



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

FEB 17 1994

FEB 14 1994

Mr. Edward O'Brien
Assistant Public Works Director
Upper Merion Township
Board of Supervisors
175 West Valley Forge Road
King of Prussia, PA 19406-0139

Dear Mr. O'Brien:

The Environmental Protection Agency has received and reviewed the Township's revised Enforcement Response Plan (ERP), dated February 3, 1994. Based on this review the ERP is acceptable, and may now be considered part of the Township's approved pretreatment program. If you have any questions or comments, feel free to contact me at (215) 597-1231.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Matlin".

Martin Matlin, (3WM55)
Environmental Scientist
Permits Enforcement Branch
EPA, Region III

RESOLUTION

No. 94-28

Upper Merion Township

Enforcement Response Plan

Pursuant to the provisions set forth in Sections 10, 11, and 12, of Upper Merion Township Ordinance Number 93-614, pertaining to administrative enforcement remedies and/or requirements, Upper Merion Township does adopt this Enforcement Response Plan.

As a matter of public policy, proper treatment of industrial waste prior to discharge into the Township sewer system is essential for the proper functioning of the sewer system and prevention of pollution of the waters of the Commonwealth of Pennsylvania. The Upper Merion Sewage System, through Upper Merion Township, has an approved pretreatment program pursuant to Federal law for enforcement of pretreatment standards with respect to industrial users, and, therefore, it is necessary that the Township have adequate remedies and penalties for effective enforcement of its pretreatment program.

Upper Merion Township through the Industrial Waste Pretreatment Program, has the legal authority to monitor and enforce each standard or regulation applicable to industrial discharges. The authority is established in Upper Merion Township Ordinance 93-614 and is applied to each Industrial User through an Industrial User Permit. The Permit provides for Facility Self Monitoring Inspections and Compliance and Self Monitoring to determine compliance and utilizes the Enforcement Response Plan to provide uniform enforcement action(s) for noncompliance.

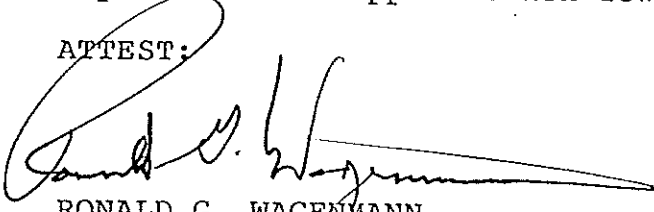
Violations and discrepancies identified during compliance screening and compliance evaluation are reviewed to determine the type of enforcement response needed. The response guide identifies types of responses that are appropriate, based on the nature of the violation; reporting late or deficient; duration of the violation; the potential impact of the violation. It also specifies the enforcement response time frame and identifies administrative personnel qualified to initiate such an enforcement response.

Upper Merion Township's approach to enforcement activities follows an escalated process with the Township preferring to settle these matters amicably, leaving the more aggressive enforcement actions available to bring the Industrial User into compliance, doing so as rapidly as possible.

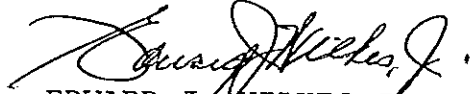
The Enforcement Response Plan is intended solely for the guidance of Township personnel. It is not intended, and cannot be relied upon, to create any rights, substantive or procedural, enforceable by any party in litigation with the Township. In adopting the Enforcement Response Plan the Township may also adopt and apply methodology in the United States Environmental Protection Agency Clean Water Act, together with amendments.

BE IT HEREBY RESOLVED this 5th day of May, 1994, by the Board of Supervisors of Upper Merion Township.

ATTEST:


RONALD G. WAGENMANN
TOWNSHIP MANAGER

Upper Merion Township
Board of Supervisors


EDWARD J. WILKES JR.
CHAIRMAN

Advertised Proposed Resolution in Times Herald:

Proof of Publication Dated:

Hearing Held:

Resolution Adopted:

Resolution Entered:

UPPER MERION TOWNSHIP
DEPARTMENT OF PUBLIC WORKS
WASTEWATER DIVISION

INDUSTRIAL WASTE PRETREATMENT PROGRAM

ENFORCEMENT PROCEDURES

January 1994

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DEFINITIONS

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

(1) Authorized Representative of Industrial User.

(a) If the User is a corporation:

1. The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
2. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Upper Merion Township.

(2) Categorical Standards or Categorical Pretreatment Standards. - National Categorical Pretreatment Standards, being any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, subchapter N, Parts 405-471.

(3) Control Authority. The term "control authority" shall refer to Upper Merion Township.

- (4) Industrial User. A source of Indirect Discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act. In addition, "Industrial User" shall also be defined as an establishment which discharges or introduces industrial wastes into the POTW.
- (5) Industrial Waste. Shall have the meaning ascribed to it in the Act of June 22, 1937 (P.L. 1987, No. 394), known as The Clean Stream Law and the regulations adopted thereunder.
- (6) Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (7) Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, causes the inhibition or disruption of the POTW treatment process or operations or its sludge processes, use or disposal; and therefore, is the cause of a violation of the Township's NPDES Permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- (8) National Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of Industrial Users, as set forth in 40 CFR, Chapter I, Subchapter N, Parts 405 - 471.
- (9) Pass Through. A discharge which exits the POTW into the waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of the POTW's National Pollutant Discharge Elimination System ("NPDES") permit, including an increase in the magnitude or duration of a violation.
- (10) Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (11) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such

pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or by other means; except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

- (12) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an User. Any substantive or procedural provision of the Federal Water Pollution Control Act (62 Stat. 115, 33 U.S.C. 1251 et seq.) or the act of June 22, 1937 (P.L. 1987, No. 394), known as The Clean Streams Law, or any rule or regulation, ordinance or term or condition of a permit or order adopted or issued by the Commonwealth or a POTW for the implementation or enforcement of an industrial waste pretreatment program established under the Federal Water Pollution Control Act or the Clean Streams Law.
- (13) Pretreatment Standard. Prohibited discharge standards, categorical pretreatment standards, and local limits.
- (14) Significant Industrial User.
- (a) A User subject to categorical pretreatment standards; or
 - (b) A User that:
 - 1. Discharges an average of twenty-five thousand (25,000) gad or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - 2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - 3. Is designated as such by the Township on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
 - (c) Upon a finding that User meeting the criteria in Subsection (b) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Township may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

- (15) Significant Noncompliance. An Industrial User is in significant noncompliance if its violation meets one or more of the specific criteria set forth in 40 CFR 403.8(f)(2)(vii). For purposes of this definition, an Industrial User is in significant noncompliance if its violation meet one or more of the following criteria:
- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six-month (6) period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
 - (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
 - (c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority 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);
 - (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under this Ordinance to halt or prevent such a discharge;
 - (e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in this Ordinance or in an enforcement order.
 - (f) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - (g) Failure to accurately report non-compliance;
 - (h) Any other violation or group of violations which the Township determines will adversely effect the operation or implementation of the local pretreatment program.

- (16) Slug Discharge. Any discharge of a non-routine, episodic nature, or at a flow rate or concentration which would cause a violation of the prohibited discharge standards in Section 2 of this Ordinance.
- (17) User or Industrial User. Any person who contributes, causes or permits the indirect discharge of wastewater into the Township's POTW.

INDUSTRIAL WASTE PRETREATMENT PROGRAM

ENFORCEMENT PROCEDURES

General Information

Upper Merion Township through the Industrial Waste Pretreatment Program, has the legal authority to monitor and enforce each standard or regulation applicable to industrial discharges. This authority is established in Upper Merion Township Ordinance No. 93-614 and is applied to each Industrial User through an Industrial User Permit. It provides for Facility Self Monitoring Inspections and Compliance and Self Monitoring to determine compliance and utilizes the Enforcement Response Plan to provide uniform enforcement action for noncompliance.

A. Legal Authority

The General Sewer Use and Pretreatment Program regulations are set forth in Ordinance No. 93-614, of the Codified Ordinances of Upper Merion Township. The ordinance enables the Township to comply with Federal and State pretreatment regulations and requirements governing Significant Industrial Users.

Specifically, the ordinance satisfies the Federal and State (NPDES) pretreatment requirements on legal authority contained in 40 CFR Part 403 as follows:

- By mandating compliance with applicable Federal, State, and Local pretreatment standards for Industrial Users.
- By authorizing the Public Works Director or his/her authorized representative, to inspect and conduct surveillance to verify the compliance status of Industrial Users.
- By requiring Industrial Users to submit Self Monitoring Reports and other data.
- By providing authority for the Township to bring administrative, civil, or criminal actions to remedy noncompliance with pretreatment standards.
- By giving the Public Works Director the authority to deny or condition new or increased contributions of pollutants by Industrial Users.
- By requiring Industrial Users from the Township and all contributing municipalities to obtain an Industrial User Permit.

- By empowering the Public Works Director to establish an implementation schedule for pretreatment facilities in each permit.

B. Enforcement Response Plan

In order to administer Upper Merion Township's Industrial Waste Pretreatment Enforcement Program, a response plan has been developed to determine whether Industrial Users are complying with pretreatment standards and requirements of the Industrial User's permit. This plan, known as the Enforcement Response Plan, provides compliance screening and compliance evaluation to determine how, when, and at what level to respond to noncompliance by Industrial Users.

To understand the Enforcement Response Plan, one must first understand noncompliance terminology and its administrative enforcement responsibilities. This relationship is as follows:

1. Noncompliance is the act of not meeting specified conditions or requirements.
2. A Violation is an instance of noncompliance.
3. All violations require Industrial User Notification.
4. All violations require a Formal Enforcement Response.
5. The Level of Formal Enforcement Response to Significant Noncompliance is determined by the magnitude of the violation and violation history.
6. Finally, Formal Enforcement Responses require Public Notification.

C. Enforcement Evaluation

The determination of how and when to respond to noncompliance is established through compliance screening, enforcement evaluation, and application of appropriate enforcement response procedures and mechanisms. It requires the evaluation of the Industrial User's present compliance status and past compliance records to determine the appropriate enforcement response.

C.1. Compliance Screening

This involves reviewing all available information to sort out violations. This review assesses compliance with schedules, reporting requirements, pretreatment standards and regulations.

The compliance screening process verifies that the reports are submitted on schedule, that they cover the proper time period, include all information required and are properly signed. Also screened are the parameters reported, the number of measurements for each parameter, sampling procedures, the discharge concentration and completeness of other information contained in the Self Monitoring Report.

Additional compliance screening is performed by the Township through Compliance Monitoring, Facility Inspections, and Self Monitoring Reports to assess compliance with pretreatment standards and regulations independent of information supplied by Industrial Users.

C.2. Compliance Evaluation

When a violation of pretreatment standards or regulations is identified during compliance screening, it is evaluated to determine whether it is a noncompliance, Technical Review Criteria, or Significant Noncompliance violation.

Noncompliance violations are generally isolated violations of pretreatment standards or regulations that do not cause interference or pass through at the Water Pollution Control Center (WPCC), endanger the health of sewage treatment personnel or the public, or damage the environment.

Technical Review Criteria (TRC) violations (as defined in No. 15(b), under Definitions) indicate that a serious problem is occurring and a review of the current pretreatment process is warranted. This review should be used to identify any potential defects or needed changes which may have to be implemented to correct the problem. A recurring TRC violation could pose a potential threat of causing interference or pass through at the WPCC, endanger the health of sewage treatment personnel or the public, or damage the environment.

Significant Noncompliance (SNC) violations (as defined in No. 15, under Definitions) indicate that a serious problem is occurring repeatedly and an immediate solution has to be found to correct the problem. An immediate corrective plan of action is required to correct the problem. A SNC violation poses a threat of causing interference or pass through at the WPCC, endanger the health of sewage treatment personnel or the public, or damage the environment.

Pursuant to the definition given for SNC (as listed in No. 15(h), under Definitions) the Township recognizes the following items as additional types of SNC violations:

1. When a violation continues after notifying the Industrial User to resolve the violation within a specified time frame or the violation is of a serious nature then it becomes a SNC violation.
2. Failure to analyze listed pollutants according to an approved EPA method which has minimum detection limits (MDL) lower than set Categorical or Local Limits.

In addition to the above compliance evaluation, the compliance history of the violation is considered for enforcement assessment.

D. Enforcement Administration

Violations and discrepancies identified during compliance screening and compliance evaluation are reviewed to determine the type of enforcement response needed. Upper Merion Township's Industrial Waste Pretreatment Program developed an Enforcement Response Plan to provide uniform enforcement responses to pretreatment violations or discrepancies. The response guide identifies types of responses that are appropriate, based on the nature of the violation (effluent-daily maximum, instantaneous maximum, four (4) consecutive day average or monthly average limit; reporting late or deficient; compliance schedule beginning or completion date); duration of the violation (isolated or recurring); the potential impact of the violation (such as interference, pass through, or WPCC worker safety). It also specifies the enforcement response time frame and identifies administrative personnel qualified to initiate such an enforcement response.

When compliance screening and compliance evaluation has been completed, the enforcement response prescribed in the Township's Enforcement Response Plan will be applicable to the instance of noncompliance. The prescribed responses are implemented according to the violation escalated as follows:

1. If the Industrial User is in violation of discharge limitations, notifies Upper Merion Township within twenty-four hours of becoming aware of the violation, repeats sampling and testing of the noncomplying parameter(s) within seventy-two hours of the first day representing normal operations, submits the repeat analysis in writing within thirty days, as required, indicating a return to compliance with discharge limits and no further violation is identified, no further action may be taken.
2. If the Industrial User is in noncompliance with and/or in violation of pretreatment requirements, the Industrial User is notified with a Notice of Violation.
3. The Notice of Violation (NOV) is the first response to notify the Industrial User of the need to comply with the Township's set limits. It states the violation of the Industrial User Permit, requests an explanation of the violation, a plan of corrective action to be taken and a response in writing with a specific time frame.
4. If the violation persists, was deliberate, or the explanation of the violation or the plan of corrective action is inadequate, and Significant Noncompliance criteria is met, enforcement action can be escalated. Enforcement includes Consent Orders, Show Cause Hearings, Compliance Orders, Cease and

Desist Orders and/or Administrative Civil Penalties. There may also be emergency suspensions of sewer service, termination of discharges, as well as Judicial Remedies by way of Injunctive Relief, Civil Penalties and/or criminal prosecution. Supplemental enforcement actions may include performance bonds, liability insurance and public nuisance proceedings.

All Enforcement Responses and Civil Penalties are issued pursuant to the provisions of Upper Merion Township Ordinance No. 93-615 and Upper Merion Civil Penalty Assessment Policy, Resolution 93-25.

All Enforcement Responses and Industrial User's Responses are recorded on a Violation Summary Log. The Violation Summary Log catalogues the date of the Enforcement Action, the date of the Industrial Users's Response and provides a narrative of the Enforcement Action taken as well as the Industrial User's Response.

E. Enforcement Responses

Enforcement is considered for each violation or group of violations that meet the definition of Significant Noncompliance. The decision to pursue formal action is precluded on the basis of nature of violation, pattern of repetition, Industrial User's response to NOV, and its efforts to obtain compliance. The Township may require a Show Cause associated with a Civil Penalty if the violations resulted in harm to Township personnel, facilities, or violated any Federal, State, or Local Regulations. The first step of formal Enforcement commence with an Administrative Order detailing milestones required to comply. The Administrative Order will also include all records of violation and duration of its occurrence. All records are reviewed to assure that proper procedures were used to collect information and that all contacts with the Industrial User were recorded. If the Industrial User has received conflicting information regarding its compliance status, that status is clarified in writing. A special onsite review or inspection may be conducted to verify available data and review analytical test results to confirm the accuracy of the information contained in periodic reports.

E.1. Notice of Violation

Notice of Violation - This is the first written response to a Significant Noncompliance violation of pretreatment standards or regulations. The Notice of Violation applies to all Significant Noncompliance violations and can be accompanied by or followed by Civil Penalties or other Administrative Enforcement Remedies, Judicial Enforcement Remedies or Supplemental Enforcement action.

The Notice of Violation identifies the regulation violated, requests an explanation of the Noncompliance, requests a plan of corrective action to resolve the Noncompliance, requests a response within thirty (30) days, is accompanied by an invoice if a Civil Penalty is levied, identifies the date of the Show Cause Hearing if a hearing is requested

and is sent by Certified Mail, return receipt requested. In addition, it indicates that continued Significant Noncompliance will be met with escalating enforcement activity. Administrative Civil Penalties and Judicial Civil Penalties may be up to twenty-five thousand (\$25,000) dollars per day for each violation.

E.2. Administrative Orders, Consent Orders, Show Cause Hearings, Compliance Orders, Cease and Desist Orders, Emergency Suspensions, Termination of Discharge

Section 309 (a) (3) of the Clean Water Act authorizes the USEPA to issue orders, without notice or opportunity for prior hearing, to require compliance with standards or other requirements of the Act. Upper Merion Township, under 40 CFR Section 403.8 (f) (1) (iv) of the General Pretreatment Regulations and Ordinance No. 93-614 has legal authority to pursue similar Administrative Enforcement Remedies. The orders are used to place an Industrial User on an enforceable schedule at any time to comply with pretreatment standards, (e.g., install treatment, operate and maintain facilities) and are sent by Certified Mail, return receipt requested.

E.3. Administrative and Judicial Enforcement Remedies

Judicial Enforcement Remedies may include Injunctive Relief, Civil Penalties and/or Criminal Prosecution. A civil suit for injunctive relief is initiated when the Industrial User does not execute steps necessary to achieve or maintain compliance, when the violation is of such seriousness to warrant court action to deter future violations or when the danger does not permit lengthy negotiation of a settlement. If requested, the court may issue a temporary restraining order or preliminary injunction restraining the Industrial User from violating pretreatment standards or requirements pending the outcome of the civil action if irreparable harm to the WPCC's operation, its workers, or receiving stream can be shown as a result of an ongoing Industrial User violation. The Administrative Civil Penalty or Judicial Civil Penalty may be up to twenty-five thousand (\$25,000) dollars per day for each violation.

The amount of Civil Penalty imposed depends on the nature of violation. In assessing Civil Penalties, the principals of Upper Merion Civil Penalty Assessment Policy and Ordinance No. 93-614 shall be applied. This includes consideration of damage to air, water or land, cost of restoration or abatement; savings resulting from noncompliance; history of past violations; deterrence of future violations; and any other relevant factors.

E.4. Criminal Prosecution

Criminal Prosecution - Section 309 (c) of the Clean Water Act authorizes the Federal Government to seek criminal punishment for any person who willfully or negligently violates pretreatment standards, knowingly makes false statements regarding any report, application, record, or any other document required by General Pretreatment Regulations. There may also be criminal prosecution under applicable provisions of the Pennsylvania Crime Code. The determination to pursue violations through criminal action considers the willfulness of the violation, knowledge of the violation, nature and

seriousness of the offense, need for deterrence, compliance history of the subject, adequacy of the evidence and adequacy of penalties and sanctions available through civil and administrative enforcement action.

Examples of criminal intent include falsification of data, tampering with results or equipment, willful or negligent failure to provide notice of upset, slug or accidental discharge or willful violation of the Industrial User Permit. Parallel criminal and civil actions are filed for violations when immediate injunctive relief is necessary. Criminal action, however, requires evidence and proof beyond a reasonable doubt of knowledge and intent that the violator has willfully or negligently concealed a violation or fact.

E.5. Termination of Services

Through the Codified Ordinance of Upper Merion Township, the Township maintains the authority to halt any actual or threatened discharge of prohibited materials that may represent an endangerment to public health, the environment or the Water Pollution Control Centers (WPPCCs). Additionally, the Township can deny or condition new or increased discharges by an Industrial User, or changes in the nature of pollutant discharge by an Industrial User, if the discharge does not meet pretreatment standards or causes the Township to violate its NPDES Permit. Termination of Services is a remedy to be used to bring recalcitrant Industrial Users into compliance by halting noncomplying discharges.

F. Public Notification and Reporting of Significant Noncompliance

General Pretreatment Regulation requires that a list of violators in Significant Noncompliance with pretreatment standards and regulations during a twelve (12) month period be published annually in the largest daily newspaper located in the municipality.

Additionally, the published list of violators in Significant Noncompliance with pretreatment standards and regulations must include information identifying:

1. The duration of violation.
2. Parameters and reporting requirements violated.
3. Type of enforcement action taken by the Township.
4. Compliance action taken by the Industrial User.
5. Compliance status of the Industrial User, (e.g., whether in compliance or currently complying with a compliance schedule).

When public notification requirements are met, a copy of the published listing must accompany the annual pretreatment report to USEPA to satisfy and conclude enforcement activity in accordance with the Township's Enforcement Response Plan.

This statement of Enforcement Procedures is a summary only. In all cases, the specific provisions of the applicable Upper Merion Township Ordinances and Resolutions shall apply.

G. Enforcement Response Plan Summary

Upper Merion Township's approach to enforcement activities follows an escalated process with the Township preferring to settle these matters amicably, leaving the more aggressive enforcement actions available to bring the Industrial User into compliance, doing so as rapidly as possible to deter future violations.

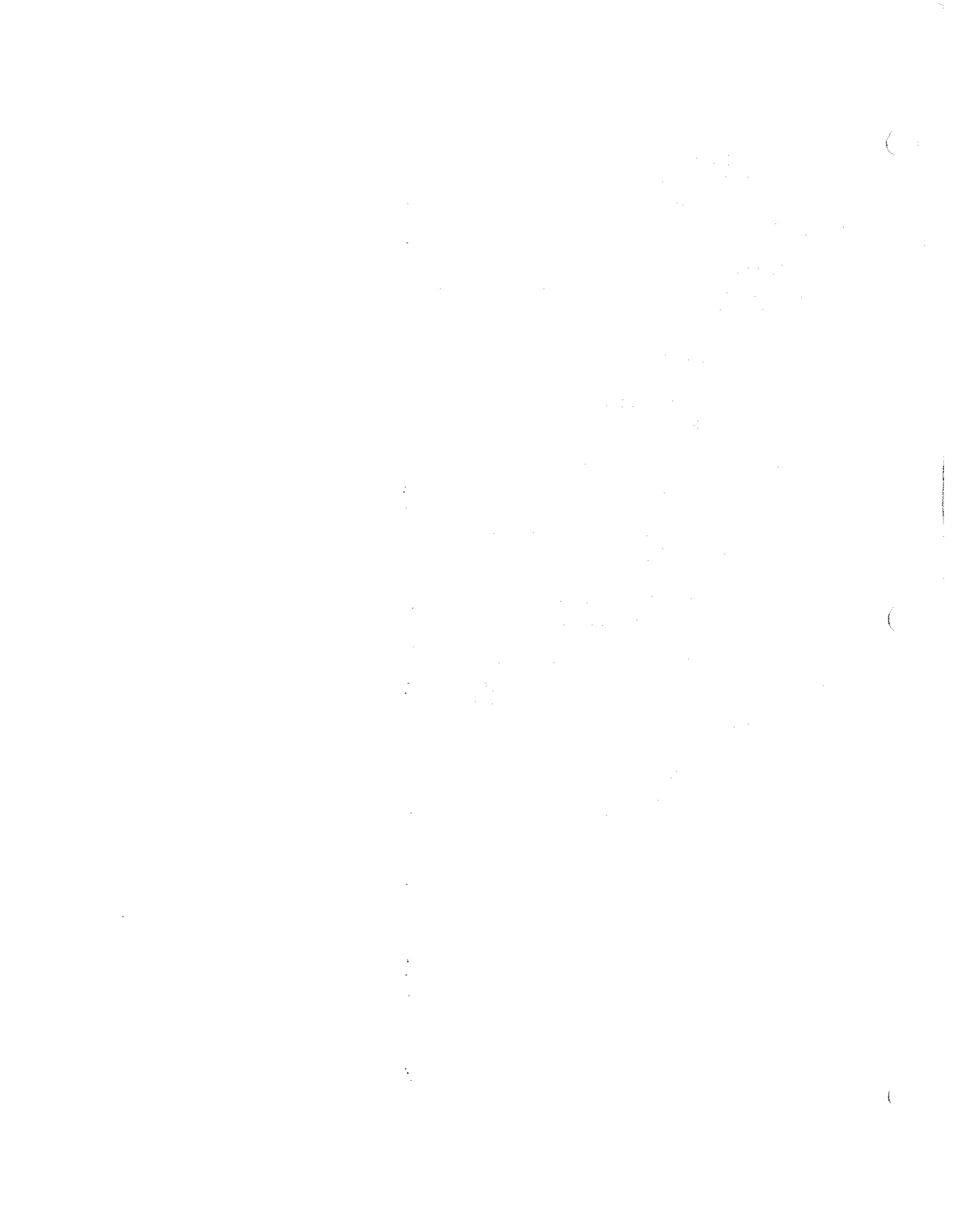
All enforcement actions are prioritized in a manner to handle the most difficult industries or the most serious violations first. Ranking of enforcement cases generally occur in the following order:

- a. Industries discharging highly toxic or detrimental wastes that endanger life, limb, public property, or that harm the sewage system or treatment process; or are incompatible with the treatment process; or that cause the Township to violate its NPDES Permit; or that adversely effect the receiving stream.
- b. Industries discharging waste in violation of Federal pretreatment standards or Township local limits.
- c. Significant Industrial Users refusing inspection and monitoring by the Township.
- d. Industries violating a compliance schedule or industries violating reporting requirements in a permit.

The Enforcement Response Plan begins with administrative remedies (e.g., telephone conversations and/or informal onsite meetings) for minor violations. If this does not spur action by the industry, a Notice of Violation is sent. The industry is given a deadline of thirty (30) days in which to respond with an explanation and plan indicating steps to be taken to correct the noncompliance. Continued noncompliance results in the issuance of an Administrative Order, Civil Penalties, filing a civil or criminal action, revocation of the permit or the issuance of a Termination of Services notice. All notices for Significant Noncompliance and permit revocation are sent by Certified Mail, return receipt requested, to verify delivery.

The forgoing is a suggested order of priority. Circumstances may require Upper Merion Township change the priority order or eliminate certain measures.

When the nature of the violation constitutes a violation of the Clean Streams Law, the Township may apply for a mandatory preliminary injunction or special injunction in the Court of Common Pleas of Montgomery County or the Commonwealth Court of Pennsylvania in accordance with the Pennsylvania Rules of Civil Procedure relating to Actions in Equity.



ENFORCEMENT RESPONSE PROCEDURES

UNAUTHORIZED DISCHARGES (NO PERMITS)	Non-Compliance	Nature of Violation	Enforcement Response
1. Unpermitted Discharge	IU unaware of requirements, no harm to POTW/environment	IU did not provide complete application within 90 days	<ul style="list-style-type: none"> -Schedule a meeting explaining the pretreatment system, how it operates, personnel to contact, and request to fill in application within 30 days. -Evaluate application and issue an annual permit if all requirements are met. Otherwise, prepare a letter within 30 days of receiving the application and form stating missing or incomplete information and require prompt response within 15 days. -Terminate service immediately until compliance is sought, with a civil penalty.
	IU unaware of requirement, harm to the POTW	IU did not cooperate and continues to cause harm to the POTW	<ul style="list-style-type: none"> -Schedule a show-cause hearing, issue a compliance order, with a civil penalty -Compliance schedule will include filing application form with detailed analysis of discharge wastewater. -Terminate service immediately, prepare for a civil action within 90 days.
2. Non-Permitted Discharge (failure to renew)	2. IU has not submitted application within 10 days of due date		<ul style="list-style-type: none"> -Issue NOV within thirty days. -IU to conduct weekly sampling through 90 day period -Request a complete application within 30 days. If application is not received within 30 days, IU is considered in SNC and will receive civil penalty. -If IU fails to submit properly completed application form within 90 days, cease temporary permits and terminate services.

DISCHARGE LIMIT VIOLATION

Non-Compliance	Nature of the Violation	Enforcement Response
1. Exceedance of Local or Federal Limits (Permit Limit)	Isolated, no significant	-Issue NOV within 30 days of initial detection of violation, request a written justification for exceedance of limits within 30 days.
	Isolated, significant violation, exceeds the limits by TRC of an individual effluent limit, no harm	-Issue compliance order within 30 days of detecting initial violation, a written justification and presenting measures for preventing this incident from re-occurring. Formulate compliance order to identify procedure for encountering significant violation.
	Isolated, harm to POTW/environment	-Issue NOV within 30 days of detecting initial violation, request response within 30 days to justify violation, show cause order compliance order with a civil penalty.
	Recurring, no harm to POTW/environment	-Issue AO within 90 days and civil penalty -Issue a bond for \$0.5 million valid for one year
	Recurring, significant which constitutes SNC or chronic, harmful to POTW/environment	-If IU is not cooperative to show cause as listed above, civil action within 90 days and termination service within 90 days after civil action is taken and violation persists

REPORTING VIOLATION

Non-Compliance	Nature of the Violation	Enforcement Response
1. Reporting Violation	Report is improperly signed or certified	-Issue NOV within 30 days of detecting initial violation; request complete information to be forwarded within 30 days
	Report is improperly signed or certified after notice by POTW	-Issue AO within 30 days from the required data for submitting compiled information -Assess a civil penalty
	Isolated, non-significant	-Issue NOV within 30 days from detecting violation
	Significant	-Issue AO within 90 days of initial NOV date, civil penalty for each pollutant per day
	Reports are always late or no report at all	-Issue AO within 30 days, request to submit a bond valid for two years for the amount of \$0.5 million. -Show cause within 90 days of initial date of AO. -Request a bond for \$0.5 million valid for one year. -Terminate services within 90 days of show cause, if violation persists.
	Failure to report spill or changed discharge, no harm	-Issue NOV within 30 days, request written justification for failure to report, AO for emergency response plan, civil penalty for each day from date of incident to detection date.
	Failure to report spill or changed discharge, results in harm to POTW/environment	-Issue AO within 30 days of detecting violation, develop emergency response plan, civil penalty per day from date of incident to date of detecting violation. -Civil action within 90 days of date of AO if IO failed to provide proper response.
	Repeated failure to report spills	-Show cause order within 90 days of AO, provide a bond for \$0.5 million valid for one year. -Terminate services if failure re-occurred more than twice a year and redeem \$0.5 million bond
	Fabrication	-Criminal investigation within 30 days of detecting initial violation -Terminate services immediately if proved true

<p>2. Failure to Monitor Correctly</p>	<p>Failure to monitor all pollutants required by permit</p>	<p>-Issue NOV within 30 days of detecting initial violation, request a response within 30 days justifying violation, civil penalty per day for each pollutant.</p>
<p>3. Improper sampling</p>	<p>Recurring failure to monitor</p>	<p>-Issue AO within 30 days of second recurrence, require a bond for \$0.5 million valid for one year.</p>
<p>4. Failure to install monitoring equipment</p>	<p>Evidence of intent</p>	<p>-Criminal investigation within 30 days of detecting violation -Termination of services immediately if proved true</p>
<p></p>	<p>Delay of less than 30 days</p>	<p>-Issue NOV within 30 days, request response with time frame for completion of proper installation, AO within 90 days of initial violation.</p>
<p></p>	<p>Delay of 30 days or more</p>	<p>-Issue compliance order within 30 days of detecting violation, civil penalty per day</p>
<p></p>	<p>Recurring, violation of AO</p>	<p>-Request a bond for \$0.5 million valid for one year. -Civil action within 30 days of second recurrence -Criminal investigation within 90 days of AO -Terminate services</p>
<p>5. Compliance Schedules (in Permit)</p>	<p>Missed milestone by less than 30 days, or will not affect final milestone</p>	<p>-Issue NOV within 15 days of detecting violation, SNC, civil penalty.</p>
<p></p>	<p>Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)</p>	<p>Issue AO within 30 days of detecting violation, request a bond for \$0.5 million valid for one year.</p>
<p></p>	<p>Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)</p>	<p>Issue show cause order within 30 days of detecting violation, request a bond for \$0.5 million valid for one year or more. Terminate services within 90 days of show cause order.</p>
<p></p>	<p>Recurring violation or violation of schedule in AO</p>	<p>-Redeem bond immediately -Civil action within 30 days of detection of second recurrence. -Termination of services within 30 days of third recurrence</p>

SAMPLING, MONITORING AND REPORTING

Non-Compliance	Nature of the Violation	Enforcement Response
1. Failure to sample, monitor, report (routine reports, BMR's, etc.) or notify	Isolated or infrequent	-Issue NOV within 30 days of initial violation detection requiring a written response to be submitted within 30 days from the date of the NOV. If no report received within these 30 days, IU is in SNC. A civil penalty and AO shall issued within 90 days if no response is received after 60 days from original due date.
2. Failure to sample, monitor, report, or notify	IU does not respond to letters, does not follow through on written agreement, or frequent violation--SNC. (This circumstance is subsequent to Item above.)	-Notify IU of SNC violation within 30 days of violation detection using a civil penalty. Consider AO with additional civil penalty if no response is received after initial AO or after 90 days from original due date. Terminate service and request judicial action, including penalties, and/or criminal investigation depending on circumstances.
3. Failure to notify of effluent limit violation	Isolated or infrequent. No known effects. (SNC - failure to report non-compliance.)	-Issue NOV within 30 days after discovery of incident. Require IU to respond in writing and provide reasons for lack of responding isolated incidents. Re-sample within 72 hours and submit results immediately. Evaluate IU response and write letter requesting additional information or appropriate response within 30 days if needed. Provide due dates in correspondence. If response is not received within 15 days of due date, IU is in SNC. Request show cause meeting and issue AO within 90 after requiring response if no response received. (If SNC violation occurs, notify IU using AO within 30 days of violation detection.)
4. Failure to notify of effluent limit violation or slug discharge.	Frequent or continued violation (SNC - failure to accurately report non-compliance.)	-Within 30 days of initial violation detection, NOV requesting response due in 15 days of NOV as to why notification not made and what happened to cause violation. Additional sampling for effluent discharge. Issue AO within 90 days after response due date if no response received. (If SNC violation occurs, notify IU using AO within 30 days of violation detection.)

<p>5. Failure to re-sample (due 30 days after discovery of violation).</p>	<p>Infrequent or Frequent</p>	<p>-Within 15 days after report due, issue a NOV. Escalate to AO within 90 days after response due date if no response received or if violations continue. Require re-sampling.</p>
<p>6. Failure to notify of effluent violation or slug discharge.</p>	<p>Known environmental (i.e., pass-through or interference) and/or POTW damage results -- SNC.</p>	<p>-Notify IU of SNC violation using AO within 30 days of violation detection. Escalate to AO with penalties/civil penalties or judicial action and penalties if non-compliance continues or if circumstances warrant.</p>

VIOLATIONS DETECTED DURING SITE VISITS

Non-Compliance	Nature of the Violation	Enforcement Response
1. Entry Denial	Entry denied or consent withdrawn Copies of records denied	-Issue a civil penalty. -Obtain warrant immediately and return to IU. -Terminate service
2. Illegal Discharge	No harm to POTW or environment	-Issue AO within 30 days of detecting violation. -Request a bond for \$0.5 million valid for one year.
	Discharge causes harm or evidence of intent/negligence	-Issue AO and show cause within 30 days of detecting violations. Proceed with civil action within 30 days, report this incidence in local newspaper within 30 days of show cause, request a bond for \$0.5 million valid for one year. -Proceed with civil investigation within 90 days if IO is not cooperative.
3. Inadequate record-keeping	Recurring, violation to AO	-Terminate services immediately upon detecting violation. Collect bond for \$0.5 million.
	Inspector finds incomplete or missing (no evidence of intent)	-Issue NOV within 30 days, request to complete files within 30 days from inspection date, reschedule inspection within 90 days from date or inspection.
	Recurring	-Issue AO within 30 days, request a bond for \$0.5 million valid for two years.
4. Failure to report additional monitoring	Inspector finds additional files	-Issue NOV within 30 days, request to properly organize files, provide a listing of organized files on records within 30 days of NOV.
	Recurring	-Issue AO within 30 days from detecting violation, request a bond for \$0.5 million valid for one year, civil penalty.

OTHER PERMIT VIOLATIONS		
Non-Compliance	Nature of the Violation	Enforcement Response
1. Wastestreams are diluted in lieu of treatment	Initial violation	-Issue AO within 30 days of detecting violation, request a bond for \$0.5 million valid for two years. Assess a civil penalty per pollutant
	Recurring	-Sequester and collect the bond for \$0.5 million within 30 days of second recurrence, issue a show cause within 30 days of collecting bond, terminate services within 30 days from detecting third violation
2. Failure to mitigate non-compliance or halt production	Does not result in harm	-Issue NOV within 30 days of detecting violation, request response within 30 days
	Does result in harm	-Issue AO within 30 days, civil penalty -Proceed with civil action within 30 days if IU is not cooperative
3. Failure to properly operate and maintain pre-treatment facility	See Number 2 above.	