



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

December 12, 2012

RE: CITY OF KENT  
INDUSTRIAL PRETREATMENT PROGRAM  
PRETREATMENT PROGRAM AUDIT  
NPDES PERMIT 3PD00031\*OD  
PORTAGE COUNTY

Eugene Roberts  
Director of Public Service  
930 Overholt Road  
Kent, Ohio 44240

**NOTICE OF VIOLATION**

Dear Mr. Roberts:

This office conducted a Pretreatment Audit Inspection (PAI) of the City of Kent Industrial Pretreatment Program (IPP) on October 29 and November 29, 2012. The purpose of the inspection was to determine if the IPP is in compliance with state and federal pretreatment regulations and requirements. Donna Kniss and Ryan Laake represented the Ohio EPA. Bob Brown, wastewater treatment plant (WWTP) Manager, and Eric Gorczynski, Environmental Technician, represented the City. One industry, Kent Elastomers, was visited during the inspection.

This is a Notice of Violation because the City of Kent did not fulfill the commitments in its January 26, 2007 response to the November 17, 2006 IPP audit letter. It must be noted that Messrs. Brown and Gorczynski have been diligently identifying IPP deficiencies and working to resolve them. Nonetheless, because of the unsatisfactory condition of the IPP when they were assigned IPP responsibility, significant deficiencies remain, which are discussed below:

1. The Sewer Use Ordinance (SUO) contains local limits for both metal and conventional parameters. That section of the SUO states that no one may discharge wastewater with concentrations higher than those limits. Conversations with City personnel have revealed that the City's intention was to set surcharge thresholds for conventional pollutants, not to set limits. Failure to have appropriate local limits is a deficiency in the requirements found in 40 CFR 403.5(c)(1) and OAC 3745-3-04(D).

Surcharge thresholds and local limits are frequently confused, but serve very different purposes. Surcharges are designed to recover the additional costs associated with treating an industrial wastewater. Examples include additional chemical feed to remove phosphorus, or costs associated with additional solids handling for a high CBOD discharge. Local limits are set to protect the publically owned treatment works (POTW), including the WWTP. While metals are removed in the WWTP processes, the metals local limits are based on the amount the WWTP can safely accept without causing NPDES permit violations or process inhibitions. There may be both surcharge thresholds and local limits for conventional parameters. For example, there may be a surcharge for CBOD discharges above a set concentration, but that industry may also have a limit based on the WWTP's capacity and ability to treat the concentrated wastewater.

This office recommends that the SUO be modified to split the local limits table into two tables, conventional pollutants and priority pollutants such as metals. The SUO text can then be modified to authorize the City's representative to provide written authorization to a significant industrial user (SIU) to discharge above the conventional pollutants surcharge threshold. This can be incorporated into the SUO section discussing surcharges. The City cannot authorize discharges above the metals limits, because those values are based on what the WWTP can safely accept. The City can change from uniform concentration limits to unequal allocation limits; please contact this office if you would like to investigate this option.

2. The SUO contains limits for non-polar oil and grease of 100 mg/l, and polar oil and grease of 100 mg/l. The polar oil and grease limit is not consistent with the oil and grease limit in the Land O'Lakes (LOL) permit. Furthermore, a review of the LOL monitoring data shows that LOL would consistently violate the polar oil and grease limit. The current SUO language means that this limit cannot be exceeded, and the City does not have the authority to authorize exceedances. The City must evaluate this section of the SUO and determine what language is appropriate for regulating the LOL discharge and protecting the POTW. Failure to have appropriate local limits is a deficiency in the requirements found in 40 CFR 403.5(c)(1) and OAC 3745-3-04(D). The deficiency concerning the LOL permit oil and grease limit was identified in the 2006 audit and remains unresolved.
3. The City is not periodically evaluating all industrial dischargers, including those that have not been issued a permit, and does not have a procedure for identifying changes in a timely fashion. Most communities establish communications between the water department, building department, and IPP to apprise the IPP of activities that may indicate a change in discharge characteristics. The Kent IPP is in the process of conducting a comprehensive survey of all potential industrial wastewater dischargers, which resolves this issue for the immediate future. However, the City must develop a procedure to identify changes at non-significant industrial users. Failure to characterize and evaluate the discharges from all Industrial Users(IUs) is a deficiency in the requirement found in 40 CFR 403.8(f)(2)(ii) and OAC 3745-3-03(C)(2)(b). This deficiency was identified in the 2006 audit, and the resolution outlined in the 2007 City response was not implemented.
4. Mr. Brown indicated that two SIU permits had been expired for a number of years. It appeared that these industries were supposed to be reclassified as non-significant industrial users. However, there was no file information indicating that the permits had been revoked, and insufficient documentation demonstrating that the SIUs could be re-classified. The City must determine if these SIUs can be re-classified as non-significant industrial users, and document the change in classification, including informing the industries. Failure to maintain a list of IUs with the IPP's determination of whether or not the IU is an SIU is a deficiency in the requirement found in 40 CFR 403.8(f)(6) and OAC 3745-42-03(C)(6).

The LOL permit expires December 21, 2012. Mr. Brown indicated that Kent representatives have been meeting with LOL representatives to discuss the terms of the next permit. However, there must be a legally enforceable document regulating the terms of the LOL discharge in this interim period. Because the existing permit has a three year duration, the City can continue it while negotiations continue. Failure to have current, unexpired permits is a deficiency in the requirements found in 40 CFR 403.8(f)(1)(iii) and OAC 3745-3-03(C)(1)(c).

5. The file review showed that not all permits contained reporting requirements. Permits did not contain the requirement to notify the IPP within 24 hours of becoming aware of a permit violation and to resample within 30 days of becoming aware of a permit violation. Failure to include all required language is a deficiency in the requirement found in 40 CFR 403.8(f)(1)(iii)(B) and OAC 3745-3-03(C)(1)(c). Failure to include permit conditions that require the SIU to notify the City with 24 hours of becoming aware of a violation and to resample within 30 days of a violation is a deficiency in the requirement found in 40 CFR 403.12(g)(2) and OAC 3745-3-06(H)(6).
6. The IPP files did not apparently contain any information documenting how SIU categorical regulation determinations were made or how the categorical standards were implemented. Failure to appropriately apply (including documentation) categorical standards is a deficiency in the requirements found in 40 CFR 403.8(f)(1)(ii) and (iii) and OAC 3745-3-03(C)(1)(c)(iii).
7. The LOL permit contains concentration limits, loading limits, and flow rates. However, calculations revealed that the loading limits do not correspond to the listed concentration limits and flow rates, and the discrepancy is not discussed in any of the file information. Because the origin of the permit limits is not documented, their enforceability is diminished, which is a deficiency in the requirements found in 40 CFR 403.8(f)(1) and OAC 3745-3-03(C)(1).
8. The file reviews showed that the last documented inspections were conducted in 2006 and 2008. Failure to annually inspect all SIUs is a deficiency in the requirements found in 40 CFR 403.8(f)(2)(v) and OAC 3745-3-03(C)(2)(e). This deficiency was identified in the 2006 audit, and the resolution outlined in the 2007 City response was not implemented.
9. The SIU permits did not contain requirements to sample for all local limit parameters, and the files did not contain any information documenting why certain parameters were omitted. The City must evaluate SIU discharges for all pollutants of concern, which would include pollutants for which local limits have been developed. Failure to sample and analyze the effluent for all pretreatment standards is a deficiency in the requirement found in 40 CFR 403.8(f)(2)(v) and OAC 3745-3-03(C)(2)(e).
10. The Kent Elastomer permit did not contain oil and grease monitoring requirements or permit limit. Kent Elastomer is subject to 40 CFR 428.106, which contains a categorical standard limit of 100 mg/l for oil and grease. Failure to appropriately apply categorical standards is a deficiency in the requirements found in 40 CFR 403.8(f)(1)(ii) and (iii) and OAC 3745-3-03(C)(1)(c)(iii).
11. 40 CFR 403.8 (f)(2)(vi) and OAC 3745-3-(C)(2)(f) require the City to evaluate SIUs for the need for a slug discharge control plan. The files did not contain any documentation that these evaluations were conducted. This deficiency was identified in the 2006 audit, and the resolution outlined in the 2007 City response was not implemented. Mr. Gorczynski has added this evaluation to the inspection form he has developed.
12. The monitoring data for Kent Elastomer showed violations for ammonia. Additionally, there was not any documentation for evaluating Kent Elastomer for significant non-compliance (SNC). Failure to conduct all required surveillance activities is a deficiency in the requirements found in 40 CFR 403.8(f)(2)(v) and (vii), and OAC 3745-3-03(C)(2)(e). Failure to evaluate industrial users for significant noncompliance is a deficiency in the requirements found in 40 CFR 403.8(f)(2)(vii) and OAC 374-3-03(C)(2)(g). This deficiency

was identified in the 2006 audit, and the resolution outlined in the 2007 City response was not implemented. If Kent's intention was that the ammonia concentration limits were meant to be surcharge thresholds and not limits, and the City determines that Kent Elastomer was in SNC, please contact this office to discuss how best to proceed.

13. The Enforcement Response Plan (ERP) was last updated in 1994, and does not appear to be included in the City's recent program modifications. The ERP must be updated to reflect current job titles and responsibilities. This deficiency was identified in the 2006 audit, and remains unresolved.
14. The Annual Report contains a table titled "General Monitoring Information", which summarizes the commitments the City made to the Ohio EPA in its pretreatment program submission. The commitments are not consistent with the SIU monitoring actually conducted, and also appear to be inconsistent with SIU permit language. Failure to conduct all required surveillance activities is a deficiency in the requirements found in 40 CFR 403.8(f)(2)(v) and (vii), and OAC 3745-3-03(C)(2)(e).

The City's commitments exceed the regulatory minimum. The City must determine what level of oversight is necessary and update this table. Please note that most IPPs do not list specific industries in this table, but set up general subcategories, such as "major impacts" and "minor impacts". This allows them to move SIUs between the different subcategories, and hence monitoring commitments, based on the SIU's current operations.

As noted above, when Messrs. Brown and Gorczynski were assigned IPP responsibility, the program had serious deficiencies due to past neglect and they have been working on bringing the IPP back into compliance with federal and state requirements. The City must ensure that they have sufficient resources so that all deficiencies are resolved and the IPP returns to compliance in a timely manner. Please respond to this office within 30 days of the receipt of this letter, documenting the steps that will be taken to address the issues noted above. If you have any questions or comments, please contact me at (330) 963-1285. I can also be reached at [donna.kniss@epa.state.oh.us](mailto:donna.kniss@epa.state.oh.us).

Sincerely,



Donna J. Kniss  
District Engineer  
Division of Surface Water

DJK/cs

cc: Bob Brown, Plant Manager, Kent WWTP  
Ryan Laake, Ohio EPA, DSW, CO

ec: Mike Stevens, Ohio EPA, DSW, NEDO

File: Municipal Pretreatment/Correspondence-Inspection