

APPENDIX C
ENFORCEMENT RESPONSE GUIDE

LEGEND OF ABBREVIATIONS

| | |
|------------------------------|-----|
| Administrative Order | AO |
| Attorney | A |
| Civil Suit | CS |
| Criminal Suit | CMS |
| Industrial User | IU |
| Industrial Waste Coordinator | IWC |
| Informal Notice | IN |
| Informal Meeting | IM |
| Monetary Penalty | MP |
| Notice of Violation | NOV |
| Show Cause Meeting | SCM |
| Significant Noncompliance | SNC |
| Superintendent | S |
| Termination of Service | TS |
| Wastewater Superintendent | WWS |

ILLEGAL DISCHARGE
(NO PERMIT)

| <u>NONCOMPLIANCE</u> | <u>ENFORCEMENT ACTION</u> | <u>PERSONNEL</u> |
|---|--|--|
| 1. Unpermitted Discharge (No Permit) | | |
| a. IU unaware of permit requirement. No damage to POTW, no environmental harm. | IN NOV AO requiring IU to submit permit application and wastewater analysis. | IWC IWC IWC |
| b. IU unaware of permit requirement. Discharge results in violation of POTW NPDES permit, or potential dangerous situation SNC. | AO to stop discharge CS seeking penalties MP \$1,000/day CMS criminal investigation TS | IWC WWS, A WWS WWS, A WWS, S |
| c. Failure to apply continues after notice by POTW. | CS seeking penalties CMS TS | WWS, A WWS, A WWS, S |
| 2. Nonpermitted Discharge (Expired Permit) | | |
| a. Failure to apply for permit renewal. No damage to POTW, no environmental harm. | IN telephone call NOV | IWC IWC |

DISCHARGE LIMIT VIOLATION

| <u>NONCOMPLIANCE</u> | <u>ENFORCEMENT ACTION</u> | <u>PERSONNEL</u> |
|--|--|---------------------------------------|
| 1. Exceedance of local or Federal categorical discharge limits. | | |
| a. Isolated, nonsignificant | IN telephone call NOV MP \$500 | IWC IWC WWS |
| b. Frequent, nonsignificant (repeat offense) | NOV SCM AO MP \$1,000 | IWC IWC WWS WWS |
| c. Frequent, significant noncompliance (SNC) | AO implement adequate pretreatment equip. MP \$1,000/day SCM CS TS | WWS WWS WWS WWS, A WWS, S |
| 2. Slug Load Discharges | | |
| a. Isolated, significant but with no damages to POTW, or environment | NOV AO develop spill control plan MP \$500 | IWC WWS WWS |
| b. Isolated, significant violation of POTW NPDES permit or potential dangerous situation | SCM MP \$500 CS seeking penalty \$1,000/day TS | WWS WWS WWS, A WWS, S |

MONITORING AND REPORTING VIOLATION

| <u>NONCOMPLIANCE</u> | <u>ENFORCEMENT ACTION</u> | <u>PERSONNEL</u> |
|---|--|-----------------------------|
| 1. Minor sampling, monitoring, or reporting deficiencies. | | |
| a. Isolated or infrequent | 1-5 offense IN telephone call >5 offense NOV | IWC IWC |
| b. Frequent or continuous | >10 offense AO SCM MP \$500/offense | WWS WWS WWS |
| 2. Major sampling, monitoring or reporting deficiencies. | | |
| a. Isolated or infrequent | NOV AO MP \$500/offense | IWC WWS WWS |
| b. Frequent or continuous | AO MP \$500/offense SCM CS seeking penalty \$1,000/day | WWS WWS WWS WWS, A |
| 3. Complete failure to sample, monitor, or report. | | |
| a. Continued SNC | AO requiring compliance MP \$500 CS seeking penalty \$1,000/day | WWS WWS WWS, A |
| 4. Failure to submit schedule of compliance. | | |
| a. Violation of AO | MP \$500 CS seeking penalty \$1,000/day | WWS WWS, A |
| 5. Failure to notify effluent limit violation of slug discharge, spill incident or changed discharge. | | |
| a. Isolated or infrequent (No known effects) | NOV AO requiring notification of any slug discharge | IWC WWS |
| b. Isolated or infrequent (results in harm) | AO MP \$500 CS | WWS WWS WWS, A |

| | | | |
|----|--|---|----------------------------|
| c. | Frequent or continued SNC | SCM CS or CMS seeking penalty \$1,000/day TS | WWS WWS, A WWS, S |
| 6. | Failure to install monitoring equipment. | | |
| a. | Isolated, less than 30 days. | NOV | IWC |
| b. | Continued SNC more than 30 days. | AO must install equip. MP \$500/day | WWS WWS |
| c. | Continued, violation of AO | CS seeking penalty CMS \$1000/day TS | WWS, A WWS, A WWS, S |
| 7. | Reporting false information | CMS seeking maximum penalty allowed TS | WWS, A WWS, S |

COMPLIANCE SCHEDULE VIOLATION

| <u>NONCOMPLIANCE</u> | <u>ENFORCEMENT ACTION</u> | <u>PERSONNEL</u> |
|---|---|---------------------------------------|
| 1. Missed milestone date | | |
| a. By less than 30 days or will not affect final date | IN telephone call NOV | IWC IWC |
| b. By more than 30 days or will affect final date | IM AO MP \$500 | IWC WWS WWS |
| c. By more than 30 days or will affect final date SNC | SCM MP \$500 CS TS | WWS WWS WWS, A WWS, S |
| d. Recurring violation or violation of schedule in AO | CS seeking penalty of \$1000/day CMS TS | WWS, A WWS, A WWS |
| 2. Failure to meet compliance schedule reporting requirements | | |
| a. Did not submit report, but did meet final date | IN telephone call NOV | IWC IWC |
| b. Did not submit report, did not meet final date | NOV AO submit report MP \$500 CS TS | IWC IWC WWS WWS, A WWS, S |

FIELD INSPECTION VIOLATIONS

| <u>NONCOMPLIANCE</u> | <u>ENFORCEMENT ACTION</u> | <u>PERSONNEL</u> |
|---|---|--|
| 1. Minor violation of analytical procedures | IN telephone call | IWC |
| a. Any instance | | |
| 2. Major violation of analytical procedures | | |
| a. No evidence of negligence or intent | NOV IM | IWC IWC |
| b. Evidence of negligence or intent | AO MP \$500 CS seeking penalty \$1,000/day CMS TS | WWS WWS WWS, A WWS, A WWS, S |
| 3. Minor violation of permit condition | | |
| a. No evidence of negligence or intent | NOV AO immediate corrective action | IWC WWS |
| b. Evidence of negligence or intent | AO MP \$500 CS seeking penalty \$1,000/day | WWS WWS WWS, A |
| 4. Major violation of permit conditions | | |
| a. Evidence of negligence or intent SNC | AO MP \$500 CS seeking penalty \$1,000/day CMS seeking maximum penalty TS | WWS WWS WWS, A WWS, A WWS, S |
| 5. Entry Denial | | |
| a. Entry denied or consent withdrawn. Copies of records denied. | Obtain warrant and return to IU | IWC, WWS |

5. Illegal Discharge

- | | | |
|---|----------------|------------------|
| a. No harm to POTW or environment. | AO MP \$500 | WWS WWS |
| b. Harm to POTW or evidence of intent/negligence. | CS CMS | WWS, A WWS, A |
| c. Frequent, violation of AO. | TS | WWS, S |

7. Failure to Report Additional Monitoring

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|--------------------------------------|----------------|------------|
| a. Inspection finds additional files | NOV | IWC |
| b. Recurring | AO MP \$500 | WWS WWS |

ADDITIONAL PERMIT VIOLATIONS

| <u>NONCOMPLIANCE</u> | <u>ENFORCEMENT ACTION</u> | <u>PERSONNEL</u> |
|---|---|------------------|
| 1. Wastestreams diluted in lieu of treatment | | |
| a. Initial violation | AO MP \$500 | WWS WWS |
| b. Recurring | SCM TS | WWS, S WWS, S |
| 2. Failure to mitigate noncompliance or halt production | | |
| a. No harm to POTW | NOV | IWC |
| b. Harm to POTW | AO CS seeking penalty \$1,000/day | WWS WWS,A |
| 3. Failure to properly operate and maintain pretreatment facility | | |
| a. No harm to POTW | NOV | IWC |
| b. Harm to POTW | AO CS seeking penalty \$1,000/day | WWS WWS,A |

Appendix D
Example Forms

MT. STERLING WATER AND SEWER COMMISSION
MT. STERLING, KENTUCKY

IN THE MATTER OF

NOTICE OF VIOLATION

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LEGAL AUTHORITY

The following findings are made and notice issued pursuant to the authority vested in the Superintendent of Wastewater, under Article I of the city's Sewer Use Ordinance. This order is based on findings of violation of the conditions of the wastewater contribution permit issued under Article VII of the city's Sewer Use Ordinance.

FINDINGS

1. The City of Mt. Sterling is charged with the construction, maintenance and control of the sewer system and treatment works.
2. To protect the sewer system and treatment works, Mt. Sterling administers a pretreatment program.
3. Under this pretreatment program, the above-referenced industry was issued a wastewater contribution permit.
4. The discharge permit issued to the above-referenced industrial user contained numerical limits on the quality of pollutants, which the industry could discharge and self-monitoring requirements.
5. On _____, pollutant analysis revealed that the quantity of _____ exceeded the permit limitation.

NOTICE

THEREFORE, BASED ON THE ABOVE FINDINGS, _____
IS HEREBY NOTIFIED THAT:

1. It is in violation of its discharge permit and the sewer use ordinance of the City of Mt. Sterling.

Signed: _____
Wastewater Superintendent
Mt. Sterling, Kentucky

MT. STERLING WATER AND SEWER COMMISSION
MT. STERLING, KENTUCKY

IN THE MATTER OF

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CEASE AND DESIST ORDER

LEGAL AUTHORITY

The following findings are made and order issued pursuant to the authority vested in the Superintendent of Wastewater, under Article I of the city's Sewer Use Ordinance. This order is based on findings of violation of the conditions of the wastewater contribution permit issued under Article VII of the city's Sewer Use Ordinance.

FINDINGS

1. The above-referenced industry discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Mt. Sterling.
2. The above-referenced industry is a "significant industrial user" as defined by Article I of the city's Sewer Use Ordinance.
3. The above-referenced industry was issued a wastewater contribution permit on _____ which contains prohibitions, restrictions and other limitations on the quality of the wastewater it discharges to the sanitary sewer.
4. Pursuant to the ordinance and the above-referenced permit, data is routinely collected or submitted on the compliance status of said industry.
5. This data shows that the above-referenced industry has violated the Sewer Use Ordinance in the following manner:

- a. _____

- b. _____

- c. _____

- d. _____

ORDER

THEREFORE, BASED ON THE ABOVE FINDINGS, _____
IS HEREBY ORDERED TO:

1. Within 24 hours of receiving this order, cease all nondomestic discharges into the city's sanitary sewer. Such discharges shall not recommence until such time as the above-referenced industry is able to demonstrate that it will comply with its current permit limits.
2. Failure to comply with this order may subject the above-referenced industry to having its connection to the sanitary sewer sealed by the city and assessed the costs therefor.
3. Failure to comply with this order shall also constitute a further violation of the Sewer Use Ordinance and may subject the above-referenced industry to civil or criminal penalties or such other enforcement responses as may be appropriate.
4. This order, entered this _____ day of _____ 19____, shall be effective upon receipt by the industry.

Signed: _____
Wastewater Superintendent
Mt. Sterling, Kentucky

MT. STERLING WATER AND SEWER COMMISSION
MT. STERLING, KENTUCKY

IN THE MATTER OF

* WASTEWATER SUPERINTENDENT
* MT. STERLING WATER & SEWER
* COMMISSION
* P.O. BOX 392
* MT. STERLING, KY 40353
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CONSENT ORDER

WHEREAS, the City of Mt. Sterling Water & Sewer Commission pursuant to the powers, duties and responsibilities vested in and imposed upon the Superintendent by provisions of the city's Sewer Use Ordinance, have conducted an ongoing investigation of the above-referenced industry and have determined that:

1. The city owns and operates a wastewater treatment plant which is adversely impacted by discharges from industrial users, including the above-referenced industry, and has implemented a pretreatment program to control such discharges.
2. The above-referenced industry has consistently violated the pollutant limits in its wastewater discharge permit as set forth in Exhibit I, attached hereto.
3. Therefore, to ensure that the above-referenced industry is brought into compliance with its permit limits at the earliest possible date, IT IS HEREBY AGREED AND ORDERED, BETWEEN THE INDUSTRY AND THE SUPERINTENDENT OF SEWER SERVICES FOR THE CITY OF MT. STERLING, that the above-referenced industry shall:

a. _____

b. _____

c. _____

d. The above-referenced industry shall pay \$1,000 per day for each and every day it fails to comply with the schedule set out in the items above. The \$1,000 per day penalty shall be paid to the Mt. Sterling Water and Sewer Commission within 5 days of being demanded by the city.

4. In the event the above-referenced industry fails to comply with any of the deadlines set forth, said industry shall, within one (1) working day after expiration of the deadline, notify the city in writing. This notice shall describe the reasons for the industry's failure to comply, the additional amount of time needed to complete the remaining work, and the steps to be taken to avoid future delays. This notification in no way excuses the above-referenced industry from its responsibility to meet any later milestones required by this Consent Order.

5. Compliance with the terms and conditions of this Consent Order shall not be construed to relieve the above-referenced industry of its obligation to comply with its wastewater contribution permit which remains in full force and effect. The city reserves the right to seek any and all remedies available to it under Article X of the city's Sewer Use Ordinance for any violation cited by this order.
6. Violation of this Consent Order shall constitute a further violation of the city's Sewer Use Ordinance and subjects the above-referenced industry to all penalties described by Article X of the Sewer Use Ordinance.
7. Nothing in this Consent Order shall be construed to limit any authority of the city to issue any other orders or take any other action which it deems necessary to protect the wastewater treatment plant, the environment or the public health and safety.

SIGNATORIES

INDUSTRY

Authorized Representative _____

Date _____

CITY OF MT. STERLING, KENTUCKY

Wastewater Superintendent _____

Date _____

MT. STERLING WATER AND SEWER COMMISSION
MT. STERLING, KENTUCKY

IN THE MATTER OF

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ADMINISTRATIVE
SHOW CAUSE ORDER

LEGAL AUTHORITY

The following findings are made and order issued pursuant to the authority vested in the Superintendent of Wastewater, under Article I of the city's Sewer Use Ordinance. This order is based on findings of violation of the conditions of the wastewater contribution permit issued under Article VII of the city's Sewer Use Ordinance.

FINDINGS

1. The above-referenced industry discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Mt. Sterling.
2. The above-referenced industry is a "significant industrial user" as defined by Article I of the city's Sewer Use Ordinance.
3. The above-referenced industry was issued a wastewater contribution permit on _____ which contains prohibitions, restrictions and other limitations on the quality of the wastewater it discharges to the sanitary sewer.
4. Pursuant to the ordinance and the above-referenced permit, data is routinely collected or submitted on the compliance status of said industry.
5. This data shows that the above-referenced industry has violated its Wastewater Contribution Permit in the following manner:
 - a. _____

 - b. _____

 - c. _____

 - d. All of these violations satisfy the city's definition of significant violation.

ORDER

THEREFORE, BASED ON THE ABOVE FINDINGS, _____
IS HEREBY ORDERED TO:

1. Appear at a meeting with the Superintendent of the Water and Sewer Commission to be held on _____, 19____, at _____, at _____.
2. At this meeting, the above-referenced industry must demonstrate why the city should not pursue judicial enforcement action against said at this time.
3. This meeting will be closed/open to the public.
4. Representatives of the above-referenced industry may be accompanied by legal counsel if they so chose.
5. Failure to comply with this order shall constitute a further violation of the Sewer Use Ordinance and may subject said industry to civil or criminal penalties or such other appropriate enforcement response as may be appropriate.
6. This order, entered this _____ day of _____ 19____, shall be effective upon receipt by the industry.

Signed: _____
Wastewater Superintendent
Mt. Sterling, Kentucky

MT. STERLING WATER AND SEWER COMMISSION
MT. STERLING, KENTUCKY

IN THE MATTER OF

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ADMINISTRATIVE
COMPLIANCE ORDER

LEGAL AUTHORITY

The following findings are made and order issued pursuant to the authority vested in the Superintendent of Wastewater, under Article I of the city's Sewer Use Ordinance. This order is based on findings of violation of the conditions of the wastewater contribution permit issued under Article VII of the city's Sewer Use Ordinance.

FINDINGS

1. The above-referenced industry discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Mt. Sterling.
2. The above-referenced industry is a "significant industrial user" as defined by Article I of the city's Sewer Use Ordinance.
3. The above-referenced industry was issued a wastewater contribution permit on _____ which contains prohibitions, restrictions and other limitations on the quality of the wastewater it discharges to the sanitary sewer.
4. Pursuant to the ordinance and the above-referenced permit, data is routinely collected or submitted on the compliance status of said industry.
5. This data shows that the above-referenced industry has violated its Wastewater Contribution Permit in the following manner:
 - a. _____

 - b. _____

 - c. _____

 - d. All of these violations satisfy the city's definition of significant violation.

ORDER

THEREFORE, BASED ON THE ABOVE FINDINGS, _____
IS HEREBY ORDERED TO:

1. Within 180 days, install pretreatment technology which will adequately treat the above-referenced industry's wastewater to a level which will comply with its wastewater contribution permit.
2. Within 5 days, submit all periodic compliance reports due since _____, 19__.
3. Within 10 days, pay to the Water and Sewer Commission's office, a fine of \$_____ for the above-described violations in accordance with Article X of the Sewer Use Ordinance.
4. Report, on a monthly basis, the wastewater quality and the corresponding flow and production information as described in the wastewater contribution permit for a period of one year from the effective date of this order.
5. All reports and notices required by this order shall be sent, in writing, to the following address:

Mt. Sterling Water and Sewer Commission
P.O. Box 392
Mt. Sterling, KY 40353
6. This order does not constitute a waiver of the wastewater discharge permit which remains in full force and effect. The City of Mt. Sterling reserves the right to seek any and all remedies available to it under Article X of the Sewer Use Ordinance for any violation cited by this order.
7. Failure to comply with the requirements of this order shall constitute a further violation of the Sewer Use Ordinance and may subject the above-referenced industry to civil or criminal penalties or such other appropriate enforcement response as may be appropriate.
8. This order, entered this _____ day of _____, 19__, shall be effective upon receipt by the industry.

Signed: _____
Wastewater Superintendent
Mt. Sterling, Kentucky