

**CLERMONT COUNTY WATER RESOURCES DEPARTMENT**  
**Industrial Waste Pretreatment Department**  
**Enforcement Response Plan**

Any violation of the pretreatment requirements contained in the Clermont County Water Resources Department (CCWRD) Rules and Regulations (known hereinafter as “CCWRD Rules and Regulations”) or as required by 40 CFR, Part 403, General Pretreatment Regulations for Existing and New Sources of Pollution, or as required in an issued industrial user discharge permit may result in enforcement actions.

I. Determination of Violation

The Clermont County Water Resources Department (CCWRD) identifies scheduled sampling, unscheduled sampling, self-monitoring, and reporting requirements as methods for determining whether a violation has occurred.

II. Monitoring and Enforcement

Monitoring procedures are identified in user specific Administrative Orders or Discharge Permits (known hereinafter as “AO”). Enforcement procedures are identified in this document and in the CCWRD Rules and Regulations. The enforcement procedures set forth in this document are authorized through the CCWRD Rules and Regulations.

III. Discharge Limitation Monitoring

- A. Methods of monitoring, to verify discharge limitation compliance may be scheduled sampling, unscheduled sampling, or self-monitoring of the Industrial User (IU).
- B. Within fifteen (15) days of becoming aware of a limitation violation, CCWRD will send a written notification of violation (NOV) to the industry. This NOV will describe the nature of the violation(s), describe the appropriate corrective actions (see IU’s proposed remedial steps from User Report of Violation and Items II C & D), specify the due dates for corrective actions, and determine whether the IU is in significant noncompliance, as defined in Article II, Chapter 2.1 of the CCWRD Rules and Regulations. The NOV will be sent by either email with read receipt requested or certified mail return receipt requested via USPS.
- C. If a limitation violation is found, resampling may be required. The deadline and responsible party for the repeat sampling depends on the basis of the limit violation.
  - a. Resampling requirements listed below are based on the basis of the limit violation and on Article IV, Chapter 4.8.1 of the CCWRD Rules and Regulations:
    - i. Scheduled or Unscheduled Sampling – CCWRD shall resample within thirty (30) days of becoming aware of the violation unless it notifies the IU of the violation and requires the IU to perform the repeat analysis.
    - ii. Self-monitoring – The IU shall repeat the sampling and analysis and submit the results to CCWRD within thirty (30) days of becoming aware of the violation.

- iii. Resampling is not required if:
  - 1. CCWRD performs sampling at the IU at a frequency of at least once a month, or
  - 2. CCWRD performs sampling at the IU between the time when the initial sampling was conducted and the time when the results of the initial sampling are received.
- D. Within twenty (20) days of the issuance of an NOV, the IU must submit a plan for the satisfactory correction of the violation(s). Failure to answer an NOV within the required time will result in the issuance of another NOV, unless an extension has been granted. Failure to report may also justify the scheduling of a formal Show Cause Hearing as described in Item IV. D, E & F below. Continued failure to meet required limitation may result in the formulation of a Compliance Schedule as described in Item IV below.
- E. The CCWRD will verify compliance through increased self-monitoring by the IU and/or additional follow-up monitoring and inspection as allowed by the CCWRD Rules and Regulations. If monitoring and/or inspection indicate continued violation(s), or the IU fails to respond to the NOV(s) in a timely fashion, or the IU's response to the NOV(s) is unsatisfactory, the IU shall meet with the Director of Utilities or an appointed representative to develop a Compliance Schedule as described in Item IV below. Or, the IU may be required to appear before the Director of Utilities for a formal Show Cause Hearing as described in Item IV D, E & F below.
- F. The Director of Utilities may take any action necessary to immediately halt a wastewater discharge by an IU, including the pursuit of legal action without Compliance Schedules or Show Cause Hearings, if:
  - 1. Imminent danger to the health or welfare of people, the environment or the CCWRD's treatment plant or system is present.
  - 2. A discharge would cause the CCWRD to violate its NPDES permit.
  - 3. An IU fails to factually report wastewater constituents or characteristics.
  - 4. An IU fails to report significant changes in wastewater constituents or characteristics.
  - 5. An IU refuses reasonable access to its premise for the purpose of monitoring and inspection.

IV. Compliance Schedule Monitoring

- A. In case of on-going violations, the CCWRD and an IU may be required to develop a compliance schedule. The compliance schedule formalizes an agreement reached between the CCWRD and the IU, and covers, but is not limited to, noncompliance with existing limitations; corrective actions to meet a program requirement (such as reporting); additional monitoring, equipment and/or structures necessary for satisfactory compliance; and changes in operation or maintenance of pretreatment structures or processes.

- B. The CCWRD will issue an AO detailing the compliance schedule or modification to an existing compliance schedule. The following conditions shall apply to this compliance schedule:
1. The schedule shall contain increments of progress in the form of milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. For example, the schedule may include items such as hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction.
  2. No increment referred to in Item IV.B.1. above shall exceed nine months.
  3. No later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the IU shall submit a progress report to the Director of Utilities or an appointed representative, setting forth as a minimum, whether or not it complied with the increment or progress to be met on such milestone date and , if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the IU to return to the milestones in the schedule established. In the case of a violation of a federal categorical standard, the completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- C. The Director of Utilities or an appointed representative will review progress reports and can issue an NOV if progress is unsatisfactory, or if deadlines are missed by more than five (5) days. According to Article II of the CCWRD Rules and Regulations, the IU is in significant noncompliance (SNC) if the IU fails to submit reports within forty-five (45) days of the due date or if progress to the compliance schedule is late by ninety (90) days of the schedule date.
- D. Within twenty (20) days of the issuance of an NOV, the IU must submit a plan for the satisfactory correction of the violation or reason for delay. Failure to respond within the required time to an NOV or a scheduled milestone may justify the scheduling of a formal Show Cause Hearing, where the IU shall appear before the Director of Utilities and shall provide information regarding why escalated enforcement action should not be taken. A hearing notice will be either delivered by certified mail return receipt requested via USPS, or e-mailed with read receipt requested, or served in person on the IU at least ten (10) days before the hearing.

Results of the Show Cause Hearing will determine further actions to be taken by the CCWRD. The IU and the Director of Utilities may reach an agreement prior to the Show Cause Hearing. In either case, the AO will be issued to the IU and a compliance schedule may be developed or a previous schedule may be modified.

- E. A user may appeal any permit or administrative order issued to it by the Director of Utilities by requesting a hearing before the Board of Commissioners of Clermont County. A written request for hearing must be received by the Clerk of the Board of

Commissioners within five (5) days following the user's receipt of the administrative order. The written request for hearing shall set forth the basis of the objection to the Director of Utilities' administrative order.

The Clerk of the Board of Commissioners shall notify the user of the date, time and place of the hearing. The hearing shall occur within ten (10) working days following receipt of the request for hearing, unless continued by the Board for good cause. The user may appear in person or by his attorney, present his position, arguments, or contentions in writing, and present evidence and examine witnesses appearing for and against him. The Board of Commissioners or its designee shall render a written opinion setting forth the basis for its decision either upholding, reversing, or modifying the administrative order of the Director of Utilities.

The decision of the Board of Commissioners or its designee may be appealed as provided by law.

The Clermont County Board of Commissioners may designate a person or persons to hear or conduct any meeting or hearing on their behalf which is provided under this section and to render a written decision on the same terms as provided herein. A decision of any designee shall be considered a decision of the Clermont County Board of Commissioners and appealable as provided by law.

- F. The CCWRD will verify compliance by increasing self-monitoring by the IU and/or additional monitoring and inspection as allowed by the CCWRD Rules and Regulations. If monitoring and/or inspection indicate continued violations, then increased enforcement actions shall be taken by the CCWRD.
- G. The County Prosecuting Attorney may, following authorization by the Board of County Commissioners, commence action for appropriate legal and/or equitable relief. Each day of violation or part thereof shall be considered a separate offense.

V. Report Compliance Monitoring

- A. The CCWRD issues AO and compliance schedules to the IU, outlining reporting requirements and due dates.
- B. The IU shall submit required reports to the CCWRD when due. The CCWRD will compare reports with program requirements.
- C. If the IU fails to submit reports or reporting requirements are not met or if the IU fails to accurately report conditions or limitations, the CCWRD will notify the IU by telephone or e-mail, and issue an NOV. The NOV will be sent by either email with read receipt requested or certified mail return receipt requested via USPS. The NOV will require the IU to respond within twenty (20) days of the issuance of the NOV. According to Article II of the CCWRD Rules and Regulations, the IU is in significant noncompliance if a report is late by forty-five (45) or more days.

- D. If the IU fails to respond to the NOV or the response is unsatisfactory, the CCWRD may schedule a formal Show Cause Hearing, where the IU shall appear before the Director of Utilities and shall present information regarding why escalated enforcement action should not be taken. A hearing notice will be mailed or served on the IU at least ten (10) days before the hearing by certified mail return receipt requested via USPS, or e-mailed with read receipt requested.
- E. Results of the Show Cause Hearing will determine further action to be taken by the CCWRD. The IU and the Director of Utilities may reach an agreement prior to the Show Cause Hearing. In either case, an AO will be issued to the IU and a compliance schedule may be developed or a previous schedule may be modified.
- F. The IU shall have the right to appeal any AO issued by the Director of Utilities by requesting a hearing or meeting before the Clermont County Board of Commissioners within five (5) days following the IU's receipt of the AO. The written request or notice of appeal must set forth the basis of the objection to the Director of Utilities' AO. The Clerk of the Clermont County Board of Commissioners will notify the IU of the hearing or meeting date, time and place.

The meeting or hearing date will occur within ten (10) working days following receipt of the request or notice of appeal, unless continued by the Board for good cause. The IU may appear with counsel and witnesses, and present any information in support of their position.

Based upon the meeting or hearing, the position of the IU and all matters submitted in support as well as the written AO of the Director of Utilities and any additional information provided by the Director of Utilities in support of his/her position, the Clermont County Board of Commissioners will render a written opinion setting forth its decision either upholding, reversing, or modifying the AO of the Director of Utilities and the reasons therefore. A copy of the decision will be mailed to the IU. The decision of the Clermont County Board of Commissioners may be appealed as provided by law. The Clermont County Board of Commissioners may designate a person or persons to hear or conduct any meetings or hearings on their behalf which is provided under this section and to render a written decision on the same terms as provided herein. A decision of any designee shall be considered a decision of the Clermont County Board of Commissioners and appealable as provided by law.

VI. Significant Noncompliance (SNC)

Significant Noncompliance (SNC) is defined in CCWRD Rule and Regulations Section 2.1

- A. In conformance with 40 CFR Part 403.8(F)(2)VII, the Director of Utilities or the appropriate representative shall publish, by August 15<sup>th</sup> annually, in a local daily newspaper of general circulation in the County, a list of those IU's found to have been in SNC with applicable national or local pretreatment standards or requirements. This publication may include a description of the nature of the violations and actions taken, but shall include a statement that the information may be obtained upon written request to the Director of Utilities. CCWRD reserved the

right to recover the cost associated with the annual publication of the list of users in SNC from those listed users.

- B. CCWRD will notify the Ohio EPA of industries in SNC through quarterly and annual reports.

VII. Suspension and Termination of Service

The Director of Utilities may suspend or terminate the user from discharging into the CCWRD's POTW where the actual or threatened discharge may result in harm to public health, safety, welfare, the environment, violate the provisions of the CCWRD Rules and Regulations or AO, or interfere with the operation of the POTW. Any user notified of suspension or termination shall immediately cease all discharge to the POTW. In the event of an IU's failure to immediately comply voluntarily with a suspension or termination order, the Director of Utilities may suspend water service and shall take such steps as he/she deems necessary to terminate the user's discharge to the POTW, including severing or plugging of the sewer connection.

VIII. Injunction; Civil Action

No person shall violate or fail to perform any duty imposed by the CCWRD Rules and Regulations or violate any AO issued by the Director of Utilities.

The Prosecuting Attorney, upon written request of the Director of Utilities, may commence a civil action against any person who violates any provision of the CCWRD Rules and Regulations or AO.

Key to Acronyms, Terms and Abbreviations

The following key defines special term, acronyms and abbreviations used this Enforcement Response Plan.

<u>Key</u>	<u>Meaning</u>
AO	Administrative Order or Discharge Permit
CCWRD	Clermont County Water Resources Department
IU	Industrial User
NOV	Notice of Violation
SNC	Significant Noncompliance
POTW	Publicly Owned Treatment Works

Compliance Meeting	Informal meeting with the IU to discuss the resolution of reoccurring noncompliance.
Show Cause Hearing	Formal meeting requiring the IU to appear before the Director of Utilities and to present information regarding why the CCWRD should not take a proposed enforcement action against the IU.

*The most recent edition of CCWRD Department Rules and Regulations can be found at <http://wrd.clermontcountyohio.gov>*

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