

PRETREATMENT ENFORCEMENT RESPONSE PLAN

Federal regulations require the Green Bay Metropolitan Sewerage District (METRO) to develop and operate an industrial pretreatment program. Under this program METRO is also required by 40 CFR 403.8(f)(5) to develop and implement an Enforcement Response Plan. At minimum this plan shall:

1. Describe how METRO will investigate instances of noncompliance,
2. Describe the types of escalating enforcement responses METRO will take in response to all anticipated types of industrial discharger violations and the time periods within which responses will take place,
3. Identify (by title) the official(s) responsible for each type of response, and
4. Adequately reflect METRO's primary responsibility to enforce all applicable pretreatment requirements and standards as detailed in 40 CFR 403.8(f)(1) and (f)(2).

Introduction

The Green Bay Metropolitan Sewerage District's (METRO) enforcement response plan describes violations and indicates a range of appropriate enforcement options. This response plan serves two functions:

1. Defines the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors.
2. Promotes consistent and timely use of enforcement remedies. In addition to eliminating uncertainty and confusion concerning enforcement, this consistency lessens the likelihood of a successful legal challenge based on charges of "selective enforcement" or harassment.

This response plan allows METRO to select from several alternative and follow up actions. METRO will initially rely on informal actions such as Notices of Noncompliance (NONs) and Notices of Violations (NOVs) where violations are nonsignificant or when the industrial discharger is cooperative in resolving its problems. When the violation is significant or when the discharger does not promptly undertake corrective action, METRO will respond with more severe enforcement responses. If a discharger fails to return to compliance following the initial enforcement response, METRO shall escalate its enforcement response with a more stringent action.

METRO will also evaluate enforcement response in the context of the discharger's prior violations. If a discharger continues its minor noncompliance despite informal enforcement measures (that is, despite issuance of repeated NONs and/or NOVs) METRO will adopt a more stringent approach. Similarly, if a discharger has committed several types of violations, METRO's response will address each violation.

METRO will consider the following criteria when determining the proper response action:

1. Magnitude of the violation
2. Duration of the violation
3. Effect of the violation on the receiving water
4. Effect of the violation on METRO
5. Compliance history of the discharger
6. Good faith of the discharger

Enforcement Authority

METRO is organized under State Statutes 66.20 to 66.26. Enforcement policies available to METRO are defined in State Statute 66.902. This section grants METRO the authority to prohibit discharges into the sewer system, to prescribe conditions under which waste may be discharged, and to prescribe standards for sewer design, construction, and operation. This section also provides the authority for the issuance of special orders for seeking of injunctive relief, for initiating civil suits, and for collecting forfeitures of up to \$10,000 per day for each violation. Discharges to the sewerage system are regulated under METRO Sewer Use Ordinance 78-1 as amended from time to time.

Enforcement Procedures

METRO has the responsibility to enforce all applicable requirements and standards of the Federal Pretreatment Program and of Sewer Use Ordinance 78-1. The Manager, Pretreatment Program (hereafter referred to as Manager) is responsible for maintaining records on the industries in the program and for ensuring that each industry is in compliance with its control document (Order or Permit).

In the event an industry violates any of the requirements of its control document, it is the responsibility of the Manager to contact the industrial discharger. If the violation is of such magnitude to require a formal response, the Manager will recommend to METRO's Executive Director the type and severity of the

response. Although not listed in this Enforcement Plan as an enforcement option, informal compliance meetings with the industrial discharger to resolve recurring noncompliance may be held. Such meetings may occur at any time prior to initiation of civil action. While the Manager will be involved in all such meetings, involvement of other METRO staff and/or legal counsel will depend on each specific situation.

If a Notice of Violation (NOV) is recommended the Manager will prepare such a notice for signature by the Executive Director. The Executive Director also has the authority to suspend service in the event of an emergency condition involving actual or threatened, imminent or substantial danger to the health or welfare of persons, the environment, or METRO's treatment process.

All other special orders will be issued by METRO's Commission. Such special orders will be recommended by the Executive Director. METRO's authority to recover forfeiture of monies can be either through Commission action or by civil action. The decision to initiate civil action will be made by the Commission.

METRO's Enforcement Plan is based on the response guidance contained in EPA Manual Guidance for Developing Control Authority Enforcement Response Plans. This plan indicates the response or range of responses for specific violations. Also included in the plan is the title of the official or officials at METRO who are responsible for taking that action. The time period within which the action must be taken is also specified. The Enforcement Plan is a guidance document. METRO may and will take such enforcement actions as are appropriate, whether or not the actions are in accordance with the Plan.

GREEN BAY METROPOLITAN SEWERAGE DISTRICT

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Terms and abbreviations used in the plan are defined below.

AO:	Administrative Order.
Civil Order:	Civil litigation against the industrial discharger seeking equitable relief, monetary penalties and actual damages.
Fine:	Forfeiture obtained through Commission action.
M:	Manager, Pretreatment Program
NON:	Notice of Noncompliance
NOV:	Notice of Violation
ED:	Executive Director
COM:	Commission
SV:	Significant Violation
Show Cause:	Formal meeting requiring the discharger to appear and demonstrate why METRO should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

For the purpose of the following table the work permit is used to refer to the control document whether actual permit or Pretreatment Order.

UNAUTHORIZED DISCHARGE (NO PERMIT)

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
1. Unpermitted discharge	discharger unaware of requirement; no harm to METRO/environment	Phone call NON with application form	M
	discharger unaware of requirement; harm to METRO treatment plant	NOV AO FINE	ED ED/COM COM
	discharger aware of requirement with or without harm to METRO	AO Terminate FINE or Civil Action	ED/COM COM COM
	Failure to apply for permit continues after notice by METRO	AO Terminate FINE or Civil Action	ED/COM COM COM
2. Failure to Renew	discharger has not renewed permit within 10 days after due date	NON with late payment fee	M

DISCHARGE LIMIT VIOLATION

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
1. Exceedance of any permit limit, local or categorical	Isolated, not significant	NON and resample 2X	M
	Isolated, significant (no harm)	NOV AO to develop spill prevention plan	ED ED
	Isolated, harm to METRO/environment	AO Show Cause Hearing with FINE	ED/COM
	Recurring; no harm to METRO/environment	NOV AO Show Cause Hearing possible FINE	ED ED COM
	Recurring; significant harm to METRO	AO Terminate Show Cause Hearing or Civil Action	ED COM COM

MONITORING AND REPORTING VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
<p>1. Reporting Violation</p>	<p>Report improperly signed or certified or incomplete</p> <p>Report improperly signed or certified or incomplete after notice by METRO</p> <p>Isolated, not significant (e.g. 10 days late)</p> <p>Significant (e.g. more than 30 days late)</p> <p>Report habitually late or no report at all</p> <p>Failure to report spill or changed discharge (No Harm)</p> <p>Failure to report spill or changed discharge (results in harm)</p> <p>Repeated failure to report spills</p> <p>Falsification</p>	<p>Phone Call NON</p> <p>NOV Show Cause Hearing</p> <p>Phone Call NON</p> <p>NOV Publish as SV</p> <p>AO Show Cause Hearing Publish as SV FINES or Civil Action</p> <p>NOV</p> <p>AO - FINE Show Cause Hearing - FINE Civil Action</p> <p>Show Cause Hearing - FINE Civil Action Terminate</p> <p>AO - FINE Show Cause Hearing FINE Terminate Civil Action</p>	<p>M M</p> <p>ED COM</p> <p>M M</p> <p>ED COM</p> <p>ED COM COM COM</p> <p>ED</p> <p>ED/COM COM COM</p> <p>COM COM COM</p> <p>ED/COM COM COM COM</p>
<p>2. Failure to Monitor Correctly</p>	<p>Failure to monitor all pollutants required by permit - isolated</p> <p>Failure to monitor all pollutants required by permit - recurring</p>	<p>Phone Call NON</p> <p>AO - FINE Show Cause Hearing - FINE</p>	<p>M M</p> <p>ED/COM COM</p> <p>M</p>
<p>3. Improper Sampling</p>	<p>No evidence of intent</p> <p>Evidence of intent</p>	<p>NON and Resample</p> <p>Show Cause Hearing - FINE Civil Action Terminate</p>	<p>M</p> <p>COM COM COM</p>

MONITORING AND REPORTING VIOLATIONS CONT.

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
4. Failure to Install Proper Monitoring Equipment	Delay of less than 30 days	NON NOV	M ED
	Delay of more than 30 days	AO	ED/COM
	Recurring, violation of AO	Terminate Civil Action	COM COM
5. Compliance Schedules (In Permit)	Missed milestone by less than 30 days or will not affect final milestone	NOV	ED
	Missed milestone by more than 30 days or will affect final milestone (good cause delay)	NOV AO Show Cause Hearing - FINE	ED ED/COM COM
	Missed milestone by more than 30 days or will affect final milestone (no good cause for delay)	AO Show Cause Hearing - FINE Terminate Civil Action	ED/COM COM COM COM
	Recurring violation or violation of schedule in AO	AO Show Cause Hearing - FINE Terminate	COM COM COM

OTHER PERMIT VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT ACTION	PERSONNEL
1. Wastestream Diluted in Lieu of Treatment	Initial Violation	NOV AO	ED ED/COM
	Recurring	Show Cause Hearing Terminate	COM COM
2. Failure to Correct Non-compliance or Halt Production	No Harm Results	NOV AO	ED ED/COM
	Harm Results	AO - FINE Show Cause Hearing Terminate	COM COM COM
3. Failure to Properly Operate and Maintain Pretreatment Facility	No Harm Results	NOV	ED
	Harm Results	AO Show Cause Hearing Civil Action	ED/COM COM COM

VIOLATIONS DETECTED DURING SITE VISIT

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT ACTION	PERSONNEL
1. Entry Denial	Entry denied or consent withdrawn copies of records denied	Obtain warrant and return to discharger	?
2. Illegal Discharge	<p>No harm to METRO or environment</p> <p>Harm done or evidence of intent/negligence</p> <p>Recurring violations</p>	<p>NOV AO - FINE</p> <p>AO Show Cause Hearing - FINE Civil Action</p> <p>Terminate</p>	<p>ED ED/COM</p> <p>ED/COM COM COM</p> <p>COM</p>
3. Improper Sampling	<p>Sampling at incorrect location - unintentional</p> <p>Incorrect sample type of technique unintentional</p> <p>Intentional sampling at incorrect location, intentional use of incorrect sample type, or intentional use of incorrect sample collection techniques</p>	<p>NON - resample at correct location</p> <p>NON - resample</p> <p>NOV AO - FINE Show Cause Hearing Civil Action</p>	<p>M</p> <p>M</p> <p>ED ED/COM COM</p>
4. Inadequate Recordkeeping	<p>Files incomplete or missing - no evidence of intent</p> <p>Recurring or evidence of intent</p>	<p>NON NOV</p> <p>NOV AO - FINE Show Cause Hearing</p>	<p>M ED</p> <p>ED ED/COM COM</p>
5. Failure to Report Additional Monitoring	<p>Inspection finds additional files - first offense - no evidence of intent</p> <p>Inspection finds additional files - recurring or evidence of intent</p>	<p>NON</p> <p>NOV Show Cause Hearing</p>	<p>M</p> <p>ED COM</p>

TIME FRAMES FOR RESPONSES

- A. All violations will be identified and documented within 5 days of receiving compliance information.
- B. Initial enforcement responses (involving contact with the IU and requesting information on corrective or preventative action(s) will occur within 15 days of the violation detection.
- C. Follow up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response.
- D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed within 30 days of the identification of significant noncompliance.

