



Environmental  
Protection Agency

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

August 24, 2012

Mayor and Council  
City of Englewood  
800 Englewood Drive  
Englewood, Ohio 45322

**RE: City of Englewood Reconnaissance Inspection  
Notice of Violation**

Dear Mayor and Council:

On August 16, 2012, Jordan Senne and Joe Reynolds performed a Reconnaissance Inspection at the Englewood wastewater treatment plant.

The inspection was performed as part of a compliance status review with respect to the City's NPDES permit. The report identifies eight final effluent violations (two significant ammonia violations of the month average limit). The City is in non-compliance with the terms and conditions of the NPDES permit. The inspection findings are included in the attached report. The report contains two items which require a response. The response dates for each of the items are noted in the "Items Requiring a Response" section of the report.

Please be advised that failure to comply with the terms and conditions of your NPDES permit may be cause for further enforcement action.

If you have any questions concerning the inspection, please contact Mr. Reynolds at (937) 285-6097.

Sincerely,

Martyn Burt  
Compliance Supervisor  
Division of Surface Water

MB/tf

cc: Vernon Brown, Wastewater Superintendent

## Inspection Findings

The city of Englewood was issued National Pollutant Discharge Elimination System (NPDES) permit number 1PD00001\*OD on June 13, 2012. The permit is effective July 1, 2012 and will expire July 31, 2016. The permit includes a compliance schedule which requires compliance with new e-coli bacteria limits by May 1, 2013.

The treatment systems consist of the following units: fine screens, coarse screen back-up, automatic grit removal, grease removal, aeration, clarification, chlorination / dechlorination, and post aeration.

During May and June, 2012, the City experienced problems with final effluent ammonia compliance. During this time period, both the May and June monthly average results exceeded the Technical Review Criteria (TRC) for ammonia (May 3.57 mg/l vs. TRC 2.8 mg/l, June 3.31 mg/l vs. TRC 2.8 mg/l). These violations fall into the category of significant violations (see attached, enforcement management system). In response, the Agency has developed a Compliance and Enforcement Plan for the City (see attached). The City will need to demonstrate compliance with their monthly ammonia limits over the next two quarters in order to be removed from the category of significant non-compliance. Although the exact cause of the violations is unknown, Mr. Brown believes extremely hot weather may have affected the oxygen transfer rates. In response, air application rates were increased significantly. This has helped to reduce ammonia levels.

The wastewater treatment plant is designed to treat an average daily flow of 2.5 million gallons. As plant flows reach 5.7 MGD, the plant goes into storm mode. In storm mode, solids are retained in the front part of the aeration system.

The City has an on-going infiltration and inflow removal program. Through this program the City has rehabilitated the majority of the manholes in the city.

A new Supervisory Control and Data Acquisition (SCADA) system was installed in 2010. The system set-up and use is currently being adjusted. It currently has limited feedback controls.

During a recent storm event, lightning knocked out the effluent flow meter. A new meter is on order. This meter is scheduled to arrive in approximately four weeks. In the interim, the City is estimating flows based upon a total flow from the lift station flow meters.

The City currently produces a Class A sludge. Sludge is aerobically digested in 10 basins (old plant), before being sent to a belt filter press (2 meter, 200 gpm). The press is run two to three days per week. Pressed solids (15 % solids) are combined with admix materials (lime and ash) in the cemtech process before being stored on site for three days.

## Inspection Findings (cont.)

Between October 1, 2011 and July 1, 2012, the city of Englewood reported 8 final effluent limitation violations. These violations include: 1 dissolved oxygen, 5 ammonia, and 2 mercury.

### Facility Inspection

The preliminary treatment system includes an automatic fine screen, grit removal system including grit clarifier with Aqua screen (3 mm), and a grease channel. Only one of two grit clarifiers is used due to the fact there is no Aqua screen on the second channel. Preliminary solids are disposed of with the facility's solid wastes (dumpsters).

Effluent from the preliminary treatment system is sent to the aeration system. The effluent channel also receives return activated sludge and filtrate return from the press. The aeration system operates in series, five passes. Three mixing zones (low / no air) have been set-up in the first pass. Fine bubble diffuser plates are used in the remaining passes. Mixing varied in the passes due to membrane failures on some of the fine bubble panels. The mixed liquor was dark. Brown foam was noted on the surface of the tanks.

A new splitter box was installed to allow for better control of flow splits between the two final clarifiers. The gates are controlled manually.

There are two secondary clarifiers. In 2009, flow through the clarifiers was reversed with the installation of a rim flow system. Only one of the two clarifiers was on line. The effluent was clear. Pin floc solids were being carried over the effluent weir.

From the secondary clarifiers, flows go to the chlorination system. There were some clumps of old solids noted on the surface. The effluent was clear. Pin floc solids were noted in the effluent.

Flow from the chlorine contact tank enters an effluent chamber. The effluent chamber is used to collect effluent samples and measure effluent flow. A rectangular weir with a sonic meter is used to measure flow. The sonic meter is out of service after a lightning strike. A new meter has been ordered.

## Items Requiring a Response

1. A brief update detailing possible causes and actions taken and/or proposed to eliminate final effluent ammonia violations must be submitted to this office by no later than September 24, 2012.
2. A brief update summarizing infiltration and inflow work completed in 2011 and 2012, along with any proposed work, must be submitted to this office no later than September 24, 2012.



State of Ohio Environmental Protection Agency  
Southwest District Office

NPDES Compliance Inspection Report

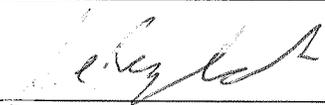
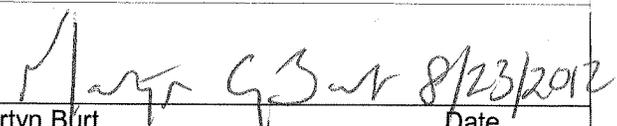
| Section A: National Data System Coding |           |                |                 |           |               |
|--|-----------|----------------|-----------------|-----------|---------------|
| Permit #                               | NPDES#    | Month/Day/Year | Inspection Type | Inspector | Facility Type |
| 1PD00001*OD                            | OH0025011 | 8/16/2012      | R               | S         | 1             |

| Section B: Facility Data  |                           |                        |
|---|---------------------------|------------------------|
| Name and Location of Facility Inspected   | Entry Time                | Permit Effective Date  |
| City of Englewood<br>800 Englewood Drive<br>Englewood, Ohio 45322                         | 9:00 AM                   | 7/1/2012               |
|   | Exit Time                 | Permit Expiration Date |
|   | 11:00 AM                  | 7/31/2016              |
| Name(s) and Title(s) of On-Site Representatives   | Phone Number(s)           |                        |
| Vernon Brown, Superintendent  | (937) 836 - 5106 ext. 471 |                        |
| Name, Address and Title of Responsible Official   | Phone Number              |                        |
| Mayor and Council<br>City of Englewood<br>333 West National Road<br>Englewood, Ohio 45322 | (937) 836 - 5106          |                        |

| Section C: Areas Evaluated During Inspection                            |                          |   |                           |   |                         |
|---|--------------------------|---|---------------------------|---|-------------------------|
| (S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated) |                          |   |                           |   |                         |
| S   | Permit                   | S | Flow Measurement          | N | Pretreatment            |
| M   | Records/Reports          | N | Laboratory                | S | Compliance Schedule     |
| S   | Operations & Maintenance | S | Effluent/Receiving Waters | S | Self-Monitoring Program |
| S   | Facility Site Review     | S | Sludge Storage/Disposal   | N | Other                   |
| M   | Collection System        |   |                           |   |                         |

**Section D: Summary of Findings (Attach additional sheets if necessary)**

See attached report.

| Inspector   | Reviewer   |
|---|--|
|  8/23/2012 |  8/23/2012               |
| Joe Reynolds<br>Division of Surface Water<br>Southwest District Office                        | Martyn Burt<br>Compliance & Enforcement Supervisor<br>Division of Surface Water<br>Southwest District Office |

## Compliance and Enforcement Plan City of Englewood

### I. Violation Summary.

Between January 1, 2012 and July 1, 2012 The Englewood WWTP reported five final effluent ammonia violations. The specific violations are as follows:

| Outfall | Parameter | Freq.   | Limit | Reported | Date     |
|---------|-----------|---------|-------|----------|----------|
| 001     | Ammonia   | 30D Con | 2.0   | 3.57     | 5/1/2012 |
| 001     | Ammonia   | 30D Qty | 19    | 23.7     | 5/1/2012 |
| 001     | Ammonia   | 30D Con | 2.0   | 3.31     | 6/1/2012 |
| 001     | Ammonia   | 7D Con  | 4.0   | 4.77     | 6/1/2012 |
| 001     | Ammonia   | 7D Con  | 4.0   | 4.40     | 6/8/2012 |

### II. Compliance History

The Englewood Waste Water Treatment is a conventional activated sludge treatment system. The system is designed to treat an average daily flow of 2.5 MGD. The system will experience peak flows during wet weather events. These flows are associated with storm water infiltration and inflow. When flows reach 7 MGD, the plant return is moved to the head of the aeration. This protects solids from washout due to high flows. Flows up to 10 MGD can be treated under this mode of operation. Effluent violations have been minimized using this mode of operation. During the summer of 2012 warm temperatures (102 degree ambient temperature in early July) may have contributed to ammonia violations. Air transfer efficiencies are believed to have contributed to the violations. In response additional air is being added to the system. This has helped to return the plant to compliance with ammonia limits.

### III. Enforcement tools used.

In addition to Compliance Inspections, electronic notices of violation have been sent to the city.

### IV. Cooperativeness of the Regulated Entity.

The city has been cooperative in working to maintain compliance at the plant. They have an on-going infiltration and inflow removal program. They have completed both phase one and phase two work. Over 500 manholes were rehabilitated as part of this work. In addition to the collection system work, a new Supervisory Control and Data Acquisition (SCADA) were installed in 2010. With the future installation of feedback systems, they will be able to set-up treatment zones to allow better aeration control along with potential nutrient removal.

### V. Environmental Harm from Non-Compliance.

The 2008, 2010, and 2011 Biological and Water Quality Study of the Stillwater River showed the stream was meeting an Exceptional Warm Water designation. Areas of partial attainment identified previously are expected to improve with the removal of the Englewood dam.

### VI. Abatement Options Available.

On-going infiltration and inflow work will help to reduce flow variations at the plant. The use of the SCADA system with real time feedback can be used to adjust air rates. This can provide an early indication as to ammonia removal efficiencies and any need to increase air rates.

### VII. Compliance Monitoring Plan.

The NPDES permit Electronic Discharge Monitoring Reports will provide on-going monitoring of plant effluent compliance. Compliance inspection can be used to obtain updates on the latest infiltration and inflow work completed and planned.

### VIII. Enforcement Recommendation.

Continue to work with the city through the informal inspection process. Regular updates can be provided as part of the inspection follow-up process.

### IX. (Optional if Monitoring / Testing Required).

NA.

### X. Describe Technical Assistance to be provided.

Upon request the Ohio EPA technical assistance group could provide technical assistance with treatment operations. Additionally, compliance inspections can be used to provide input and feedback to the district.



UNITED STATES  
 ENVIRONMENTAL  
 PROTECTION AGENCY  
 REGION VIII

999 18th STREET - SUITE 500

**SIGNIFICANT NONCOMPLIANCE**

April 15, 1997

The following discussion is intended to provide clarification on calculating and reporting Significant Noncompliance (SNC). Pretreatment Annual Reports and Inspections frequently request information regarding which calendar quarters Industrial Users (IUs) were found to be in SNC. Subsequent to the end of each calendar quarter each POTW must document SNC calculations for all criteria identified at 40 CFR Part 403.8(f)(2)(vii)(A-H). Of the eight SNC criteria that must be evaluated there are only two criteria that are evaluated based on a six month rolling window (chronic effluent violations and TRC violations). All other criteria are evaluated strictly on a calendar quarter. Refer to Table 1 for time frames to be evaluated for each calendar quarter.

Table 1 - SNC Time Frames

| SNC Quarter | Chronic Effluent and TRC Violations 40CFR '403.8(f)(2)(vii)(A&B) | Reporting Requirements and Other Criteria 40 CFR '403.8(f)(2)(vii)(C-H) |
|-------------|--|---|
| 1st Quarter | October-March  | January-March   |
| 2nd Quarter | January-June   | April-June  |
| 3rd Quarter | April-September  | July-September  |
| 4th Quarter | July-December  | October-December  |

**SNC for Reporting Violations and Other Criteria at 40 CFR '403.8(f)(2)(vii)(C-H)**

SNC for reporting violations and other criteria at 40 CFR '403.8(f)(2)(vii)(C-H) are evaluated for each calendar quarter. The quarter in which the facility is in SNC is the quarter in which the report was due or that the incident occurred.

**SNC for Effluent Violations 40 CFR '403.8(f)(2)(vii)(A&B)**

Due to the rolling six month window, SNC calculations for effluent violations could show a facility in SNC for two quarters for the same violation data. It is EPA Region VIII's position that a facility should not be placed in SNC for two quarters for the same effluent violation data. Refer to the following example for clarification.

### Example SNC Calculation for Effluent Violations:

Assume a facility has a daily maximum chromium limit of 2.0 mg/l. The following is a compilation of effluent data for the facility.

| SAMPLE DATED | RESULT (MG/L) | PERMIT LIMIT (MG/L) | TECHNICAL REVIEW CRITERIA (TRC) LIMIT (2.0 MG/L X 1.2) | VIOLATION OF LIMIT | VIOLATION OF TRC |
|--------------|---------------|---------------------|--|--------------------|------------------|
| 7/5/96       | 1.2           | 2.0                 | 2.4  | N                  | N                |
| 8/6/96       | 2.2           | 2.0                 | 2.4  | Y                  | N                |
| 9/5/96       | 1.5           | 2.0                 | 2.4  | N                  | N                |
| 10/9/96      | 3.3           | 2.0                 | 2.4  | Y                  | Y                |
| 11/7/96      | 2.7           | 2.0                 | 2.4  | Y                  | Y                |
| 12/7/96      | 2.2           | 2.0                 | 2.4  | Y                  | N                |
| 1/5/97       | 1.6           | 2.0                 | 2.4  | N                  | N                |
| 2/7/97       | 1.4           | 2.0                 | 2.4  | N                  | N                |
| 3/5/97       | 1.4           | 2.0                 | 2.4  | N                  | N                |

### 4th Quarter 1996 SNC Calculations

#### Chronic Effluent Violations

Chronic effluent violations are defined at 40 CFR Part 403.8(f)(2)(vii)(A) as those violations in which 66 % or more of all measurements taken during a six month window exceed the daily maximum or the average limit for the same pollutant parameter.

From Table 1 we know we have to look at all measurements between July 1, 1996 and December 31, 1996. Four out of six measurements exceed the permit limit of 2.0 mg/l [(4 • 6) x 100 = 66%]. The facility is in SNC during the 4th quarter of 1996 for chronic effluent violations.

### Technical Review Criteria Violations

Technical Review Criteria (TRC) violations are defined at 40 CFR Part 403.8(f)(2)(vii)(B) as violations in which 33% or more of all measurements taken during a six month window exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD,TSS,fats,oil,and grease, and 1.2 for all other pollutants except pH).

From Table 1 we know we have to look at all measurements between July 1, 1996 and December 31, 1996. Two out of six measurements exceed the TRC limit of 2.4 mg/l  $[(2 \cdot 6) \times 100 = 33\%]$ . The facility is in SNC during the 4th quarter of 1996 for TRC effluent violations.

### 1st Quarter 1997 SNC Calculations

#### Chronic Effluent Violations

From Table 1 we know we have to look at all measurements between October 1, 1996 and March 31, 1997. Three out of six measurements exceed the permit limit of 2.0 mg/l  $[(3 \cdot 6) \times 100 = 50\%]$ . The facility is not SNC during the 4th quarter of 1996 for chronic effluent violations.

#### Technical Review Criteria Violations

From Table 1 we know we have to look at all measurements between October 1, 1996 and March 31, 1997. Two out of six measurements exceed the TRC limit of 2.4 mg/l  $[(2 \cdot 6) \times 100 = 33\%]$ . The data indicates the facility is in SNC during the 4th quarter of 1996 for TRC effluent violations. However, since the facility was already in SNC for the same violations as shown in the fourth quarter 1996 calculations the facility will not be considered as SNC for the 1st quarter of 1997. Provided the facility was published as SNC for the fourth quarter of 1996, the facility does not need to be published again for first quarter 1997. Had there been one or more violations in the first quarter of 1997 the facility would have been considered as SNC for the fourth quarter of 1996 and the first quarter of 1997 regardless of the magnitude of the first quarter violation(s).

Had the facility not been in SNC for the fourth quarter of 1996 but was determined to be in SNC the 1st quarter of 1997, regardless of whether or not there were violations in the January

- March time frame, the facility would be considered SNC for the 1st quarter of 1997. This scenario tends to occur when there are variable monitoring frequencies from one quarter to another.

The electronic files consist of the Water Permit System (WPS) and Liquid Effluent Analysis Processing System (LEAPS) data bases. The WPS data base contains general information on NPDES permit holders. The LEAPS data base contains permit requirements and effluent limitations. Additionally, the LEAPS data base is updated monthly with the self-monitoring data provided by each NPDES permit holder. The Enforcement and Compliance Section is responsible for maintaining the accuracy of the information in the LEAPS data base, while the Permit Administration Section is responsible for maintaining the accuracy of the information in the WPS data base.

The Permit Compliance System (PCS) is another electronic data base maintained by the Division of Water Pollution Control. PCS was developed by U.S. EPA to assure consistent nationwide tracking of compliance with NPDES permits. Information from WPS and LEAPS is fed electronically through an interface into PCS. Through this interface, PCS receives the necessary information to track compliance with the self-monitoring requirements of NPDES permits. Furthermore, the Enforcement and Compliance Section is responsible for entering compliance schedule events and deadlines into PCS as well as enforcement actions taken by the division.

The Pretreatment Unit maintains a comprehensive inventory of all industrial dischargers that discharge wastewater to publicly owned treatment works (POTWs). The information that makes up this inventory is maintained electronically in the Pretreatment Information Management System (PIMS). Additionally, information concerning industrial dischargers that discharge to publicly owned treatment works owned by communities without approved pretreatment programs is maintained by the Pretreatment Unit in paper files.

#### Flow of Information

In order to evaluate compliance with the terms of NPDES permits, administrative orders, and judicial orders, the data making up the source inventory must be current and accurate. The Division of Water Pollution Control has in place routine procedures to assure that up-to-date information is available. This information is of two basic types: self-monitoring data and compliance schedule updates.

The flow of information begins by assuring that the most current requirements from permits, administrative orders, and judicial orders are entered into the electronic data bases of the source inventory. Copies of these documents are routed directly, upon issuance, to the Enforcement and Compliance Section, which is responsible for entering self-monitoring requirements and compliance schedule deadlines into LEAPS and PCS.

The Enforcement and Compliance Section also receives the monthly self-monitoring reports submitted by NPDES permit holders. The data from these reports are transferred to the LEAPS data base by an optical scanner. The data base generates warning letters to be sent to permit holders that submitted either late reports or no reports at all. A program is run that compares reported monitoring data with limitations on file in LEAPS producing a

monthly report of apparent violations, which is used by Ohio EPA's district offices to evaluate permit compliance. As mentioned earlier, this compliance information is also electronically transferred to PCS for compliance tracking purposes. Compliance schedule updates, on the other hand, must be entered into PCS manually by the Enforcement and Compliance Section. The Ohio EPA's five district offices provide regular compliance schedule updates to assure that this information is current.

The Pretreatment Unit is responsible for tracking the receipt of pretreatment reports and self-monitoring data submitted by industrial dischargers that discharge to publicly owned treatment works owned by communities without approved pretreatment programs. The Pretreatment Unit enters the data from the self-monitoring reports into PIMS and a violation report is generated for use by district pretreatment staff in preparing notices of violation. The central office pretreatment staff is responsible for issuing notices of violation to dischargers that fail to submit pretreatment reports.

#### Pre-Enforcement Screening

Once compiled, compliance information is screened to determine which dischargers are in noncompliance. This information is used to evaluate the need for enforcement action. The previously discussed procedures that the Division of Water Pollution Control has in place to assure a smooth flow of information also allow timely pre-enforcement screening of compliance data to take place.

This screening actually begins with the receipt of monthly self-monitoring reports submitted by NPDES permit holders. After monitoring data from these reports are entered into the LEAPS data base and the report of apparent violations is generated, the five Ohio EPA district offices begin their review of this information to determine which dischargers are in noncompliance with the terms of their NPDES permits for the month. As will be explained under the heading of Enforcement Evaluation, these noncomplying dischargers will receive a warning letter from the district office and possibly more extreme enforcement action will be taken depending on the severity of the noncompliance.

Meanwhile, the interface transfers this compliance information from LEAPS to PCS. This update allows the quick access of accurate noncompliance information by the Division of Water Pollution Control. The updated PCS, LEAPS, and WPS data bases also establish a historical record of compliance information for all holders of NPDES permits.

At the same time that the screening of self-monitoring data is occurring, the district offices review compliance schedule deadlines and provide updates to the Enforcement and Compliance Section in the central office to be entered into PCS. This assures that by the end of each month both self-monitoring data and compliance schedule updates are entered into the data base files and that an accurate determination of overall permit compliance can be made. (Compliance with administrative and judicial orders is evaluated in the same manner.)

The compliance data entered into the PCS data base plays an especially important role in the Division of Water Pollution Control's Enforcement Management System. This set of data is the basis of the Quarterly Noncompliance Report (QNCR). This report of noncomplying major industrial and municipal dischargers is a fundamental source of information upon which the need for formal enforcement action is based.

### Enforcement Evaluation

Once pre-enforcement screening has been completed and all noncompliant dischargers have been identified, the violations resulting in noncompliance must be evaluated to determine if enforcement action is necessary and what that action will be. The Division of Water Pollution Control considers enforcement action to be of two types, formal and informal, and has developed guidelines to determine when each is appropriate (see attached Enforcement Response Criteria).

Informal enforcement action is considered to include phone calls, district initiated warning letters, meetings, and warning letters from the director. For most instances of noncompliance, informal enforcement action is dictated by division policy and no actual evaluation is necessary. For example, failure to submit self-monitoring reports or submitting late reports will automatically cause the issuance of a notice of violation.

When the district offices complete their monthly pre-enforcement screening and determine which dischargers are in noncompliance, each noncomplying discharger will be sent a district warning letter. These warning letters specify the violations causing the noncompliance, request an explanation of the cause of the noncompliance, and state that further enforcement action may be forthcoming if the noncompliance continues. The districts also have the discretion to send warning letters to address any other water pollution problems discovered in the course of their work. They may meet with noncompliant dischargers in addition to sending warning letters. If the district warning letter receives an unsatisfactory response, the director may send a warning letter. The request for sending a director's warning letter is evaluated in the same manner as a request for formal enforcement action.

Formal enforcement action includes the issuance of administrative orders, with and without civil penalties, and referral to the Ohio Attorney General for legal action. Whenever formal enforcement action is called for, an enforcement referral package is prepared by Division of Water Pollution Control staff in the appropriate district office or in the central office in some cases. This package includes all of the documentation supporting the potential enforcement action.

The Division of Water Pollution Control's Enforcement Committee meets bi-weekly to consider the enforcement referral packages prepared by division staff. The committee recommends to the division chief what enforcement action should be taken in each case. The committee includes technical staff from the Division of Water Pollution Control, legal

staff, and an enforcement coordinator, appointed by the division chief. The committee is charged with the responsibility of assuring that timely, consistent enforcement action is taken throughout the state in response to like instances of noncompliance. Summaries of the cases reviewed by the committee are selectively distributed within the division and to the enforcement coordinators of other divisions within Ohio EPA.

The specific instances of noncompliance that call for formal enforcement action are many, but they fall into general categories: discharges of pollutants to waters of the state that threaten human health; discharges that threaten lasting or severe environmental degradation; discharges that threaten the destruction of wildlife; significant noncompliance by major dischargers; violations of toxicity limitations developed as a result of biomonitoring programs; long lasting noncompliance by minor dischargers; unsanitary conditions complained of by local legislative bodies or health departments; failure to comply with the terms of permits to install; failure of NPDES permit holders to implement pretreatment programs; and failure of industrial users to meet categorical pretreatment standards.

Instances of pollution that threaten human health, severe environmental degradation, or destruction of wildlife are of primary concern to Ohio EPA and the Division of Water Pollution Control. When any of these are discovered, either the appropriate district office immediately prepares an enforcement referral package or the central office prepares a package for appropriate action. The Division of Water Pollution Control assigns top priority to these cases.

Most other instances of noncompliance are evaluated as they arise and referral packages are prepared at the request of the Enforcement and Compliance Section in the central office or at the discretion of the district offices. Pretreatment enforcement matters are handled in much the same way by central office and district office pretreatment staff.

There is, however, a category of noncompliance that receives special attention. This category concerns major municipal and industrial dischargers that pre-enforcement screening has identified as being in significant noncompliance (SNC). As stated earlier, this screening is carried out using the compliance information in the PCS data base. As a result of this screening, the Quarterly Non-Compliance Report (QNCR) is generated. This is a detailed report of major dischargers that are in significant noncompliance with monthly effluent limitations, compliance schedule deadlines, or self-monitoring reporting requirements. (For an explanation of the QNCR and a definition of SNC, see 40 CFR Part 123. Also, see the attached Definition of Significant Noncompliance.)

In most cases, the Division of Water Pollution Control will not allow a major discharger to appear on the Quarterly Noncompliance Report (QNCR) in significant noncompliance for the same violation for two consecutive quarters. After a discharger appears on the QNCR in significant non-compliance for one quarter, it is identified as a potential candidate for formal enforcement action. It is tracked closely for each of the next three months. Should another violation occur that would result in a second quarter of significant non-compliance,

the district office is directed by the central office Enforcement and Compliance Section to immediately prepare an enforcement referral package for evaluation by the division's Enforcement Committee.

#### Formal Enforcement Action and Follow-up

Each enforcement referral package reviewed by the Division of Water Pollution Control's Enforcement Committee includes a recommendation for enforcement action. As far as formal enforcement action is concerned, this recommendation will be either to issue administrative orders or to refer the noncompliant discharger to the Ohio Attorney General's Office for legal action. Whatever the recommendation, the referral package includes draft documents to bring about the recommended enforcement action.

If the recommendation is to issue administrative orders, the referral package must include a draft set of findings and orders. The findings and orders must include the name and address of the noncomplying discharger. The findings must state the violations that have occurred, the laws and regulations that have been violated, and any other facts that will support the orders to be made. The orders must be clearly stated and be specific; they must relate to the findings and require compliance. The orders must set a fixed-date deadline for accomplishing each task and include a provision requiring the submittal of a written report on the success of meeting each deadline. Every draft order should include a waiver of appeal. However, the waiver is not used in all cases. Ohio EPA's legal section has prepared a standard waiver of appeal to be used as a model.

If the recommendation is to refer the noncomplying discharger to the Ohio Attorney General's Office, the referral package must include a draft letter notifying the discharger of the impending referral (in the case of municipalities only) and a draft memorandum to the director explaining the facts of the case. The legal section has prepared a standard referral letter to be used in most cases.

The Division of Water Pollution Control's Enforcement Committee can accept the recommendation for enforcement action included in the referral package, recommend that a different type of enforcement action be taken, or dismiss the enforcement referral. Even when the committee accepts the recommendation included in the referral package, there are usually changes that need to be made to the draft findings and orders, referral letters, and memoranda. If the committee decides on a different enforcement action than was recommended in the referral package, a new set of orders and letters must be created. To assure that the final enforcement action is complete, consistent, and legally acceptable, an Enforcement and Compliance Section staff member and a division attorney are assigned to each enforcement referral. Together they revise or create the final enforcement documents, which reflect the recommendations made by the division's Enforcement Committee. These documents are reviewed by the legal section, the Enforcement and Compliance section manager, the enforcement coordinator and the chief of the Division of Water Pollution Control prior to being sent to the director for his approval. Once signed by the director,

the formal enforcement action is considered final.

The Division of Water Pollution Control recognizes the important part that civil penalties play in deterring violations of and enforcing Ohio's water pollution control laws. In certain circumstances the division will include a civil penalty as part of a formal enforcement action. The attached Enforcement Response Criteria lists various circumstances under which it is appropriate to consider imposing a civil penalty. Broadly speaking, frequent or recurrent violations will make it more likely that a civil penalty will be part of a formal enforcement action. Also, the division will usually seek a civil penalty for violations of existing administrative or judicial orders. The Division of Water Pollution Control has developed a civil penalty strategy (see attachment) for determining the amount of a penalty to be sought based on the individual facts of each case.

The Division of Water Pollution Control's Enforcement and Compliance Section tracks each enforcement case received on a computerized data base. Each case is assigned a unique identification number and its progress is tracked through the final date that formal enforcement action is taken. Also, any formal enforcement action taken against an NPDES permit holder is entered by the Enforcement and Compliance Section into the Permit Compliance System (PCS).

All compliance schedules from administrative and judicial orders for major NPDES permit holders are entered into PCS to assist in compliance tracking. Compliance schedules for minor NPDES permit holders and unpermitted facilities are entered into a personal computer based tracking system, which is updated by the district offices. Copies of all administrative and judicial orders are kept in the district and central offices. The central office Enforcement and Compliance Section maintains a complete set of confidential files for all active enforcement cases. These files include the enforcement referral packages, copies of referral letters, administrative orders, judicial orders, and associated correspondence.

The district offices maintain the responsibility for tracking compliance with all administrative and judicial orders. They are required to provide regular compliance schedule updates and to notify the central office Enforcement and Compliance Section of any noncompliance with these orders. If noncompliance occurs, the need for additional enforcement action is evaluated using the procedures described above.

### Initiation of Field Investigation

To supplement routine compliance and enforcement activities, the Division of Water Pollution Control develops a compliance inspection plan to be implemented each federal

fiscal year. In cooperation with U.S. EPA, the division prepares a list of all scheduled inspections to be carried out. The list denotes whether Ohio EPA or U.S. EPA will conduct each inspection. During the fiscal year, every major industrial and municipal discharger, every municipal discharger with a pretreatment program, and every significant industrial user in communities without pretreatment programs are inspected.

The chief of the Division of Water Pollution Control may request investigations to support any of the division's activities. These investigations may be requested to support enforcement actions, to develop the terms of NPDES or indirect discharge permits, to assess self-monitoring report accuracy, or in response to complaints.

A special case in which investigations are required by Ohio law involves verified complaints (see attached Verified Complaint Procedure). Ohio Revised Code Section 3745.08 requires a prompt investigation of a verified complaint upon receipt by the director of Ohio EPA. The Division of Water Pollution Control assigns a unique number to each of these complaints and sends it to the appropriate district office with a request for an investigation. The district office investigates the complaint, prepares a report and sends it to the division's Enforcement Committee. The committee decides how to resolve the complaint and makes its recommendation to the director.

#### Internal Management Control

Built into the compliance and enforcement activities of the Division of Water Pollution Control are mechanisms that allow the effectiveness of the enforcement process to be evaluated. These mechanisms provide information to all levels of management throughout the enforcement process to assure that commitments are met and that enforcement action is taken in a timely and consistent manner with the approval of those held accountable for setting enforcement policy. The entire Enforcement Management System with its defined procedures, responsibilities, and deadlines provides regular feedback to assure internal management control. The various tracking systems maintained by the division are a readily accessible source of enforcement information, available to decision makers.

In addition to the Permit Compliance System, which is a comprehensive source of compliance and enforcement activity, the Enforcement and Compliance Section maintains two computerized tracking logs dealing exclusively with enforcement matters. The first log tracks the progress of enforcement cases that go through the Division of Water Pollution Control's Enforcement Committee. This log follows each enforcement referral and records the date it was received, the date that the committee reviewed the referral package, what enforcement action was recommended by the committee, the enforcement action that was actually taken, the date the action was taken, and whether a civil penalty was assessed and paid.

The second log tracks the progress of enforcement referrals at the Attorney General's

Office. It records the date of referral, the name of the attorney assigned to the referral, the date that the complaint was filed, the type of settlement reached, the date of the settlement, the penalty assessed, and the date of final compliance. Both the wastewater enforcement tracking log and the attorney general tracking log are updated monthly and provided to managers within the division, to enforcement coordinators of other divisions, and to the director's office.

Enforcement information is also made available through the distribution of regular summaries of the Division of Water Pollution Control's Enforcement Committee meetings. These summaries describe the background of each enforcement referral considered by the committee and document the recommendation. The summaries also state who is responsible for preparing the final enforcement documents to effect the enforcement action.

### Conclusion

The above seven principles of the Enforcement Management System describe the Division of Water Pollution Control's program for translating compliance information into timely, consistent enforcement action. The division's adherence to these principles enhances Ohio EPA's commitment to fully implement the provisions of the Clean Water Act.

**Attachment 1**

**ENFORCEMENT RESPONSE CRITERIA**

## **Enforcement Response Criteria**

Ohio EPA has developed the following Enforcement Response Criteria to be used by the Division of Water Pollution Control when evaluating what enforcement action should be taken in response to a given instance of noncompliance. These criteria were developed to assure that all dischargers are treated equitably in enforcement matters.

### **LEVEL OF RESPONSE**

Enforcement actions can be classified as follows:

#### **A. Informal Actions**

1. Phone Call with follow up letter
2. Notice of Violation (NOV)
3. Inspection/meetings

#### **B. Formal Actions**

1. Administrative Orders (AO)
2. Administrative Orders with Administrative Penalties (AP)
3. Judicial action - referral to the State Attorney General's Office

## SUMMARY OF ENFORCEMENT RESPONSE CRITERIA

### SAMPLING, MONITORING AND REPORTING

| <u>NONCOMPLIANCE</u>   | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u>                                  |
|--|----------------------|---|
| Failure to submit Monthly Operating Reports on time            | Isolated incident    | Notice of Violation (NOV)                                 |
| Failure to submit Monthly Operating Reports on time            | Frequent occurrence  | AO, AP, or judicial action                                |
| Failure to submit Monthly Operating Reports                    | One or more reports  | AP or judicial action                                     |
| Failure to sample or monitor one or more parameters            | Isolated incident    | NOV   |
| Failure to sample or monitor one or more parameters            | Frequent occurrence  | AO, AP, or judicial action                                |
| Failure to report status of compliance with schedule deadlines | Any occurrence       | Phone call or NOV   |
| Failure to report noncompliance with effluent limits           | Isolated incident    | Phone call or NOV   |
| Failure to report non-compliance with effluent limits          | Frequent occurrence  | AO or AP  |
| Falsification of Monthly Operating Reports                     | Any occurrence       | AP, judicial action or request for criminal investigation |

PERMIT COMPLIANCE SCHEDULES

| <u>NONCOMPLIANCE</u>   | <u>CIRCUMSTANCES</u>  | <u>RANGE OF RESPONSE</u>  |
|--|---|---------------------------|
| Violation of interim deadline  | Delayed compliance, no effect on final deadlines                          | NOV                       |
| Violation of interim deadline  | Continuing noncompliance causing a major delay in meeting final deadlines | AO, AP or judicial action |
| Violation of SNC* associated deadlines (initiate construction, complete construction, attain operational level, or meet final effluent limits) | Greater than 90 days  | AO, AP or judicial action |

AO COMPLIANCE SCHEDULES

| <u>NONCOMPLIANCE</u>   | <u>CIRCUMSTANCES</u>  | <u>RANGE OF RESPONSE</u> |
|--|---|--------------------------|
| Violation of interim deadline  | Delayed compliance no effect on final deadlines                           | NOV                      |
| Violation of interim deadline  | Continuing noncompliance causing a major delay in meeting final deadlines | AP or judicial action    |
| Violation of SNC* associated deadlines (initiate construction, complete construction, attain operational level, or meet final effluent limits) | Greater than 90 days  | AP or judicial action    |

## PERMIT EFFLUENT LIMITS

| <u>NONCOMPLIANCE</u>                                    | <u>CIRCUMSTANCES</u>  | <u>RANGE OF RESPONSE</u>   |
|---|---|----------------------------|
| Violation of interim effluent limits (Major Discharger) | Infrequent, not causing significant noncompliance (SNC*)      | Nov                        |
| Violation of interim effluent limits (Major Discharger) | Causing significant noncompliance (SNC*)                      | AO, AP or judicial action  |
| Violation of interim effluent limits (Minor Discharger) | Infrequent occurrence   | NOV                        |
| Violation of interim effluent limits (Minor Discharger) | Frequent occurrence   | AO, AP or judicial action  |
| Violation of final effluent limits (Major Discharger)   | Infrequent, not causing significant noncompliance (SNC*)      | NOV                        |
| Violation of final effluent limits (Major Discharger)   | Causing significant non-compliance (SNC*)                     | AO, AP or judicial action  |
| Violation of final effluent limits (Minor Discharger)   | Infrequent occurrence   | NOV                        |
| Violation of final effluent limits (Minor Discharger)   | Frequent occurrence   | AO, AP, or judicial action |
| Discharging without a permit                            | Isolated incident, no adverse health or environmental effects | NOV                        |
| Discharging without a permit                            | Frequent occurrence or continuing discharge                   | AP or judicial action      |

PERMIT EFFLUENT LIMITS (cont.)

| <u>NONCOMPLIANCE</u>         | <u>CIRCUMSTANCES</u>   | <u>RANGE OF RESPONSE</u> |
|------------------------------|--|--------------------------|
| Discharging without a permit | No permit application submitted or application submitted but OEPA unable to issue permit due to fault of applicant | AP or judicial action    |

ADMINISTRATIVE ORDER INTERIM LIMITS

| <u>NONCOMPLIANCE</u>                                    | <u>CIRCUMSTANCES</u>                                     | <u>RANGE OF RESPONSE</u> |
|---|--|--------------------------|
| Violation of interim effluent limits (Major Discharger) | Infrequent, not causing significant noncompliance (SNC*) | NOV                      |
| Violation of interim effluent limits (Major Discharger) | Causing significant noncompliance (SNC*)                 | AP or judicial action    |
| Violation of interim effluent limits (Minor Discharger) | Infrequent occurrence                                    | NOV                      |
| Violation of interim effluent limits (Minor Discharger) | Frequent occurrence                                      | AP or judicial action    |

JUDICIAL ORDER INTERIM EFFLUENT LIMITS

| <u>NONCOMPLIANCE</u>                 | <u>CIRCUMSTANCES</u>  | <u>RANGE OF RESPONSE</u>    |
|--------------------------------------|---|-----------------------------|
| Violation of interim effluent limits | Infrequent occurrence or not causing significant noncompliance (SNC*) | Nov                         |
| Violation of interim effluent limits | Frequent occurrence or causing significant non-compliance (SNC*)      | Request for Contempt Action |

STATE/EPA COMPLIANCE INSPECTION

| <u>NONCOMPLIANCE</u>               | <u>CIRCUMSTANCES</u>                              | <u>RANGE OF RESPONSE</u>  |
|------------------------------------|---|---------------------------|
| Violation of analytical procedures | Any occurrence                                    | NOV                       |
| Violation of analytical procedures | Persistent occurrence, no corrective action taken | AO, AP or judicial action |
| Violation of permit conditions     | Any occurrence                                    | NOV                       |
| Violation of permit conditions     | Persistent occurrence, no corrective action taken | AO, AP or judicial action |

PRETREATMENT

Industrial Users (Ohio EPA as Control Authority)

| <u>NONCOMPLIANCE</u>  | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u>   |
|---|----------------------|----------------------------|
| Non submittal of required reports (BMRs, self-monitoring reports, etc.)                     | Late (2 weeks)       | Nov                        |
| Non-submittal of required reports (BMRs, self-monitoring reports, etc.)                     | Continued violation  | AO, AP or Judicial action  |
| Failure to sample or analyze, or to properly sample or analyze, for all required parameters | Infrequent           | NOV, AO                    |
| Failure to sample or analyze, or to properly sample or analyze, for all required parameters | Continuing           | AO, AP, or judicial action |

Industrial Users (Ohio EPA as Control Authority) (cont.)

| <u>NONCOMPLIANCE</u>  | <u>CIRCUMSTANCES</u>              | <u>RANGE OF RESPONSE</u>   |
|---|-----------------------------------|----------------------------|
| Failure to report noncompliance (slug load, routine monitoring, etc.) | Infrequent-single event           | NOV                        |
| Failure to report noncompliance (slug load, routine monitoring, etc.) | Multiple incidents                | AO, AP, or judicial action |
| Violation of general, local or categorical discharge limits           | Infrequent, do not fall into SNC* | NOV                        |
| Violation of general, local or categorical discharge limits           | Consistent, do not fall into SNC* | AO, AP, or judicial action |
| Violation of general, local or categorical discharge limits           | Infrequent, falls into SNC*       | NOV, AO, AP                |
| Violations of general, local or categorical discharge limits          | Consistent, falls into SNC*       | AO, AP, or judicial action |
| Gross violation of limits, passthrough, or interference               | Any occasion                      | AO, AP, or judicial action |
| Violation of compliance schedule milestone                            | Infrequent                        | NOV                        |
| Violation of compliance schedule milestones                           | Ongoing                           | AP, or judicial action     |
| Violation of final compliance schedule milestone                      | Any occasion greater than 90 days | AP, or judicial action     |

Industrial Users (Ohio EPA as Control Authority) (cont.)

| <u>NONCOMPLIANCE</u>  | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u>                   |
|---|----------------------|--|
| Any other violation or group of violations considered to be significant | Any occasion         | NOV, AO, AP, or judicial action            |
| Failure to maintain and have available records                          | Infrequent           | NOV  |
| Failure to maintain and have available records                          | Continuing           | AO, AP, or judicial action                 |
| Reporting false information   | Any occasion         | Judicial action (possible criminal action) |

Municipal (POTWS)

| <u>NONCOMPLIANCE</u>  | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u>                                      |
|---|----------------------|---|
| Failure to submit pretreatment reports  | Late (2 weeks)       | NOV   |
| Failure to submit pretreatment reports within 30 days after deadline  | Any occasion         | NOV, AO, AP, or judicial action                               |
| Municipal non-enforcement of general, local, or categorical discharge limits or reporting requirements (including passthrough and interference) | Infrequent           | NOV, AO, or AP  |
| Municipal non-enforcement of general, local or categorical discharge limits or reporting requirements   | Continuing           | AO, AP, or judicial action<br>NOV, AO, AP, or judicial action |
| Municipal non-enforcement for instances of passthrough or interference  | Any occasion         | NOV, AO, AP, or judicial action                               |

Municipal (POTWS) (cont.)

| <u>NONCOMPLIANCE</u>  | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u>        |
|---|----------------------|---------------------------------|
| Failure to issue IU permits (or equivalent) within six months of program approval or reissue within 90 days of expiration | Any occasion         | AO, AP, or judicial action      |
| Failure to establish or enforce IU self-monitoring requirements   | Any occasion         | NOV, AO, AP, or judicial action |
| Failure to conduct at least 80% of required IU inspections  | Any occasion         |                                 |
| Failure to publish list of IUs in SNC*  | Infrequent           | NOV, AO                         |
| Failure to complete a pretreatment implementation compliance schedule milestone within 90 days after the deadline         | Any occasion         | AO, AP or judicial action       |
| Municipal non-implementation of pretreatment program  | Continuing           | AO, AP, or judicial action      |
| Any other violations or group of violations considered to be significant  | Any occasion         | NOV, AO, AP, or judicial action |

\*For an explanation of SNC, see the attachment entitled Definition of Significant Noncompliance.

**Attachment 2**

**DEFINITION OF SIGNIFICANT NONCOMPLIANCE**

## DEFINITION OF SIGNIFICANT NONCOMPLIANCE

In order to most effectively manage the NPDES program with the limited resources available, USEPA has developed criteria for tracking and acting upon priority violations as directed by the Strategic Planning and Management Systems (SPMS). These violations have been defined as a subset of those instances of noncompliance reported on the Quarterly Noncompliance Report (QNCR) and are called Significant Noncompliance (SNC).

SNC is used to report priority violations within EPA's management accountability system and generally indicates the need for agency action unless the problems are corrected. This in no way implies that action will not be initiated against permittees with violations that do not meet SNC criteria. It merely indicates that attention should be focused on those priority violations within the timeframes in the Agency Guidance.

### I. PERMIT SIGNIFICANT NONCOMPLIANCE

#### A. Effluent

Permit effluent SNC criteria are the same as permit effluent QNCR criteria with the exception of violations that are of concern to the Agency but have not caused or did not have the potential to cause a water quality or health problem.

#### 1. Violation of Monthly Average Effluent Limits

##### a. TRC Violations

A violation of a given Group I (conventional) and Group II (toxics) parameter (see attachment #1) at a given discharge point that equals or exceeds the product of TRC times the limit for any two or more months during the six month review period is SNC.

##### b. Chronic Violations

Violation of a given Group I or Group II parameter (see attachment #1) limit at a given pipe by any amount (not necessarily TRC times the limit or greater) for any four or more months during the six month review period of SNC.

#### 2. Violation of Other Limits

Any effluent violation that causes or has the potential to cause a water quality or health problem is SNC.

#### B. Schedule

Failure to start construction, end construction, or attain final compliance within 90 days of the scheduled date is SNC.

### C. Reporting

Permit reporting SNC criteria are the same as permit reporting Category I (can be qualified) QNCR criteria.

1. DMRs, Pretreatment Reports, and the Compliance Schedule Final Report of Progress (i.e., attain final compliance) that are submitted 30 or more days late are SNC.

## II. ADMINISTRATIVE ORDER SIGNIFICANT NONCOMPLIANCE

### A. Effluent

Administrative order effluent SNC criteria are determined by the level (stringency) of the effluent limitations established compared to the permit limitations.

1. Effluent limitations that are stringent as the current permit (or in the case of an order issued with the reissuance of a permit such as BAT permits, as stringent as the prior (or BAT) permit).

Administrative order effluent SNC criteria in this case are the same as permit effluent SNC criteria.

#### a. Violation of Monthly Average Effluent Limits

##### i. TRC Violations

A violation of a given Group I or Group II parameter (see attachment #1) at a given discharge point that equals or exceeds the product of TRC times the limit for two or more months during the six month review period is SNC.

##### ii. Chronic Violations

Violation of a given Group I or Group II parameter (see attachment #1) limit at a given pipe by any amount (not necessarily TRC times the limit or greater) for any four or more months during the six month review period is SNC.

b. Violation of Other Limits

i. Any effluent violation that causes or has the potential to cause a water quality or health problem is SNC.

2. Effluent limitations that are less stringent than the current permit. Administrative order effluent SNC criteria in this case are the same as enforcement order effluent QNCR criteria.

a. Violation of monthly Average Effluent Limits

Any violation of a monthly average effluent limitation cited in an enforcement order is SNC.

b. Violation of Other Limits

Any violation of an effluent limitation cited in an enforcement order that causes or has the potential to cause a water quality or health problem is SNC.

B. Schedule

Failure to start construction, end construction, or attain final compliance within 90 days of the schedule date is SNC.

C. Reporting

Administrative order reporting SNC criteria are the same as enforcement order reporting Category I QNCR criteria.

1. DMRs, pretreatment reports, and the compliance schedule final report progress (i.e., attain final compliance) that are submitted 30 or more days late are SNC.

D. Other

Any violation of an administrative order requirement other than effluent, schedule, or reporting requirement is SNC.

1. These violations would include failure to pay stipulated penalties, maintain required staffing or follow prescribed operation and maintenance procedures.

### III. JUDICIAL ORDER SIGNIFICANT NONCOMPLIANCE

Since violations of judicial orders are of special concern, judicial order SNC criteria are the same as enforcement order QNCR criteria.

#### A. Effluent

##### 1. Violation of Monthly Average Effluent Limits

Any violation of a monthly average effluent limitation cited in a judicial order is SNC.

##### 2. Violation of other Limits

Any violation of an effluent limitation cited in a judicial order that causes or has the potential to cause a water quality or health problem is SNC.

#### B. Schedule

1. Failure to start construction, end construction, or attain final compliance within 90 days of the scheduled date is SNC.

2. Failure to achieve any other schedule milestone (other than a report) within 90 days of the scheduled date is SNC. This includes all milestones and events scheduled as part of the pretreatment program.

#### C. Reporting

1. DMRs, pretreatment reports, and the compliance schedule final report of progress (i.e., attain final compliance) that are submitted 30 or more days late are SNC.

2. Additional reports that are submitted 30 or more days late are SNC.

3. All reports (including DMRs, pretreatment reports, the compliance schedule final report of progress, and any other reports) that are incomplete or deficient are SNC.

#### D. Other

Any violation of a judicial order requirement other than an effluent, schedule, or reporting requirement is SNC.

1. These violations would include failure to pay stipulated penalties, maintain required staffing or follow prescribed operation and maintenance procedures.

#### IV. INDUSTRIAL USER SIGNIFICANT NONCOMPLIANCE

##### A. TRC Violations

Thirty-three percent or more of the measurements in exceedance of the same daily maximum limit or the same average limit by more than the TRC (see attachment #1) in a 6-month period is SNC.

##### B. Chronic Violations

Sixty-six percent or more of the measurements in exceedance of the same daily maximum limit or the same average limit in a 6-month period is SNC.

#### V. PRETREATMENT PROGRAM SIGNIFICANT NONCOMPLIANCE

A. Failure to take effective action against industrial users for instances of pass through and/or interference as defined in 40 CFR Part 403.3 and required in Section 403.5, and as specified in the approved program or the NPDES permit is SNC. Actions taken in response to discharges which result in pass through and/or interference that failed to eliminate the causal discharge within 90 days of identifying the responsible industry or failed to place the responsible industry on an enforceable schedule within 90 days of identification are not considered to be effective, unless otherwise defined in an approved enforcement response plan.

B. Failure to submit a pretreatment report (e.g., annual report or publication of significant violators) to the Approval Authority within 30 days of the due date specified in the NPDES permit, enforcement order, or approved program is SNC.

C. Failure to complete a pretreatment implementation compliance schedule milestone within 90 days of the due date specified in the NPDES permit, enforcement order, or approved program is SNC.

D. Failure to issue, reissue, or ratify industrial user permits, or other enforceable control mechanisms, where required, for at least 90% of the significant industrial users, within 180 days after program approval (or after permit expiration), or within 180 days of the date required in the approved program, NPDES permit, or enforcement order is SNC.

E. Failure to conduct a complete inspection or sampling of at least eighty percent of the significant industrial users as required by the permit, the approved program, or enforcement order is SNC.

F. Failure to enforce pretreatment standards or reporting requirements -- including self-monitoring requirements -- as required by the approved program, the NPDES permit, or the General Pretreatment Regulations is SNC. Failure to take appropriate action against a violation within thirty (30) days of being notified of such violation is SNC. Actions taken in response to incidents of significant noncompliance that failed to return the SIU to compliance within 90 days of the receipt of information establishing significant noncompliance are not considered effective unless otherwise defined in an approved program enforcement response plan.

G. Any other violation or group of violations of local program implementation requirements based on the NPDES permit, approved program or 40 CFR Part 403 which the Director or Regional Administrator considers to be of substantial concern is SNC.

#### VI. RESOLUTION OF SIGNIFICANT NONCOMPLIANCE

An instance of SNC is considered resolved when the SNC criteria are no longer met during the review period or when the permittee exhibits compliance for all three months of the most recent quarter.

Attachment #1 to SNC

Group I Pollutants - TRC = 1.4

Oxygen Demand

Biochemical Oxygen Demand  
Chemical Oxygen Demand  
Total Oxygen Demand  
Total Organic Carbon  
Other

Minerals

Calcium  
Chloride  
Fluoride  
Magnesium  
Sodium  
Potassium  
sulfur  
Sulfate  
Total Alkalinity  
Total Hardness  
Other Minerals

Solids

Total Suspended Solids (Residues)  
Total Dissolved Solids (Residues)  
Other

Nutrients

Inorganic Phosphorus Compounds  
Inorganic Nitrogen Compounds  
Other

Detergents and Oils

MBA's  
NTA  
Oil and Grease  
Other detergents or algicides

Metals

Aluminum  
Cobalt  
Iron  
Vanadium

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Group II Pollutants - TRC = 1.2

Metals (all Forms)

Other metals not specifically  
listed in Group I

Inorganic

Cyanide  
Total Residual Chlorine

Organics

All organics are Group II except  
those specifically listed in  
Group I