



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

March 25, 2013

RE: CITY OF MASSILLON
INDUSTRIAL PRETREATMENT PROGRAM
PRETREATMENT PROGRAM AUDIT
NPDES PERMIT 3PE00007*LD
STARK COUNTY

NOTICE OF VIOLATION

Mayor and Council
City of Massillon
One James Duncan Plaza
Massillon, OH 44646

Dear Mayor and Council:

This office conducted a Pretreatment Audit Inspection (PAI) of the City of Massillon Industrial Pretreatment Program (IPP) on February 14 and 28, 2013. The purpose of the inspection was to determine if the IPP is in compliance with state and federal pretreatment regulations and requirements. Donna Kniss represented the Ohio EPA. Dawn Casten, Pretreatment Coordinator and Tony Ulrich, Plant Manager, represented the City. One industry, Shearer's Foods, Inc., was visited during the inspection.

This is a Notice of Violation (NOV) because the City of Massillon failed to publish the required annual public notice identifying the industry that had been in significant non-compliance the previous year. This is a violation of the requirement found in 40 Code of Federal Regulations (CFR) 403.8(f)(2)(viii) and Ohio Administrative Code (OAC) 3745-3-03(C)(2)(h) to provide meaningful public notice of industries in significant non-compliance with industrial pretreatment regulations.

There have been significant improvements in the administration of the IPP since the January 2008 IPP audit. Nonetheless, this audit identified deficiencies, which are discussed below:

1. The City sent wastewater questionnaires to Industrial Users (IUs), and began evaluating the responses and conducting inspections. This is a required activity, identifying IUs with discharges that must be monitored and permitted. Because the City has not recently conducted this evaluation, the City must provide sufficient resources to finish the on-going review. Failure to characterize and evaluate the discharges from all Industrial Users is a deficiency in the requirement found in 40 CFR 403.8(f)(2)(ii) and OAC 3745-3-03(C)(2)(b). The City should develop a procedure to ensure that all IUs are periodically evaluated and/or inspected. This evaluation should be conducted every three to five years.
2. The majority of Significant Industrial User (SIU) permits were expired. The City personnel intended to re-issue the permits after the revised local limits were approved. 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). After discussing this with Ms. Casten, she issued letters to all SIUs extending the permits until new permits could be issued after the Sewer Use Ordinance (SUO) changes were approved by the Ohio EPA.

3. 40 CFR 403.12(g)(2) and OAC 3745-3-06(H)(6) state that the SIU permit must include the requirements to notify the IPP within 24 hours of becoming aware of a permit violation, and to resample the parameter within 30 days. One permit contained the 30 day resample requirement but not the 24 hour notification, and the other contained the 24 hour notification but not the 30 day resample. All SIU permits must be reviewed to ensure that they contain the required language.
4. The permit definition of a composite sample does not coincide with current sampling practices, nor does it coincide with how Massillon expects the SIU to collect the sample. Failure to appropriately define sample type, including special procedures to ensure that a representative sample is collected, is a deficiency in the requirement found in 40 CFR 403.8(f)(1)(iii)(B)(4) and OAC 3745-3-03(C)(1)(c)(iv).
5. The sample location in the Shearer's Foods permit does not reflect the current sample location, but refers to a previous sample location. Failure to correctly identify the specific sample location in the permit is a deficiency in the requirement found in 40 CFR 403.8(f)(1)(iii)(B)(4) and OAC 3745-3-03(C)(1)(c)(iv).
6. The permit contains language allowing affirmative defenses for certain permit violations. While 40 CFR 403 contains provisions for allowing affirmative defenses, OAC 3745-3 does not. Because affirmative defenses are not authorized by state rule, affirmative defenses cannot be included in SUOs or permits.
7. Certain categorical standards require monitoring for total toxic organic (TTO) compounds, and allow for the submission of a Toxic Organic Management Plan (TOMP) in lieu of sampling. The file review showed that TTO requirements and the TOMP alternative were included in permits for industries not regulated by those categorical standards. 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).
8. The file review showed that permits contained categorical standard limits that were identified as Massillon local limits, and that the industry was not subject to regulation under that categorical standard. 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).
9. While it appears that all SIUs were inspected within the last 12 months, the file review showed gaps in the inspection records. 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).
10. The file review showed that the majority of Massillon chain-of-custody (COC) forms were completed incorrectly. Almost all COCs were missing sample collection and transport signatures, or showed significant time discrepancies. The purpose of the COC is to demonstrate that the sample remained under the control of the authorized individual,

and was never unattended so that it could be tampered with or replaced. The failure to properly document the sample "hand-off" means that any results obtained could be successfully challenged. Failure to conduct sample taking and analysis with sufficient care to produce evidence admissible in court proceedings is a deficiency in the requirement found in 40 CFR 403.8(f)(2)(vii) and OAC 3745-3-03(C)(2)(g).

11. The file review showed that not all companies were submitting Chains of Custody (COC) with their self-monitoring reports. As noted above, failure to conduct sample taking and analysis with sufficient care to produce evidence admissible in court proceedings is a deficiency in the requirement found in 40 CFR 403.8(f)(2)(vii) and OAC 3745-3-03(C)(2)(g). If the City is not requiring the submission of the COCs, then the COCs must be reviewed during the annual inspection and their acceptability noted in the inspection report.
12. Massillon contracts for outside laboratory services for a set time period, as opposed to using contract laboratories on an "employ-at-will" basis. Because of this, Massillon must clearly identify both the required parameter method detection levels and the required quality assurance/quality control requirements to ensure that the City is receiving data that is useful and legally defensible.
13. The current Enforcement Response Plan (ERP) does not include show cause hearings and termination-of-service for industry actions that cause harm to the POTW or the environment. The ERP must contain provisions to immediately stop discharges causing actual or imminent harm. Failure to do so is inconsistent with the objectives of an industrial pretreatment program.

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.ohio.gov.

Sincerely,



Donna J. Kniss
District Engineer
Division of Surface Water
Northeast District Office

DJK/cs

cc: Dawn Casten, Massillon WWTP
Ryan Laake, Ohio EPA, DSW, CO

ec: Todd Surrena, Ohio EPA, DSW, NEDO

File: Municipal Pretreatment/PCI-Correspondence