

# Greene County Sanitary Engineering ENFORCEMENT RESPONSE PLAN

Effective: July 15<sup>th</sup>, 2021  
Supersedes: December 16<sup>th</sup> 1991

## 1.0 Purpose

1.0 This Enforcement Response Plan (ERP) outlines the procedures to identify, document and respond to noncompliance with Pretreatment Regulations as promulgated in an industry's Industrial Waste Permit and in Section 4 of the Sanitary Sewer Ordinance. The ERP provides guidance in selecting initial and follow-up enforcement actions, indicates staff responsibilities for these actions, and specifies appropriate time frames in which to take them.

## 2.0 Significant Non-Compliance

- 2.1 At least annually, the Board shall publish a list of all industrial users which at any time during the previous twelve months were in Significant Non-Compliance (SNC) with applicable pretreatment requirements. An industrial user is in Significant Non-Compliance if its violations meet one or more of the following criteria:
- 2.2 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits.
- 2.3 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).
- 2.4 Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative standard). That the County determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.
- 2.5 Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the County's exercise of its emergency authority to halt or prevent such a discharge.
- 2.6 Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

2.7 Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.

2.8 Failure to accurately report noncompliance.

2.9 Any other violation(s), which may include a violation of Best Management Practices, which the County determines will adversely affect the operation or implementation of the local pretreatment program.

### 3.0 Enforcement Mechanisms

3.1 The following details the enforcement mechanisms as included in Section 4.360 of the Sewer Use Ordinance.

### 4.0 Informal Notices and Meetings

4.1 Informal notices and/or meetings are appropriate in response to a minor violation (e.g. late report, improper signature). The response may consist of a telephone call or reminder letter to the industry.

### 5.0 Notice of Violation (NOV)

5.1 Whenever the Board serves or causes to be served a Notice of Violation in accordance with the enforcement response outline, such notice being delivered either personally or by certified or registered mail, return receipt requested, the Discharger shall respond in writing to the Board, within ten (10) days of the date of receipt of the notice, advising of its position with respect to the allegations listed in the Notice of Violation. Within twenty (20) days of the date of receipt of notice, the parties shall, if necessary, establish a plan for the satisfactory correction thereof. A NOV template is included in Appendix A.

### 6.0 Administrative Compliance Order (ACO)

6.1 Whenever the Board serves or causes to be served an Administrative Compliance Order (ACO) in accordance with the enforcement response outline, such order being delivered either personally or by certified or registered mail, return receipt requested, the Discharge shall respond in writing to the Board within ten (10) days of the date of the receipt of notice, advising of its position with respect to the allegations listed in the ACO. Within twenty (20) days of the date of receipt of the order the parties shall, if necessary, establish a plan for the satisfactory correction thereof. An ACO template is included in Appendix A.

### 7.0 Show Cause Order (SCO)

7.1 Whenever the Board serves or causes to be served an Administrative Show Cause Order (SCO) in accordance with the enforcement response outline, such order being delivered either personally or by certified or registered mail, return receipt requested, the Discharger shall appear at a meeting as directed in the SCO and demonstrate why the Board should not pursue a judicial enforcement

action against the Discharger. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on an agent, officer, or authorized representative of the Discharger. The proceedings at the hearing shall be considered by the Board which shall then enter appropriate orders with respect to the alleged violations of the Discharger. Appeal of such orders may be taken by the Discharger in accordance with local or state law. A SCO template is included in Appendix A.

## 8.0 Emergency Suspension of Service – Cease and Desist Order

8.1 The Board may for good cause shown suspend the wastewater treatment service to a Discharger when it appears to the Board that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interference with the operation of the POTW, or violate any pretreatment limits imposed by this Regulation. Any Discharger notified of the suspension of the Board's wastewater treatment service shall, within twenty-four (24) hours from notification thereof, cease all discharges. In the event of failure of the Discharger to comply voluntarily with the suspension order within the specified time, the Board shall commence judicial proceedings immediately thereafter to compel the Discharger's compliance with such order. The Board shall reinstate the wastewater treatment service and terminate judicial proceedings pending proof by the Discharger of the elimination of the non-complying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

## 9.0 Termination of Treatment Service

9.1 The Board may seek to terminate the wastewater treatment service in accordance with the guidelines of the enforcement response outline.

## 10.0 Judicial Proceedings

10.1 Following the entry of any order by the Board and in accordance with the enforcement response outline, the Attorney for the Board may, following the authorization of such action by the Board, commence action for appropriate legal and/or equitable relief in the appropriate local court.

## 11.0 Right of Appeal

11.1 Any Discharger or any interested party shall have the right to request in writing an interpretation or ruling by the Board on any matter covered by this Regulation and shall be entitled to a prompt written reply. In the event that such inquiry is by a Discharger and deals with matters of performance or compliance with this Regulation for which enforcement activity relating to an alleged violation is the subject, receipt of a Discharger's request, shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this Regulation may be taken in accordance with local and state law.

## 12.0 Administrative Fines and Penalties

12.1 Administrative fines and penalties are to recapture the full or partial economic benefit that the industrial user received due to noncompliance, to deter future violations, and/or to recover costs incurred by the County due to an unauthorized discharge. A fine or penalty is a monetary assessment by the County for violations of the Industrial Pretreatment Regulations. Fines or penalty will be assessed by the Director in accordance with State and Federal law and will be no less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00). Each day of occurrence shall be considered a separate offense.

### 13.0 Enforcement Response Plan Outline

#### 13.1 Enforcement Response Outline Abbreviations and Definitions:

NOV – Notice of Violation

ACO – Administrative Compliance Order

SCO – Show Cause Order

Civil Litigation – The formal process of filing lawsuits against IU's to secure court ordered action to correct violations and to secure penalties for violations including the recovery of costs to the POTW of the noncompliance.

Criminal Prosecution – The formal process of charging individuals and/or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment

### 14.0 Responsible Personnel Abbreviations:

#### 14.1 Inspector

PC – Pretreatment Coordinator

DIR – Director of the Greene County Sanitary Engineering Department

Miscellaneous Abbreviations:

SNC – Significant Non-Compliance

IU – Industrial User

### **TIMEFRAMES FOR RESPONSES**

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

Noncompliance	Nature of Violation	Enforcement Response	Responsible Personnel	
<b>UNAUTHORIZED DISCHARGES</b>				
Unpermitted Discharge	IU unaware of requirements with no harm to POTW or environment	Phone call, NOV with application form	PC	
	IU unaware of requirement with harm to the POTW	AO with fine of \$1,000 per violation or day of continuing violation.	PC	
		Civil litigation	DIR	
	Failure to apply continues after notice by the PC	Civil litigation	DIR	
		Criminal prosecution	DIR	
		Terminate Service	DIR	
Nonpermitted Discharge/Failure to Renew	IU has not submitted renewal application within 10 days of due date	Phone call, NOV	PC	
<b>DISCHARGE LIMIT VIOLATION</b>				
Exceedance of local or Federal Standard (Interim or Final Permit Limit)	Isolated, not significant	Phone call, NOV	I, PC	
	Isolated, significant with no harm to POTW or environment	AO with fine of \$100 per violation or day of continuing violation	PC	
		AO	PC	
		SCO	PC, DIR	
	Isolated with harm to POTW or environment	Civil litigation	DIR	
		Recurring with no harm to POTW or environment	AO with fine increased by \$100 per violation or day of continuing violation for each subsequent violation, up to a maximum of \$500 per violation or day of continuing violation	PC
			SCO	PC, DIR
	Civil litigation		DIR	
	Recurring, significant with harm to POTW or environment	Terminate service	DIR	
		Reported Slug Load	Isolated without known damage	AO
Isolated with known interference pass-through or damage			AO with fine of \$500 per violation of day of continuing violation	PC
	SCO		PC, DIR	
	Civil litigation	DIR		

Noncompliance	Nature of Violation	Enforcement Response	Responsible Personnel
		Terminate service	DIR
	Recurring	AO with fine of \$1,000 per violation of day of continuing violation	PC
		SCO	PC, DIR
		Civil litigation	DIR
		Terminate service	DIR
<b>MONITORING AND REPORTING VIOLATIONS</b>			
Reporting Violation	Report is improperly signed or certified	Phone call, NOV	PC
	Report is improperly signed or certified after notice by POTW	AO with fine of 100 per violation or day of continuing violation	PC
		SCO	PC, DIR
	Isolated, not significant (5 days late)	Phone call, NOV	I, PC
	Significant (30 days or later)	AO with fine of \$100 per violation or day of continuing violation	PC
	Reports are late on a recurring basis or not submitted at all	AO with fine increased by \$100 per violation or day of continuing violation for each subsequent violation up to a maximum of \$1,000 per violation or day of continuing violation	PC
		SCO	PC, DIR
		Civil litigation	DIR
	Failure to report spill or changed discharge with no harm	NOV	PC
	Failure to report spill or changed discharge that results in harm	AO with fine of \$1,000 per violation or day of continuing violation	PC
		Civil litigation	DIR
	Repeated failure to report spill	SCO	PC, DIR
		Terminate service	DIR
	Falsification	Criminal litigation	DIR
		Terminate service	DIR

Noncompliance	Nature of Violation	Enforcement Response	Responsible Personnel	
	Isolated, minor report deficiencies (i.e. computational, typographical)	Phone call, NOV	I, PC	
	Isolated major report deficiencies (i.e. missing information)	AO with fine of \$100 per violation or day of continuing violation	PC	
	Continuing major report deficiencies	AO with fine increased by \$100 per violation or day of continuing violation for each subsequent violation up to a maximum of \$1,000 per violation or day of violation		PC
		SCO		PC, DIR
		Civil litigation		DIR
Failure to notify of effluent limit violation or slug discharge	Isolated or infrequent, no know effect	Phone call, NOV	PC	
	Frequent or continued	AO with fine of \$500 per violation nor day of continuing violation		
	Known environmental or POTW damage	SCO		PC, DIR
		Civil litigation		DIR
	Terminate service		DIR	
Failure to monitor correctly	Failure to monitor all pollutants as required by permit	NOV	PC	
	Recurring failure to monitor	AO with fine of \$500 per violation or day of continuing violation	PC	
		Civil litigation		DIR
Improper Sampling	Evidence of intent	Criminal prosecution	DIR	
		Terminate service	DIR	
Failure to install monitoring equipment	Delay of less than 30 days	NOV	PC	
	Delay of 30 days or more	AO with fine of \$500 per violation or day of continuing violation	PC	
	Recurring, violation of AO	Civil litigation		PC
		Criminal prosecution		DIR
Terminate service			DIR	
Compliance schedules	Missed milestone by less than 30 days, or will not affect final milestone	NOV	PC	

<b>Noncompliance</b>	<b>Nature of Violation</b>	<b>Enforcement Response</b>	<b>Responsible Personnel</b>
	Missed milestone by more than 30 days or will affect final milestone with good cause for delay	AO with fine of \$100 per violation or day of continuing violation	PC
	Missed milestone by more than 30 days or will affect final milestone without good cause for delay	SCO	PC, DIR
		Civil litigation	DIR
		Terminate service	DIR
	Recurring violation or violation of schedule in AO	Civil litigation	DIR
		Criminal prosecution	DIR
		Terminate service	DIR
<b>PERMIT VIOLATIONS</b>			
Waste streams are diluted in lieu of treatment	Initial violation	AO with fine of \$500 per violation or day of continuing violation	PC
	Recurring	SCO	PC, DIR
		Terminate service	DIR
Failure to mitigate noncompliance or halt production	Does not result in harm	NOV	PC
	Does result in harm	AO with fine of \$500 per violation or day of continuing violation	PC
		Civil litigation	DIR
Failure to properly operate and maintain pretreatment facility	Does not result in harm	NOV	PC
	Does result in harm	AO with fine of \$1,000 per violation or day of continuing violation	PC
			Civil litigation
<b>VIOLATIONS DETECTED DURING SITE VISITS</b>			
Entry denial	Entry denied or consent withdrawn, or copies of records denied	Obtain warrant and return to IU	I
Illegal discharge	Illegal discharge, no harm to POTW or environment	AO with fine of \$1,000 per violation or day of continuing violation	PC
	Discharges causes harm or evidence or intent/negligence	Civil litigation	DIR
			Criminal prosecution
	Recurring, violation of AO	Terminate service	DIR
Improper sampling	Unintentional sampling at incorrect	NOV	I, PC



<b>Noncompliance</b>	<b>Nature of Violation</b>	<b>Enforcement Response</b>	<b>Responsible Personnel</b>
	location		
	Unintentionally using incorrect sample type	NOV	I, PC
	Unintentionally using incorrect sample collection techniques	NOV	I, PC
Inadequate record-keeping	Files are incomplete or missing with no evidence of intent	NOV	I, PC
	Recurring	AO with fine increased by \$100 per violation or day of continuing violation for each subsequent violation or day of continuing violation	PC
Failure to report additional monitoring	Additional files are found	NOV	I, PC
	Recurring	AO with fine increased by \$100 per violation or day of continuing violation for each subsequent violation or day of continuing violation	PC