common with the period for any other occurrence charged as a violation in accordance with the standards of Table 3. For permittees with an active District approved pH best management plan in effect the District will consider only occurrences outside the continuous pH periods in Table 3 a violation.

**Occurrences Outside pH Excursion Limits - TABLE 4** Discharge to the wastewater treatment system of wastewater in violation of Section 1502.1 B(2) of MSD's R&R shall be subject to penalties for pH excursion levels and frequencies of excursions greater than the frequencies set forth in Table 4. Excursion shall mean an occurrence outside of the range of 5.0 to 12.5 Standard Units at the designated sampling location wherein a wastewater pH changes in magnitude from a value within or closer to the range of 5.0 to 12.5 standard units to a value outside or further from that range, whether toward a lower pH or a higher pH. The frequency of excursion shall mean the number of excursions in any interval of eight consecutive hours. Violations of the standards for excursion set forth in Table 4, excluding excursions attributed to instrumentation malfunction, shall be cumulative even if containing common elements of time. For permittees with an active District approved pH best management plan in effect the District will consider only occurrences outside the pH excursion limits in Table 4 a violation.

**Late Report Filing - TABLE 5** These enforcement responses are applicable for late or



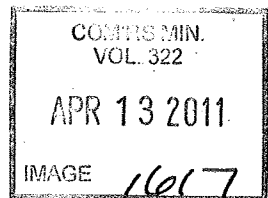
## **Pretreatment Program Enforcement Response Plan**

incomplete filing of routine required reports (e.g., monitoring, permit application, permit renewals, etc.). Required enforcement reports that are late or incomplete, will accrue penalties from due date.

**Other Violations - TABLE 6** As a number of other violations may be committed which warrant a fine but which cannot be easily quantified in a fine schedule this table is a guide to the District in setting fine levels based on deviation and seriousness.

### **Individual or General Wastewater Discharge Permits**

Individual or General Wastewater Discharge Permits are issued to a specific User for specific operations, at a specific premise. An individual or general Wastewater Discharge Permit shall not be reassigned or transferred or sold to another owner, another User or different premises without prior approval by the Director. An individual or general Wastewater Discharge Permit shall not be transferred to a new or significantly changed operation.



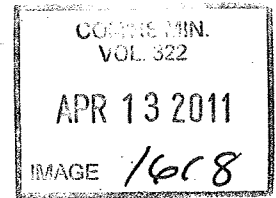
## Pretreatment Program Enforcement Response Plan

TABLE 1  
Enforcement Response Guide

### I. SAMPLING, MONITORING & REPORTING VIOLATIONS

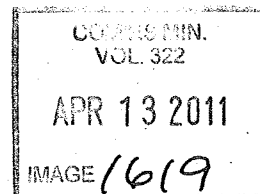
#### 1. Noncompliance Item: Reporting Violation

- |    |                    |  |
|----|--------------------|--|
| a. | Circumstance:      | <u>Routine report improperly signed/certified</u>  |
|    | Action:            | Level 1  |
|    | Specific Response: | Phone call/documentation to file (IU Response due in 30 days)  |
| b. | Circumstance:      | <u>Routine report improperly signed/certified after notification by District</u>   |
|    | Action:            | Level 2  |
|    | Specific Response: | NOV/CAM (IU Response due in 30 days)   |
| c. | Circumstance:      | <u>Late submittal of routine report (less than or equal to 5 days)</u>   |
|    | Action:            | Level 1  |
|    | Specific Response: | NON, DIW issues telephone warning (IU Response due immediately)  |
| d. | Circumstance:      | <u>Late submittal of routine report (greater than 5 days but less than 30 days)</u>  |
|    | Action:            | Level 2  |
|    | Specific Response: | NOV issued, IU informed of possible fines (IU response due immediately)  |
| e. | Circumstance:      | <u>Late submittal of routine report (greater than 30 days)</u>   |
|    | Action:            | Level 3  |
|    | Specific Response: | NOV with fines of \$100/day beginning with day 31 and accumulating until the report is received up to a maximum fine of \$2,000 per late report. (IU response due immediately) |
| f. | Circumstance:      | <u>Incomplete submittal of routine report</u>  |
|    | Action:            | Level 1  |
|    | Specific Response: | Phone call/NOV (IU Response due in 30 days)  |
| g. | Circumstance:      | <u>Failure to submit any required report</u>   |
|    | Action:            | Level 3/4  |
|    | Specific Response: | NOV/AO and/or fine subject to hearing (IU Response due in 30 days)   |
| h. | Circumstance:      | <u>Failure to report spill or permit violation - no impact</u>   |
|    | Action:            | Level 2  |
|    | Specific Response: | NOV/CAM (IU Response due in 30 days)   |



## Pretreatment Program Enforcement Response Plan

- i. Circumstance: Failure to report spill or permit violation - impact present  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)
- j. Circumstance: Failure to report changed discharge - no impact  
Action: Level 2  
Specific Response: NOV/CAM (IU Response due in 30 days)
- k. Circumstance: Failure to report changed discharge - impact present  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)
- l. Circumstance: Falsification of documentation  
Action: Level 4  
Specific Response: Referral to City Solicitor
- m. Circumstance: Late submittal of required enforcement report  
Action: Level 3  
Specific Response: NOV with fines of \$100/day beginning with day 1 and continuing until date report received up to a maximum of \$2,000 per late report.
- n. Circumstance: Failure to provide telephone notice within 24 hour of knowledge of a self monitoring violation.  
Action: Level 2  
Specific Response: NOV/CAM (IU Response due in 30 days)
2. Noncompliance Item: Monitoring Violation
- a. Circumstance: Failure to monitor all pollutants required by discharge permit  
Action: Level 2  
Specific Response: NOV/CAM (IU Response due in 30 days)
- b. Circumstance: Failure to install monitoring equipment within specified time  
Action: Level 3/4  
Specific Response: NOV/AO and/or fine subject to hearing (IU Response due in 30 days)
- c. Circumstance: Failure to maintain monitoring equipment  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)



## Pretreatment Program Enforcement Response Plan

- d. Circumstance: Denial of access  
Action: Level 3/4  
Specific Response: NOV/AO and/or fine subject to hearing Obtain search warrant

### 3. Noncompliance Item: Sampling/Analytical Violation

- a. Circumstance: Improper sampling location  
Action: Level 2  
Specific Response: NOV/CAM (IU Response due in 30 days)
- b. Circumstance: Improper analytical methods  
Action: Level 2  
Specific Response: NOV/CAM (IU Response due in 30 days)

## II. PERMIT VIOLATIONS

### 1. Noncompliance Item: Exceeding Permit Effluent Limits

- a. Circumstance: First occurrence - no impact  
Action: Level 1  
Specific Response: NOV requiring a return to compliance
- b. Circumstance: First occurrence - impact present  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)
- c. Circumstance: More than one occurrence in twelve month cycle  
Action: Level 2/3/4  
Specific Response: Dependent upon number of occurrences and their impact

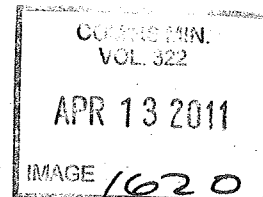
### 2. Noncompliance Item: Dilution Of Wastestream As Substitute For Pretreatment

- a. Circumstance: Willful or otherwise  
Action: Level 3/4  
Specific Response: NOV/fine subject to hearing/AO or referral to Solicitor (IU Response due in 30 days)

### 3. Noncompliance Item: Failure To Operate And Maintain Pretreatment Facilities

- a. Circumstance: Willful or otherwise  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)

### 4. Noncompliance Item: Violation Of Compliance Schedules



## Pretreatment Program Enforcement Response Plan

- a. Circumstance: Late progress report (greater than 30 days)  
Action: Level 3  
Specific Response: NOV with fines of \$100/day beginning with day 1 and continuing until date report received up to a maximum of \$2,000 per late report.

5. Noncompliance Item: Violation of Periodic Reporting Requirements

- a. Circumstance: Report interval exceeds 9 months  
Action: Level 2  
Specific Response: NOV/CAM (IU Response due in 30 days)
- b. Circumstance: Late permit application  
Action: Level 1  
Specific Response: Phone call/documentation to file (IU Response due in 1 week)

6. Noncompliance Item: Detection of a Pollutant declared to be absent

- a. Circumstance: Discharge  
Action: Level 1/2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU response in 30 days)

### III. UNAUTHORIZED DISCHARGE:

1. Noncompliance Item: Discharge Prohibitions

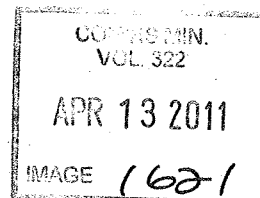
- a. Circumstance: No impact  
Action: Level 1  
Specific Response: NOV requiring a return to compliance
- b. Circumstance: Impact present  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)

2. Noncompliance Item: Expired Permit

- a. Circumstance: Willful or negligent  
Action: Level 1/2  
Specific Response: NOV/Phone call (IU Response due in 30 days)

3. Noncompliance Item: Unauthorized bypass

- a. Circumstance: Violates permit limits  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)



## Pretreatment Program Enforcement Response Plan

- b. Circumstance: Failure to notify District - no impact  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)
- c. Circumstance: Failure to notify District - impact present  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)

### 4. Noncompliance Item: Slug load or accidental discharge

- a. Circumstance: Failure to notify District - no impact  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)
- b. Circumstance: Failure to notify District - impact present  
Action: Level 3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)

### 5. Noncompliance Item: Operating Upset

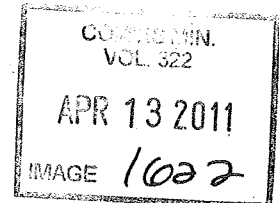
- a. Circumstance: Failure to notify District - no impact  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)
- b. Circumstance: Failure to notify District - impact present  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)

## IV. VIOLATIONS DETECTED DURING SITE VISITATION:

### 1. Noncompliance Item: Illegal Discharge

- a. Circumstance: Failure to notify District - no impact  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU  
Response due in 30 days)
- b. Circumstance: Failure to notify District - impact present  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU





## Pretreatment Program Enforcement Response Plan

Response due in 30 days)

### 2. Noncompliance Item: Access to Records

- a. Circumstance: IU refusal  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due 30 days)

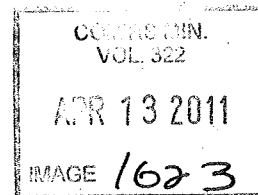
### 3. Noncompliance Item: Accidental Discharge

- a. Circumstance: Failure to notify District - no impact  
Action: Level 2/3  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)
- b. Circumstance: Failure to notify District - impact present  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)
- c. Circumstance: Causes interference/pass-through  
Action: Level 2/3/4  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU Response due in 30 days)

### 4. Noncompliance Item: Failure to perform a BMP required by Permit

- b. Circumstance: Failure to perform permit-required BMP  
Action: Level 1/2  
Specific Response: NOV/CAM/AO and/or fine subject to hearing (IU response in 30 days)

Note: ... In certain non-compliant episodes where a POTW response may come from a choice of Action Levels (i.e. Level 2/3/4), the industrial user Response time given pertains to the highest Action Level taken. The District reserves the right to require industrial users to respond more quickly in the event of an emergency or during other such times as the District deems necessary. the District Rules and Regulations confer on the industrial user certain rights which authorize specific response times.



## Pretreatment Program Enforcement Response Plan

TABLE 2 Fine Schedule: Occurrences Exceeding Permit Concentration Limits		
Evaluation Criteria	Value	Fine Amount
<b>A. Magnitude of Occurrence</b>		
0% to 20% over limit	\$0 to 100 <sup>a</sup>	
21% to 50% over limit	100	
51% to 100% over limit	200	
101% to 200% over limit	400	
201% to 300% over limit	600	
301% to 400% over limit	800	
401% or more over limit	1,000	
<b>B. Volume of Discharge (gpd)</b>		
10,000 of less	\$200	
10,001 to 50,000	500	
50,001 to 250,000	1,000	
250,001 to 500,000	2,000	
500,001 to 1,000,000	3,000	
Over 1,000,000	4,000	
<b>Subtotal - Base Fine</b>		
<b>C. Adjustment for History of Violations</b>		
	Base fine multiplier	
Level 0, 1, 2 <sup>b</sup>	0	
Level 3 <sup>b</sup>	1	
Level 4 <sup>b</sup>	2	
<b>Total Fine</b>		
<sup>a</sup> Use zero for single grab or daily composite sample; use \$100 if occurrence is computed from average of two or more samples. <sup>b</sup> Refers to Enforcement Action Tier in the District's Enforcement Response Plan.		

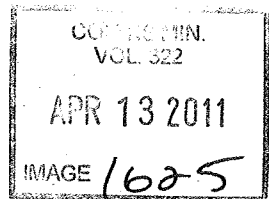
**Pretreatment Program Enforcement Response Plan**

**TABLE 3**  
Fine Schedule:  
Occurrences Exceeding Continuous pH Periods  
Outside the Allowable Range of 5.0-12.5 Standard Units

pH Range Standard Units	Continuous Period of Flow Minutes	Penalty Dollars
Less than 5.0	120	250
Less than 4.0	45	500
Less than 3.0	15	1000
Less than 2.0	5	2000
More than 12.5	30	500
More than 13.0	10	2000

**TABLE 4**  
Fine Schedule:  
Occurrences Exceeding pH Excursion Limits  
Outside the Allowable Range of 5.0-12.5 Standard Units

pH Excursion Level Standard Units	Allowable Frequency of Excursion Events in 8 Hours *	Penalty Dollars
Less than 5.0	16	250
Less than 4.0	8	500
Less than 3.0	4	1000
Less than 2.0	2	2000
More than 12.5	4	500
More than 13.0	2	2000



**Pretreatment Program Enforcement Response Plan**

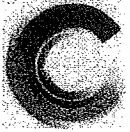
TABLE 5 Fine Schedule: Late Report Filing	
Nature of Violation	Action
Level 1. Routine Report late 1-5 days Level 2. Routine Report late 6-30 days Level 3. Routine Report late 31+ days	Notice of noncompliance or verbal/email warning issued Notice of Violation issued Notice of Violation with fines of \$100/day beginning with day 31 and continuing until date report received up to a maximum of \$2,000 per late report.
Required enforcement reports that are late or incomplete will accrue penalties from the due date.	

TABLE 6 Fine Schedule: Other Violations			
Potential For Harm	Extent of Deviation		
	Major	Significant	Minor
Major	\$10,000	\$7,000	\$4,000
Significant	6,000	3,500	1,500
Minor	2,000	1,200	300

## MSD DIW Pretreatment Streamlining Communication Plan

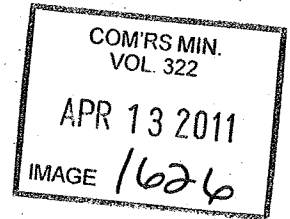
March 2011

METROPOLITAN  
SEWER DISTRICT  
of greater  
CINCINNATI



### Permitted Users

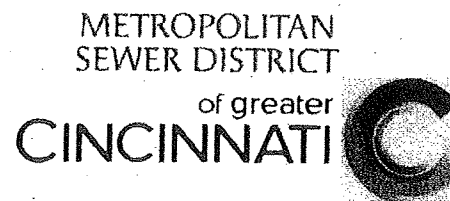
1. Mass email to all investigator contacts in the iPACS database
  - a. Include narrative describing changes and communication plan.
  - b. Attach PDF files of Article I, XV and ERP
  - c. Provide a link to [www.MSDGC.org](http://www.MSDGC.org) with instructions on what is there
  - d. Invite contacts to roll-out meeting June 8th at TechSolve.
2. USPS mailing to Investigator contact(one per facility)
  - a. Cover letter explaining program changes and communication plan
  - b. Streamlining fact sheet with FAQ sheet
  - c. Printed copy of Article I, XV and ERP (Booklet style)
  - d. CD with all essential documents
    - i. Plus library of Ohio EPA and US EPA guidance documents.
3. Public Meetings
  - a. June 8th at TechSolve for Mill Creek customers and general public
  - b. User specific meetings at smaller treatment plants
4. Annual Investigation process
  - a. Provide prepared presentation at each annual audit of significant industrial users and walk users through program changes with an emphasis on directly impacts



### Non-Permitted Users

1. As they come into the pretreatment program
  - a. Building permits or plumbing permits
  - b. Service requests such as s-meters
  - c. OEPA permit-to-install
  - d. New customers
2. Complaints
  - a. Referrals from collection system maintenance
  - b. FOG HotSpots responses to grease accumulations
  - c. Pollutant cluster evaluations such as that for Thallium
3. Trade Group Outreach
  - a. Master Plumbers Association
  - b. Chamber of Commerce
  - c. Others as identified
4. Program Implementation
  - a. Fats, Oils and Grease program
  - b. Dental facility program
  - c. Group permit and best management practice development
  - d. Interagency cooperation

COMPUTER  
VOL. 322  
APR 13 2011  
IMAGE 1627



April 7, 2011

Dr. Vlasta Molak  
8987 Cotillion Drive  
Cincinnati, Ohio 45231

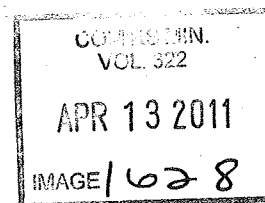
Dear Dr. Molak:

On January 12, 2011 at a Regular Meeting of the Hamilton County Board of County Commissioners, a public hearing was opened to consider modifications to Articles I, XV and XXII of the Metropolitan Sewer District Rules and Regulations. Public comment was invited and you responded with a specific concern about using best management practices in lieu of numerical limits. The Metropolitan Sewer District (MSD) offers the following to address your specific concern and to provide more information about the intent and need for program modifications.

The Metropolitan Sewer District recognizes and thanks the efforts of the early pioneers of environmental regulation, such as you, who provided the science that delivered realistically achievable and effective pollutant limits. The Pretreatment Program is a worthy example and the Metropolitan Sewer District is a particular beneficiary of the program, as pollutant loading at MSD treatment plants has declined dramatically in the ensuing years of the program. The Pretreatment Program success is a nationwide phenomenon recognized by the USEPA in the attached document "EPA's National Pretreatment Program, 1973-2003: Thirty Years of Protecting the Environment".

The new rules will allow MSD to reduce the monitoring burden on otherwise significant industrial users who simply do not receive or create the regulated priority pollutants. Their synergistic use of our utility necessitates a new strategy and MSD intends to use its 'Best Management Practice' (BMP) authority to monitor behavior to ensure our customers are using our utility service to our mutual benefit. The BMPs provide both the character traits and the context to evaluate behavior. Traditional enforceable numerical limits will still apply and MSD will regularly monitor for all pollutants of concern. The customer, in their MSD approved BMP, establishes the conditions necessary for their particular location and operation that when followed prevent effluent limit violations as well as pass through and interference. At each site inspection MSD will verify compliance with the approved BMP. At least semi-annually the industrial user will certify adherence to BMPs that are current for their situation. Failure to comply with the conditions of a BMP automatically places an industrial user in significant non-compliance, requiring more stringent enforcement and publication in the newspaper.

The Metropolitan Sewer District may also use BMPs as an alternative to a numerical limit. However, none are currently under consideration by MSD. It is likely that the USEPA will regulate mercury discharges at dental facilities through the Pretreatment Program. Should USEPA promulgate this rule, MSD will follow established Ohio EPA guidelines to implement BMP requirements as an alternative. Attached is the Ohio EPA Pretreatment Guidance document "The Use of Best Management Practices (BMPs) as Industrial Local Pretreatment Limits" that MSD will follow to implement this specific BMP.



The Metropolitan Sewer District's Pretreatment Program must also prevent sanitary sewer overflows resulting from grease blockages caused by food service operations. MSD already knows the common factors in these blockages and has guided its Fats, Oils, & Grease program to address these factors. The USEPA is developing rules for dentists that will have requirements for the Pretreatment Program. Most of our stormwater investigations involve vehicle maintenance operations with inadequate management practices. Already, other public agencies inspect, permit and regulate activities at these facilities. MSD desires to link-up and build a bridge of cooperation. We need a rule set that allows our staff to craft general permits with workable management practices that can cross interagency needs.

Our proposed modifications are a response to the success of the National Pretreatment Program. While many of our changes are required by new federal and state laws, a larger part of our effort is intended to improve our communications with a wider customer base. Many of the 'pass through' and 'interference' problems that the Pretreatment Program was originally designed to address are no longer from traditional industrial manufacturing sources but from food service, vehicle maintenance, health care, and other non-traditional sources. The Metropolitan Sewer District needs to shift resources toward these customer classes to manage these new sources of pollution. We believe our new rules are future oriented and will allow MSD to effectively manage the wastestreams generated by all classes of industrial customers and maintain a tool set ready to address any pollutant of concern.

Thank you again for your contributions to environmental regulation. From that foundation MSD seeks to continue building on past successes in our mission to protect public health and the environment. If you have any comments or questions please contact Christopher Hall, P.E. at 513-557-7011.

Sincerely,

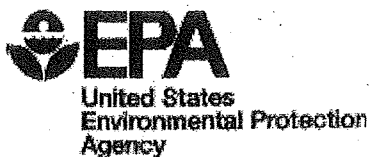
James A. Parrott

Executive Director

Metropolitan Sewer District of Greater Cincinnati

APR 13 2011

IMAGE 1629



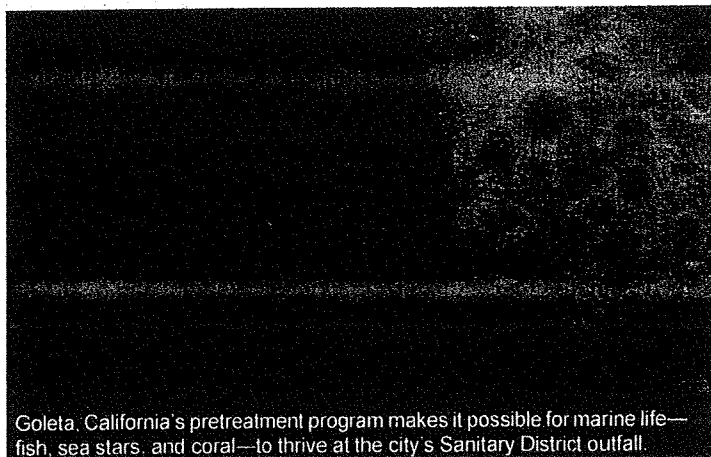
# EPA's National Pretreatment Program, 1973-2003: Thirty Years of Protecting the Environment

*EPA's National Pretreatment Program has led the way to dramatically reduce or eliminate discharges of pollutants to sanitary sewer systems and to the nation's water bodies. The Program controls a complex array of industrial wastestreams in order to prevent interference or pass-through of municipal treatment system processes. Without these controls, a number of harmful pollutants could make their way into the nations' waters. Federal, state, and local partnerships are central to the successful implementation of the Program. Renewed commitment and support to the Pretreatment Program will conserve the environmental gains of the last 30 years, strengthen strategic partnerships, and prepare communities to meet the pollution challenges of the 21st Century.*

## The Pretreatment Program

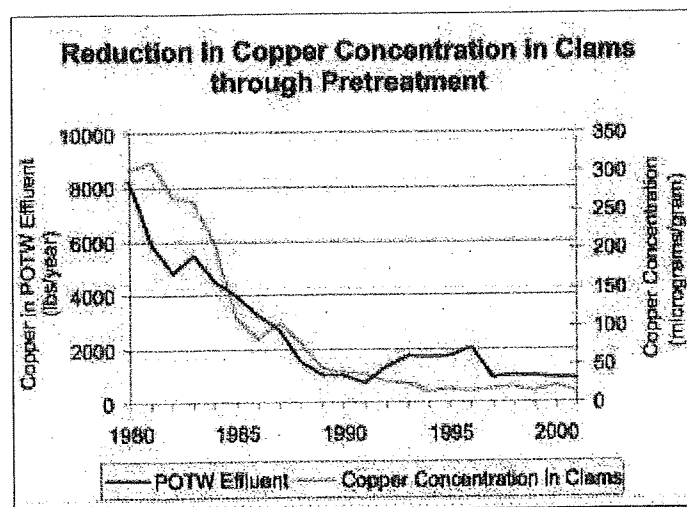
Pollutants in industrial wastewater may compromise municipal treatment plants' processes or contaminate the nation's waters. To protect municipal treatment plants and the environment, the Pretreatment Program requires industrial dischargers to use treatment techniques and management practices to reduce or eliminate the discharge of harmful pollutants to sanitary sewers. The Pretreatment Program is a core part of the Clean Water Act's National Pollutant Discharge Elimination System (NPDES), and it has helped communities:

- Maintain and restore watershed quality, at a much lower cost than upgrading treatment;
- Encourage pollution prevention;
- Increase beneficial uses of sewage sludge;
- Prevent formation of poisonous gases in the sanitary sewer system;
- Meet wastewater discharge standards; and
- Institute emergency-prevention measures.



Goleta, California's pretreatment program makes it possible for marine life—fish, sea stars, and coral—to thrive at the city's Sanitary District outfall.

The Pretreatment Program's strategic partnerships go beyond ensuring the success of Publicly Owned Treatment Works (POTWs). The partnerships—involving approximately 1,500 communities and 27,000 industrial facilities nationwide—promote:



Through its pretreatment program, Palo Alto, California has reduced pollutants discharged to San Francisco Bay. As the quantity of copper in the POTW's effluent has improved, copper levels in clams near the city's outfall have decreased.

- Protection of drinking water supplies, by reducing contaminants released into source waters by POTWs;
- Prevention of overflows that include raw sewage from sewers, through controls on oil and grease;
- Extension of the life of the nation's wastewater infrastructure, which has an estimated funding gap of over \$6 billion per year, through controls on corrosion;
- Worker safety, by protecting workers from harmful fumes through limits on the discharge of dangerous gases and gas-forming substances; and
- Homeland security, by ensuring proper disposal of wastes from decontamination showers.



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IMAGE 16 30

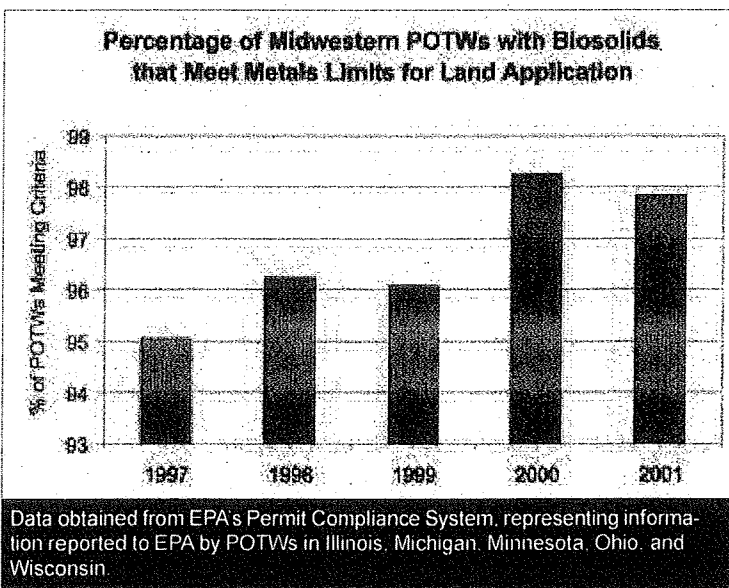
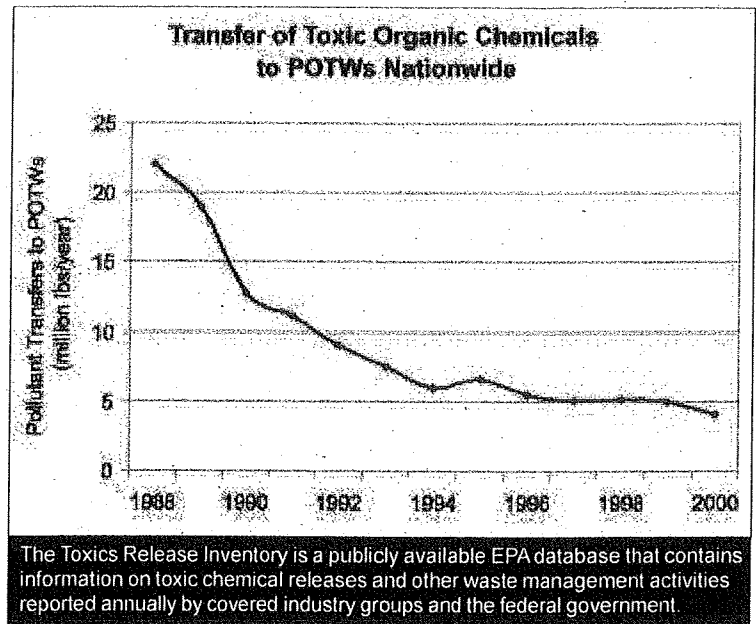
## Partnerships that Work

Through the Pretreatment Program, POTWs have worked intensively in a federal, state, and local partnership that is a model of intergovernmental cooperation.

### National data affirm the Pretreatment Program's success:

- Industries release fewer toxic contaminants to POTWs. Data from EPA's Toxics Release Inventory show that industries have reduced the amount of pollutants they discharge to sewage treatment plants during the past 10 years.
- POTWs now generate sewage sludge that poses fewer threats to public health and the environment. An Association of Metropolitan Sewerage agencies (AMSA)

survey of biosolids concluded that the Pretreatment Program was directly responsible for reductions in metals found in sewage sludge. Surveyed POTWs experienced a modest 13 percent decline in metals not regulated by the Pretreatment Program. However, concentrations of metals regulated under the Pretreatment Program decreased considerably, dropping 59 percent from 1986 to 1997.



- Because of the successful implementation of industrial discharge limitations, more POTWs are able to apply sewage sludge to land. For example, six Midwestern states saw a significant increase in the percentage of POTWs whose sludges qualified for the term 'biosolids.' More than 90 percent met metals limitations that allow POTWs to land apply their biosolids. As a result of this national progress, many POTWs, like the Unified Sewerage Agency of Washington County, Hillsboro, Oregon, have been able to use 100 percent of the biosolids they produce. Hillsboro applies 11,000 dry metric tons annually to amend soils and improve crop production.

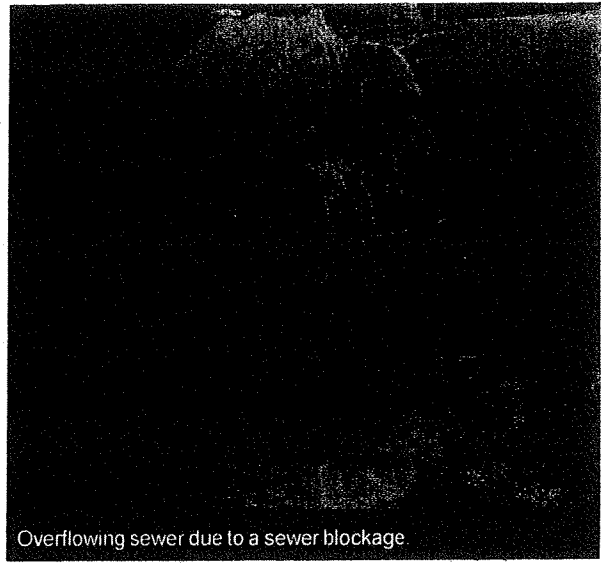
## Supporting Key Environmental and Public Health Programs

**Drinking Water Protection**—EPA's Pretreatment Program has been helping communities protect their sources of drinking water for the last 30 years by:

- Protecting POTWs' treatment processes from upsets, which could compromise the treatment facility's ability to treat harmful substances, such as pathogens. Elevated pathogen levels could have substantial impacts on public health if the pathogens exit POTWs and enter surface waters. Downstream drinking water treatment facilities may be challenged by significantly higher-than-normal pathogen levels.
- Controlling industrial releases of carcinogenic contaminants that might otherwise be discharged to municipal sewage treatment plants. Without controls on industrial dischargers, carcinogens might pass through the sewage treatment plant and enter reservoirs tapped for drinking water supplies. Therefore, the Pretreatment Program eliminates the need to install additional, expensive water treatment equipment to protect the long-term health of consumers.

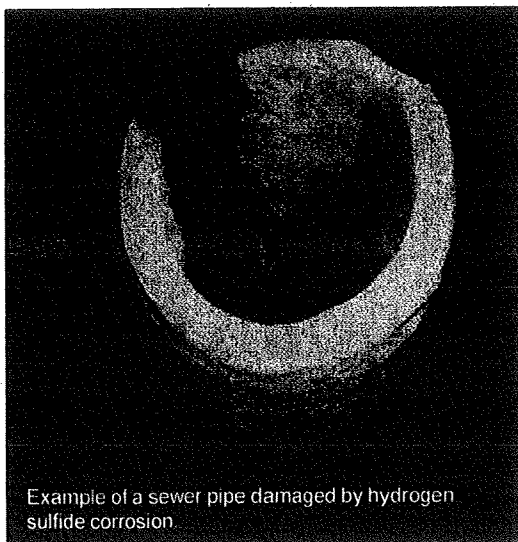
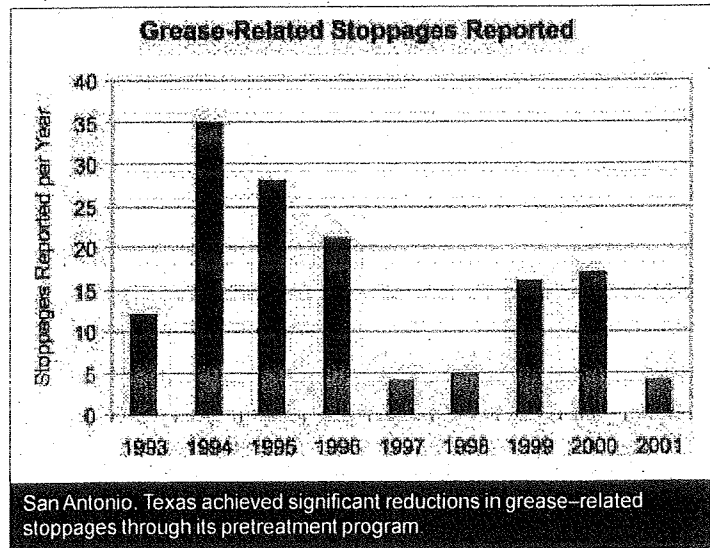
**CSO, SSO, and storm water management**—Combined and Sanitary Sewer Overflows (CSOs and SSOs) contain raw sewage, and may also carry industrial waste and debris. EPA's wet-weather programs recognize the importance of the Pretreatment Program in helping communities:

- Mitigate overflows. For example, many cities halt discharges of waste flows from industrial facilities to the combined sewer system during wet weather events. In addition, industries may retain storm water from their properties and release it to the sewer system after the storm has ended and sewer system capacity is adequate.
- Control grease buildup in sewers—a major cause of SSOs. As part of their pretreatment programs, many communities require food service establishments to recycle all fats, oils, and greases or to use oil and grease removal equipment. Annapolis, Maryland's pretreatment program practically eliminated SSOs associated with the restaurant community.
- Inventory and control non-domestic sources of pollutants, the types of pollutants discharged, and the volume of industrial flow. These inventory efforts not only protect wastewater treatment plants, but also help identify industrial contributions to municipal separate storm sewer systems.



Overflowing sewer due to a sewer blockage

**Infrastructure Protection**—Pretreatment programs help to protect underground infrastructure from costly damage and the need for premature replacement. The gap between the average annual funding needed and the funding available for wastewater treatment and collection systems is estimated to be \$6.1 billion per year from 2000 to 2019. EPA's Pretreatment Program helps to extend the life of infrastructure and postpones costly replacement. For example, limits on pH prevent corrosion of collection systems and treatment plants from acidic discharges. Discharge limits on sulfides and sulfate-bearing wastewaters also protect infrastructure from corrosion caused by bacteria.



Example of a sewer pipe damaged by hydrogen sulfide corrosion

**Worker and Public Safety**—Ensuring safety is an important goal of EPA's Pretreatment Program. The Program accomplishes this goal by:

- Protecting the physical integrity of the sewer system. Volatile organic compounds discharged to sewers may accumulate in the head space of sewer lines, increasing the potential for explosions that may cause significant damage. Discharge limitations and management practices required by the Pretreatment Program reduce the likelihood of such catastrophes.
- Preventing the buildup of poisonous gases. Discharges of toxic organics can generate poisonous gases, through various kinds of mixing and chemical reactions. Appropriate pretreatment discharge limits prevent this gas build up.

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IMAGE 1632

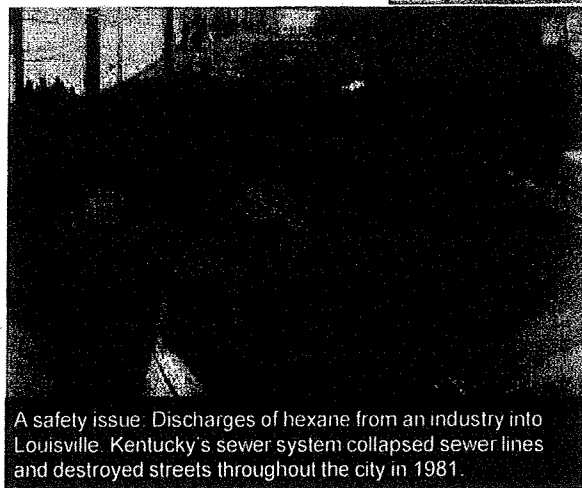
**Homeland Security Initiatives**—As they increase their preparedness for possible terrorist attacks, communities across the country will rely on their local pretreatment programs. The Pretreatment Program helps communities build contingency plans for the control and disposal of decontaminated wastes, such as wastes from decontamination showers. Recently, pretreatment authorities in Boca Raton, Florida managed the disposal of anthrax wastes as part of clean-up activities in that city.

## Future Challenges

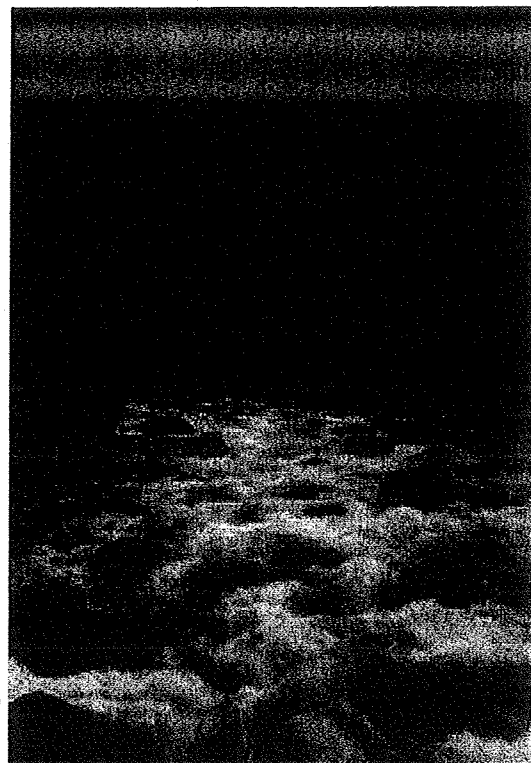
The Pretreatment Program must evolve to face tough new challenges in protecting public health and the environment. Future challenges include:

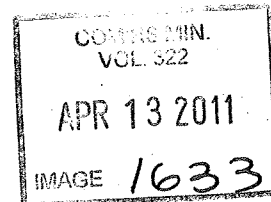
- **Addressing emerging industries and pollutants.** Every year, new industries and new pollutants of concern challenge POTWs. For example:
  - The Pretreatment Program must keep pace with the constant shifts in industrial processes and the development of new industries and chemicals. For example, in the 1980s and 1990s, the rapid growth of the semi-conductor industry required new pretreatment program strategies. Mounting evidence now suggests that persistent, bioaccumulative, and toxic (PBT) chemicals, surfactants, and hormone-disrupting substances can pass through wastewater treatment plants and endanger human health. Through their pretreatment programs, communities continue to address changes in industrial operations.
  - New effluent guidelines for transportation equipment cleaning and centralized waste treatment facilities address highly complex industries with a history of disrupting POTW treatment. Communities will rely on the Pretreatment Program as the vehicle to implement these guidelines and control these highly variable and highly toxic wastestreams.
- **Water conservation and reuse.** Industries and municipalities have a growing understanding of the economic benefits of using water more efficiently. Effluent waters from POTWs are increasingly used for irrigation and for cooling in power generation and industrial processes. The high quality waters needed for these uses emphasizes how important pretreatment is to the growing area of water reuse and conservation.
- **Improving watershed quality through Total Maximum Daily Loads (TMDLs).** TMDLs are established to ensure that rivers and streams meet their intended uses, such as recreational areas and drinking water supplies. State and local pretreatment personnel are increasingly called upon to provide expertise in developing appropriate TMDLs and community-based strategies. These individuals are aware of the contributions from industrial pollutants within the local watershed and sewer-shed, and can share their knowledge of how to implement pollutant limits while pursuing complex watershed-based solutions.

Communities will rely on the leadership of the Pretreatment Program to meet these and other unanticipated challenges. While the Program has had many successes in the last 30 years, a firm commitment to the federal, state, and local partnerships established under the Program is critical to protecting public health and the environment in the future.



A safety issue. Discharges of hexane from an industry into Louisville, Kentucky's sewer system collapsed sewer lines and destroyed streets throughout the city in 1981.





Pretreatment Guidance  <b>1</b>  Final	<b>The Use of Best Management Practices (BMPs) as Industrial Local Pretreatment Limits</b>	
	Statutory reference: ORC 6111.03 Rule references: OAC 3745-3-05 OAC 3745-33-07 40 CFR 122	Ohio EPA, Division of Surface Water Revision 0, June 21, 2000
This internal guidance does not affect the requirements found in the referenced rules or statute.		

**PURPOSE**

Industrial local pretreatment limits may be expressed as numerical values, narrative statements or Best Management Practices (BMPs). The purpose of this guidance is to outline the approach used to establish BMPs as industrial local pretreatment limits. This guidance is applicable to both targeted and non-targeted publicly owned treatment works (POTWs). Targeted POTWs are POTWs with Ohio EPA approved pretreatment programs and are responsible for issuing indirect discharge permits to industrial users. Non-targeted POTWs are POTWs that do not have Ohio EPA approved pretreatment programs; therefore, Ohio EPA is responsible for issuing the indirect discharge permits to the industrial users.

**BACKGROUND**

Historically, BMPs only applied to groups of low flow dischargers that had similar processes and discharged similar types of wastewater (e.g., photo processors and dentist offices). However, with the recent lowering of indirect discharge limitations and improved analytical methods, control authorities have begun using BMPs in cases where it is not practical or economically feasible for an industrial user to attain numerical pretreatment limitations.

Lower discharge limitations have recently resulted from the adoption of new federal and state regulations. On March 23, 1995, USEPA promulgated their final Water Quality Guidance for the Great Lakes System including new water quality criteria for mercury. In October 1997, the new mercury water quality criterion for the protection of wildlife was adopted in Ohio Administrative Code (OAC) Chapter 3745-1. NPDES permit limits resulting from the new wildlife water quality criterion for mercury (1.3 ng/l) are much more stringent than permit limits based on the previous nationally recommended criterion (12 ng/l).

During the evaluation of social and economic impacts associated with implementing the wildlife water quality criterion for mercury, the Director of Ohio EPA determined that the average cost to reduce mercury below 12 ng/l from a wastestream through end-of-pipe treatment was greater than ten million dollars per pound of mercury removed. The Director determined that requiring removal of mercury below 12 ng/l by constructing end-of-pipe controls would result in substantial and widespread social and economic impacts<sup>1</sup>.

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<sup>1</sup> OAC 3745-33-07(D)(10)

On June 22, 1999, USEPA promulgated a new analytical method (EPA method 1631) for measuring very low levels of mercury in wastewater. The new method allows regulatory agencies to determine a permittee's compliance with the very stringent mercury limits. Method 1631 has a detection limit of 0.2 ng/l and quantification levels of 0.5 ng/l in the Lake Erie Basin and 1.0 ng/l in the Ohio River Basin. These levels are much lower than the quantification level (1,000 ng/l) of the alternative approved methods (EPA methods 245.1 and 245.2).

The complexity of permitting industrial users with extremely low limits is not limited to mercury. POTWs have also faced problems with issuing local limits for silver due to the low water quality criteria, and sometimes for copper, due to elevated domestic background concentrations.

With the limits becoming more restrictive, Ohio EPA is looking for alternative methods of regulating pollutants of concern. Ohio EPA promotes pollution prevention rather than high-priced end-of-pipe treatment technologies that may or may not meet the desired limits.

NPDES permit limits for direct dischargers are not affected by these BMPs. The BMPs and pollution prevention concepts will be used to address indirect or sewer system discharges from non-domestic sources while final NPDES permit limits remain the ultimate targets. This document gives regulators guidelines on how to shift from numerical end-of-pipe chemical controls to BMPs and pollution prevention as an effective way to achieve compliance with NPDES permit limits.

### LEGAL AUTHORITY

Although the federal pretreatment regulations do not define BMPs, Title 40 of the Code of Federal Regulations Part 122.2 (40 CFR 122.2, NPDES Regulations) defines BMPs as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollution. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

OAC 3745-3-03(C)(4) and 40 CFR 403.5(c) require POTWs with approved pretreatment programs to develop, update as necessary, and enforce local limits that will protect the POTW against interference and pass-through. These limits may be numeric or narrative or have a combination of both narrative and numeric requirements. This interpretation of the federal regulations was reaffirmed on July 22, 1999, when USEPA's proposed streamlining of 40 CFR 403 clarified that BMPs developed by POTWs may serve as local limits required under 40 CFR 403.5(c)(3). The BMPs would be enforceable under 40 CFR 403.5(d) and would be included as local permit requirements under 40 CFR 403.8(f)(1)(iii)(c).

However, POTWs with approved pretreatment programs should verify that their local sewer use ordinance allows the use of BMPs to regulate the industrial users. If the approved pretreatment program's sewer use ordinance does not allow for BMPs, then the POTW should modify their ordinance.

BMPs may also be used in State issued indirect discharge permits to regulate industrial users that discharge to non-targeted POTWs. OAC 3745-36-07(A)(2)(b) requires the Director to deny an indirect discharge permit application or a renewal of an indirect discharge permit if the Director determines that the discharge will interfere with, pass-through, or be incompatible with

the POTW's treatment process. The discharge limits or other pretreatment requirements can be used in a State issued indirect discharge permit to prevent an industry from interfering with or causing pass-through of a pollutant at a POTW. These discharge limits are considered local limits when they are incorporated into the local ordinance. As with approved pretreatment programs, State issued indirect discharge permits may also include BMPs in lieu of discharge limits or as pretreatment requirements to ensure that the industrial user achieves compliance with the pretreatment rules.

## **APPLICABILITY**

### **When may a BMP be used as an industrial local pretreatment limit?**

BMPs may be used with numeric local limits or in place of numeric local limits. The following are some examples where a BMP may be an appropriate local limit.

- 1) There is insufficient flow from an industrial user or a category of industrial users to obtain a representative wastewater sample. Sometimes where the flow is low it may not be feasible to sample the industrial discharger (e.g., dentist offices and photo processors).
- 2) The proposed local limit is less than the detection limit and/or the quantification level<sup>2</sup> of the most stringent analytical procedure. In cases where the domestic background concentrations are elevated, the POTW may calculate a local limit below the method detection limit and/or the quantification level or a negative local limit may be calculated. However, the control authority should evaluate the calculations based on USEPA Region 3's *Negative Local Limits Guidance* before applying a BMP in this situation.
- 3) The BMP is clearly the most economically feasible method for regulating the pollutant of concern. A BMP local limit for mercury is a good example where this may be implemented.

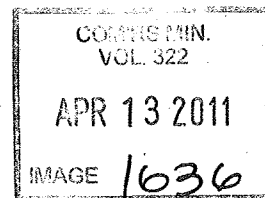
### **When may a BMP be removed from a POTW issued or State issued indirect discharge permit?**

The control authority may consider a request to remove the BMP requirements or a portion of requirements from the indirect discharge permit if the permittee can demonstrate that the discharge is reasonably expected to meet the numeric local limit. In cases where the numeric local limit is calculated to be negative and where the industry's effluent sampling results for pollutants with BMP requirements are below the quantification level, the control authority may also consider a permit modification request. POTWs with or without approved pretreatment programs may impose more restrictive criteria for the removal of the BMP requirements from the indirect discharge permit.

The removal of the BMP requirements or a portion of the requirements from the indirect discharge permit or reducing the monitoring frequency is meant to be a reward for those facilities that have achieved their permitted discharge goal. However, relaxation of the permit conditions does not allow the industry to return to its previous methods of operation. Inspections, monitoring, and numeric effluent limits may still be required by the control authority to verify that the industry remains in compliance. The control authority may also require a

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<sup>2</sup>Quantification levels are defined and listed in Ohio EPA's *Limits Below Quantification Levels (9/22/98)* guidance document and 40 CFR Part 136.



certification statement to be submitted semi-annually from industries that have had their BMP requirements or a portion of the requirements removed from their indirect discharge permit. The certification statement would certify that the industry is operating under its approved BMP and no changes have been implemented. If, after an investigation, the control authority determines that the industry is in noncompliance or that the industry has implemented processes that may alter its compliance status, the control authority should reevaluate the need for a BMP plan and act accordingly.

**REPORTING REQUIREMENTS**

**POTWS**

OAC 3745-3-03(G) requires POTWs with pretreatment programs to submit annual reports to Ohio EPA. BMP reports should be submitted as addenda to the POTW's annual pretreatment reports. Each BMP report should include monitoring results for the previous year, a list of potential sources of the pollutants (including the loading from non-regulated sources), graphs comparing the individual industrial benchmarks with the current individual industrial loading to the POTW, and a summary of all actions taken to meet the calculated industrial user limitations. This report would also be an opportunity to describe any changes to the BMP plans that the POTW will impose on the industries.

**INDUSTRIAL USERS**

Reporting requirements for industrial users will be specified in their indirect discharge permits.

**BMP PERMIT LANGUAGE FOR BOTH POTW ISSUED AND STATE ISSUED INDIRECT DISCHARGE PERMITS**

The following permit language is a template that has the basic requirements of the BMP plan and can be customized to fit specific circumstances. It's intended to be used in indirect discharge permits that meet the "applicability" section of this guidance document.

The language in ALL CAPITALS needs to be customized by permit writers. These areas refer mostly to pollutants, sampling types and sampling frequencies. The minimum frequencies are listed.

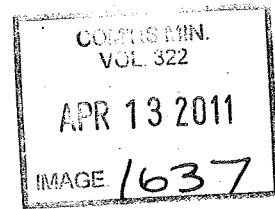
The suggested text below is not intended to be totally inclusive. In cases where an acceptable industry BMP standard exists (e.g., photo processors and dentist offices), the industry BMP standard should be used.

"Part II. \_ Best Management Practices (BMP) Plan

- 1) The goal of the BMP plan is to maintain effluent concentrations of [POLLUTANT] at or below [QUANTIFICATION LEVEL OR CALCULATED LOCAL LIMIT]. However, in no case will the permittee discharge [POLLUTANT] above [BENCHMARK<sup>3</sup> OR THE PERMITTEE'S PREVIOUS NUMERIC LOCAL LIMIT (WHICHEVER IS LOWER)]

<sup>3</sup> Contact Ohio EPA for guidance on calculating the benchmark.





- 2) Within 12 months of the effective date of this permit, the permittee shall develop a BMP plan and submit it to the [CONTROL AUTHORITY] for review and approval. The objective of this plan is to identify pollution prevention and wastewater reduction opportunities and to implement those opportunities that are technically and economically feasible. The plan shall include the following.
  - a) A list of members of a cross-functional team responsible for developing the BMP plan. This list shall include the name of a designated team leader.
  - b) An inventory of sources of pollutants subject to the BMP plan. The inventory shall include a description of each source and pollutant loading from each source. Also, included should be the identification of the facility's benchmark for each pollutant subject to the BMP plan.
  - c) description of current and past BMPs and their effectiveness.
  - d) Identification of technical/economical evaluation of new BMPs. BMPs should include: substitution of materials; reformulation or redesign of products; modification of equipment, facilities, technology, processes, and procedures; and improvement in management, inventory control, materials handling or general operational phases of the facility.
  - e) A schedule for implementation of economically feasible BMPs.
  - f) Methods used for measuring progress towards the BMP goal and updating the BMP plan.

3) Monitoring requirements

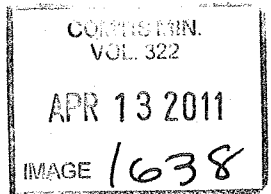
The permittee shall monitor potential sources of [POLLUTANT] [AT LEAST TWICE PER YEAR] by [COMPOSITE/GRAB] at sample station(s) \_\_\_\_\_.

[THE PERMIT WRITER WILL DETERMINE THE FREQUENCY (AT LEAST TWICE PER YEAR) OF SAMPLING AND THE SAMPLE LOCATIONS. HOWEVER, THE FOLLOWING SHOULD BE CONSIDERED: PROCESS LINES, STORM WATER INPUTS, ATMOSPHERIC DEPOSITION, AND GROUNDWATER (INFLOW & INFILTRATION) INPUTS.]

[PLANT- OR SOURCE-SPECIFIC REQUIREMENTS ADDED BY PERMIT WRITERS. THIS MAY INCLUDE SPECIFIC REQUIREMENTS FOR SPECIFIC SOURCES].

- 4) Within 12 months of the effective date of this permit and every year thereafter, the permittee shall submit an annual report to the [CONTROL AUTHORITY]. The annual report shall include:
  - a) All BMP plan monitoring results for the year;
  - b) An updated inventory of sources of pollutants subject to the BMP plan;





- c) A summary of effectiveness of all BMPs implemented to meet the BMP plan goal; and
- d) Any updates to the BMP plan.
- 5) This permit may be modified, or revoked and reissued, to revise or remove the requirements of this paragraph based on information collected under this paragraph."

#### **ADDITIONAL SOURCES OF INFORMATION**

*Guidance Manual for Developing Best Management Practices (BMP)*, EPA 833-B-93-004, U.S. EPA, Office of Water, October 1993.

*U.S. EPA NPDES Permit Writer's Manual*, EPA 833-B-96-003, U.S. EPA, Office of Water, December 1996.

*Ohio Water Quality Pollution Prevention Guidance*, Ohio EPA, Division of Surface Water, February 1998.

*Ohio Waste Minimization and Pollution Prevention Planning Guidance Manual*, Ohio EPA, Office of Pollution Prevention, September 1993.

*POTW Guidance Manual for the Code of Management Practice for Silver Dischargers*, The Silver Council and Association of Metropolitan Sewerage Agencies (AMSA), 1998.

*U.S. EPA Guidance Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program*, EPA 833-B-87-202, Office of Water Enforcement and Permits, December 1987.

*U.S. EPA Industrial User Permitting Guidance Manual*, EPA 833-R-89-001, Office of Water Enforcement and Permits, 1989.

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