

**Muskegon County Wastewater Management System**  
**Industrial Pretreatment Program**

**ENFORCEMENT RESPONSE PLAN**  
**(IPP Procedure 93-1.2)**

**I. GENERAL**

An Enforcement Response Plan (ERP) has been developed which specifies the minimum enforcement response which will be taken by the County following noncompliance with an ordinance or permit requirement by an industrial user (IU) . The ERP also shows the time frame within which the response must be taken. Lastly, the position responsible for carrying out the response has been assigned.

The enforcement responses were selected from those which merely convey information (phone call, or letter of noncompliance) to the administrative and judicial enforcement remedies detailed in the applicable County ordinance. The minimum responses are intended for use when the IU's history of compliance indicates that a return to compliance is to be expected. In cases when compliance history suggests that chronic noncompliance is to be expected, an escalated enforcement response will be selected. In cases where the IU does not return to compliance within 90 days of the violation or initiate an approved compliance plan within 90 days of approval, an escalated response will be issued.

All tracking of IU deadlines and violations will be handled by a manual or computer-based data system. Appropriate data safeguards will ensure that the data is secure and remains uncompromised. All critical information will be hard copied to a filing system.

**II. PROCEDURES**

- A. 40 CFR 403.8(f)(5)(i): In accordance with 40 CFR 403.8(f)(5)(i), the Muskegon County Wastewater Management System (MCWMS) will investigate instances of noncompliance as specified in the "General Pretreatment Program Procedures," Section VI. Significant Noncompliance will be evaluated quarterly, each evaluation covering a preceding six-month period.

- B. 40 CFR 403.8(f)(5)(ii): In accordance with 40 CFR 403.8(f)(5)(ii), the type of enforcement action that MCWMS will take in response to specific types of industrial user noncompliance is provided in Attachment A.

The ERP specifies the minimum response for Industrial User violations of the local ordinance or a discharge permit. Escalation of enforcement actions is required in those cases where the initial action fails to bring/return the Industrial User into compliance.

Enforcement responses are selected from a range of informal and formal actions that may be taken under the authority of the local sewer use ordinance. Where an incomplete report has been submitted prior to the due date and as time allows, a deficiency communique may be used to resolve the issue prior to the due date. The following table lists the informal and formal actions in increasing order of severity and states response times.

<b>ENFORCEMENT ACTION</b>	<b>MAXIMUM RESPONSE TIME</b>
<b>Informal</b>	
1. Deficiency Communique	Prior to Due Date
2. Telephone Call	30 days
3. Letter of Noncompliance	60 days
<b>Formal</b>	
1. Notice of Violation	30 days
2. Compliance or Consent Order	60 days
3. Administrative Fines	30 days
4. Cease and Desist Order	30 days
5. Injunctive Relief	30 days
6. Civil Penalties	30 days
7. Criminal Prosecution	30 days
8. Show Cause Hearing	30 days
9. Emergency Suspension	1 day
10. Termination of Discharge Permit	30 days

- C. 40 CFR 403.8(f)(5)(iii): In accordance with 40 CFR 403.8(f)(5)(iii), the following officials (by title) are responsible for each type of response:

1. The position of Pretreatment Technician is responsible for deficiency communique, telephone calls and letters of noncompliance.

2. The position of Pretreatment Technician, under the authority of the Pretreatment Coordinator, is responsible for generating Notices of Violation.
  3. The positions of Pretreatment Technician and Pretreatment Coordinator are responsible for generating Enforcement Remedies under the authority of the Director.
  4. The position of Director is responsible for issuing all Orders, fines, cost recovery actions, permit revocations, and terminations of discharge.
  5. The Director is responsible for requesting the initiation of all judicial actions including injunctive relief, civil penalties, and criminal prosecutions.
- D. 40 CFR 403.8(f)(5)(iv): In accordance with 40 CFR 403.8(f)(5)(iv), enforcement actions against noncompliance with all applicable pretreatment requirements and standards are detailed in the Enforcement Response Plan.

It will be the policy of MCWMS to escalate enforcement response actions by at least one level over the initial action and to continue escalating action levels until compliance is achieved.

All response times shall be observed except in cases where an approved Compliance Plan/Schedule or Consent Order contains a date of Final Compliance which falls after the maximum stated time period. In all cases involving a Compliance Schedule or Compliance Order, if compliance is not achieved, escalation will occur within the specified time period starting immediately after the passing of the date of Final Compliance.

MCWMS retains the right to escalate to any higher level of response at any point in the process in order to achieve compliance.

Attachment A

Muskegon County Wastewater Management System  
Industrial Pretreatment Program

ENFORCEMENT RESPONSE PLAN  
(ERP)

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
			A. Sampling and Monitoring	
Dir.	CO	30	1. Failure to install monitoring equipment	7.1
PT	Phone	14	2. Failure to properly maintain monitoring equipment	7.1
PT	LNC	30	3. Monitoring equipment not available for use	7.1
Dir.	CO	14	4. Failure to permit access to facility	7.2
Dir.	CO	14	5. Failure to permit removal of a sample(s) or data	7.1
			6. Failure to correctly self-monitor	
PT	LNC	30	a. Improper sample collection, container, preservation, or sample type	6.10/6.11
PT	LNC	30	b. Holding time exceeded	6.10
PT	LNC	30	c. Incorrect analytical method used	6.10
			7. Tampering with monitoring equipment	
Dir.	AF	30	a. Security seal broken	
Dir.	AF	30	b. Sampler line removed from wastestream	
Dir.	AF	30	c. Sampler disconnected from power supply	
PC	NOV	30	d. Other sign(s) of tampering	

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
			B. Reporting	
			1. Baseline Monitoring Report	6.1
PT	Phone	14	a. Incomplete	
PT	Phone	30	b. Report not submitted by 180- or 90-day deadline	
PC	LNC	30	c. Report not submitted by 30 days past deadline	
			2. Compliance Schedule as required for a Baseline Report, NOV, or Order	6.2 A./C.
PT	Phone	14	a. Incomplete	
PT	Phone	14	b. Schedule not submitted by deadline	
PT	LNC	30	c. Schedule not submitted by 30 days past deadline	
			3. Compliance Progress Report (for permit or order-based compliance schedule)	6.2 C.
PT	Phone	14	a. Incomplete	
PT	Phone	14	b. Report not submitted by 14-day deadline	
PT	LNC	30	c. Report not submitted by 30 days past an interim report date or final report deadline	
			4. Report on Compliance with Categorical Pretreatment Standard Deadline (CDR)	6.3
PT	Phone	14	a. Incomplete	
PT	Phone	30	b. Report not submitted by 90-day deadline	
PT	LNC	30	c. Report not submitted by 30 days past deadline	
			5. Continued Compliance Report	6.4
PT	Phone	30	a. Incomplete	
PT	Phone	30	b. Report not submitted by Feb. 28, Aug. 31, or alternate deadline	
PC	NOV	30	c. Report not submitted by 30 days past deadline	

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
			6. Report of Changed Conditions	6.5
PT	Phone	14	a. Incomplete	
PT	LNC	30	b. Thirty-day advance notice not provided by due date	
PT	Phone	14	c. Information necessary to evaluate changed conditions not provided upon request	
			7. Report of Potential Problems	6.6
PT	LNC	30	a. Notification not given immediately	
PC	NOV	30	b. Notification not given within five days	
			c. Written report required	
PT	Phone	14	1) Report Incomplete	
PT	LNC	30	2) Report not submitted by 5-day deadline	
PC	NOV	30	3) Report not submitted by 30 days past deadline	
PT	LNC	30	d. Failure to post a permanent notice of emergency contacts	
			8. Industrial Waste Survey	6.7
PT	Phone	30	a. Incomplete	
PT	Phone	30	b. Survey not submitted by deadline	
PT	LNC	30	c. Survey not submitted by 30 days past deadline	
			9. Industrial User Self-Monitoring	6.8
			a. Periodic Self-Monitoring Report	6.8
PT	LNC	60	1) Incomplete data by parameter, location, or frequency	
PT	LNC	30	2) Report not submitted by the due date of the month following the sampling	6.8 A.
PT	LNC	30	b. Notice of Noncompliance not given within 24 hours	6.8 A.

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
			c. Resampling Report	6.8 A.
PT	LNC	60	1) Incomplete data by parameter, location, or frequency	
PT	LNC	30	2) Report not submitted by deadline (i.e. within 30 days of becoming aware of initial noncompliance or by the Periodic Self-Monitoring Report due date, whichever is first)	
PC	NOV	30	3) Report not submitted within 60 days of becoming aware of initial noncompliance	
PC	NOV	30	d. Failure to accurately report noncompliance	
PT	LNC	30	e. Additional self-monitoring data not submitted	
			10. Notification of the Discharge of Hazardous Waste	6.9
PT	Phone	14	a. Incomplete	
PT	LNC	30	b. Notification not submitted by 180-day or 90-day deadline	
PC	NOV	30	c. Notification not submitted by 30 days past deadline	
			11. Bypass of pretreatment facility needed to meet discharge limitations	13.3
			a. Known in advance	
PT	LNC	30	1) 10-day prior notice not given	
PC	NOV	30	2) Prior notice not given	
			b. Unanticipated bypass	
PT	LNC	30	1) Oral notice not given within 24 hours	
PC	NOV	30	2) Oral notice not given within 5 days	
PT	LNC	30	3) Required report not submitted within 5-day deadline	
PC	NOV	30	4) Required report not submitted by 30 days past deadline	

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
			12. Reporting Noncompliance with Discharge Permit not elsewhere included	10.4
			a. Failure to give Notice of Changed Production	
PT	Phone	14	1) Incomplete	
PT	LNC	30	2) Advance notice not provided by due date	
PT	LNC	30	3) Notice not provided	
PT	Phone	14	4) Information necessary to evaluate changed production not provided upon request	
			b. Failure to provide Notice of Baseline Report Changes	
PT	Phone	14	1) Incomplete	
PT	Phone	30	2) Not provided by deadline	
PT	LNC	30	3) Report not submitted within 30 days of deadline	
Dir.	SCH(AF)	30	13. Providing false information	
			C. Compliance Schedule Milestones	6.2 A.
			1. Order or permit specified schedules	
PC	NOV	30	a. Interim requirement incomplete 90 days past interim date (milestone)	
PC	NOV	30	b. Final requirement incomplete 90 days past final deadline	
			2. Compliance order-based schedules	
Dir.	SCH(AF)	30	a. Interim requirement incomplete 90 days past interim date (milestone)	
Dir.	SCH(AF)	30	b. Final requirement incomplete 90 days past final deadline	
			D. Effluent Limits	
			1. Violation of Prohibited Discharge Standards (except pH)	
PC	LNC	30	a. No imminent endangerment	2.1
Dir.	ES	1	b. Imminent endangerment	10.7
PT	LNC	30	2. Exceedence of local or Federal limits (also pH)	2.1/2.3
			E. Permit Violations	
PT	LNC	30	1. Failure to provide advance notice of transfer of business ownership of permitted facility	5.5

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
PT	LNC	30	2. Discharge of trucked waste	2.1
PT	LNC	30	a. Improper discharge location	
PT	LNC	30	b. Delivery of load not reported on site	
PC	NOV	30	c. Sample of discharged load not provided upon request	
			3. Discharge with an expired discharge permit	
			F. Other Noncompliance	
PC	NOV	30	1. Discharge without a permit	4.1
PC	NOV	30	2. Dilution in lieu of treatment	2.5
Dir.	SCH(AF)	30	3. Failure to halt production, if needed, during a bypass	13.3
Dir.	SCH(CR)	30	4. Failure to mitigate adverse impacts	
PT	LNC	30	5. Failure to properly operate and maintain necessary pretreatment facilities	3.1
PC	NOV	30	6. Discharge without approval	6.5
PT	LNC	30	7. Incomplete record of monitoring or related activities	6.13
			8. Accidental Discharge or Slug Control Plans	3.3
PT	Phone	14	a. Incomplete submission	
PT	LNC	30	b. Plan not submitted by due date	
PT	LNC	30	c. Plan not implemented	
PT	LNC	30	9. Failure to comply with a Toxic Organic Management Plan (a.k.a. Solvent Management Plan)	

RESPONSIBLE POSITION	MINIMUM RESPONSE	RESPONSE DAYS	TYPE OF NONCOMPLIANCE	REF.
PT	LNC	30	10. Failure to call in for batch discharges	10.6 B.
Dir.	SCH/CO	60	11. Failure to pay fines, penalties, surcharges, fees or interest	14.1 14.2 14.3
PT	NOV	30	12. Failure to submit or comply with a Correction and Prevention Plan	10.1
PT	LNC	30	13. Failure to control discharges during an upset	13.1 E.

Abbreviations - Responsible Position

1. PT - Pretreatment Technician
2. PC - Pretreatment Coordinator
3. Dir. - Director

Abbreviations - Minimum Response

1. SCH - show cause hearing
2. Phone - verbal phone message, call logged
3. LNC - letter of noncompliance
4. NOV - notice of violation
5. CO - compliance order or consent order
6. CR - cost recovery
7. AF - administrative fine
8. CDO - cease and desist order
9. ES - emergency suspension