

EPA Pretreatment Enforcement

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Review of Period Compliance Reports...How the snowball of Pretreatment Program deficiencies can begin.



Receipt of SIU report

- What do you do with it?
- Do you review it or just put it in a file?
- Pretreatment Program Requirement
 - 40 CFR 403.8(f)(2)(iv): “Receive and **analyze** self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in § 403.12.”

Review of SIU report

- How closely do you review the SIU report?
- Do you assume there are no violations since the cover letter doesn't mention any?
- Do you use a detailed checklist?
 - often recommended in PCI reports



What if there is an effluent violation in the SIU report?

- Did the SIU notify you within 24 hours of becoming aware of the violation? 40 CFR 403.12(g)(2)
- Did the SIU submit resampling results within 30 days of becoming aware of the violation?
40 CFR 403.12(g)(2)
- Pretreatment Program Requirements
 - 40 CFR 403.8(f)(2)(vii): “**Investigate** instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under § 403.12...”

What if there is an effluent violation in the SIU report?

- Did you evaluate and publish the SIU for SNC?
- Pretreatment Program Requirements
 - 40 CFR 403.8(f)(2)(viii): **Evaluate** and **publish** industrial users in Significant Non-Compliance.

What if there is an effluent violation in the SIU report?

- Did you enforce on the SIU for:
 - the effluent violation;
 - any failure to notify you within 24 hours;
 - any failure to resubmit sample results within 30 days; and
 - being in SNC?
- Pretreatment Program Requirements
 - 40 CFR 403.8(f)(5): “The POTW shall develop and **implement** an enforcement response plan [ERP].”
 - 40 CFR 403.8(f)(5): The ERP must, “(ii) Describe the types of escalating **enforcement responses** the POTW will **take in response to all anticipated types of industrial user violations** and the time periods within which responses will take place.”

Successes and Failures of Pretreatment Programs

“If you fall once, get up. If you fall twice, get up.
If you fall a third time, tie your shoelaces.”

- Unknown

Rock Springs – Audit/PCI

- Combined EPA Pretreatment Audit (Audit) and Pretreatment Compliance Inspection (PCI)
- August 9 through 12, 2010

Rock Springs – Violations

- Periodic Compliance Reports – not evaluated by City, violations not identified
 - Late reports
 - Reports not submitted
 - Reports were incomplete
 - SIUs failed to sample for required parameters
 - SIUs exceed permit limits

Rock Springs – Violations

- Effluent violations not identified → other violations not identified
 - SIUs failed to notify City of effluent violations with 24 hours of becoming aware of violations
 - SIUs failed to submit resampling results within 30 days of becoming aware of violations

Rock Springs – Violations

- Effluent violations and other violations not identified → failure to enforce (failure to implement the City's Enforcement Response Plan)
- Effluent violations not identified → failure to identify SNC and publish an SIU for SNC

Rock Springs – Violations

- Expired SIU permit
- Failure to sample all SIUs in 2008

Rock Springs Administrative Compliance Order – 3/8/11

- Initial reports to EPA
 - Reevaluation of periodic compliance reports
 - Enforcement on SIUs
 - Reissue of expired SIU permit
 - Evaluation of FTEs
- Quarterly reporting to EPA
 - Sampling by City
 - Evaluation of periodic compliance reports
 - Summary of enforcement
 - Demonstration of SNC evaluation
- Itemized list of costs to comply

Rock Springs Penalty – 4/4/13

- Combined Complaint and Consent Agreement
- \$12,500

EPA Clean Water Act Penalty Policy

- Gravity – punitive/deterrence portion
- Economic Benefit – benefit gained by not complying

$$\text{Penalty} = \text{Gravity} + \text{Economic Benefit} + \text{Adjustments}$$

EPA Clean Water Act Penalty Policy

- Interim CWA Settlement Penalty Policy -
March 1, 1995

<http://www.epa.gov/compliance/resources/policies/civil/cwa/cwapol.pdf>

- Penalties adjusted for inflation per policies

Example PCI Findings – Simple permit findings

- Expired permits
- Permits missing some of the required elements, such as sample type 40 CFR 403.8(f)(1)(iii)(B)
- Applying categorical limits where there is no applicable categorical pretreatment standard

Example PCI Findings – Application of limits in permits

- Ordinance limits pH to 5-10
- Permit limits pH to 5-11.5
- Why? The permit writer thought this was a good limit.
- Permit limits must be based on all applicable standards and limits (Federal, state, and local)

40 CFR 403.8(f)(1)(iii)(B)(3)

Example PCI Findings – Sampling

- POTW or SIU sampling methods do not meet 40 CFR Part 136 requirements, especially requirements in Table II
 - No chemical preservation when required
 - No temperature preservation when required
 - Maximum holding times exceeded
- POTWs fail to sample for all parameters at least annually 40 CFR 403.8(f)(2)(v)
- SIUs fails to repeat and submit sampling within 30 days when they detect a violation 40 CFR 403.12(g)(2)

Example PCI Findings – Sampling

- Failure to evaluate narrative criteria when evaluating Significant Non-Compliance (SNC)
40 CFR 403.8(f)(2)(viii)
- Failure to require a Baseline Monitoring Report
40 CFR 403.12(b)
- Failure to require a 90-day Compliance Report
40 CFR 403.12(d)