

North Charleston Sewer District

PRETREATMENT PROGRAM ENFORCEMENT RESPONSE PLAN



Effective Date: 10/10/2023



ENFORCEMENT RESPONSE PLAN

I. INTRODUCTION

In accordance with 40 CFR 403.8(f) and The Control Authority's NPDES permit, The Control Authority is required to develop and implement an Enforcement Response Plan (ERP) with Guide (ERG) for approval in accordance with R.61-9.403.8(f) (5). The USEPA requires the Control Authority to describe its compliance monitoring procedures, and its use and escalation of various enforcement responses, as well as time frames and responsibilities. The ERP shall contain detailed procedures indicating how the Control Authority will investigate and respond to instances of Industrial User (IU) non-compliance. The ERP shall, at a minimum:

- Describe how the Sewer Authority will investigate instances of non-compliance;
- Describe the types of escalating enforcement responses the Control Authority will take in response to all anticipated types of Industrial User violations and the time periods within which responses will take place;
- Identify (by title) the official(s) responsible for each type of response (Attachment A); and
- Reflect adequately the Control Authority's primary responsibility to enforce all applicable Pretreatment Requirements and Standards, as detailed in 40 CFR 403.8(f)(1) and (f)(2).

II. ENFORCEMENT PRINCIPLES AND PROCEDURES

A.) Responsibilities, Procedures, and Time Frames

The Control Authority has enforcement powers to the extent of its legal authority. The legal

authority to implement and enforce the Pretreatment Program is detailed in The Control Authority's Sewer Use Resolution (SUR). The Control Authority recognizes that its enforcement responses are always limited to those authorized under Federal and State Laws, and the Control Authority's Ordinance. The enforcement response must be appropriate to the violation. Throughout the enforcement process, it is important for all levels of management to be able to assess the effectiveness of the Pretreatment Program and to identify progress or deficiencies. The enforcement procedures described in the ERP give management the information needed to ensure that the Control Authority makes timely decisions, and the program is successfully implemented. To provide for internal management control, the ERP:

1. Identifies the individual(s) or unit(s) responsible for each element of the ERP;
2. Describes procedures for collecting and disseminating information including the sampling and inspection of IUs and notifying IUs of violations;
3. Ensures tracking of program activities including compliance reviews and enforcement actions;
4. Allows for the evaluation of specific activities in terms of their quality, timeliness (see time frames outlined in the discussions throughout the ERP and in the ERG (Attachment A)), results, and accomplishment of program objectives.

B). Industrial User Inventory Data

A complete and accurate compilation of the pertinent data is the foundation of a compliance tracking and the enforcement system. A current inventory of IUs must be maintained under 40 CFR 403.8(0)(2)(1) including name, location, identification number, effluent limits, basis for the limits (such as categorical limits or local limits), volume of discharge, Pretreatment permit status, compliance dates and other special requirements, category, and identifying industries as IU or as Significant Industrial Users (SIU) as defined in 40 CFR 403.3 (j), (v).

C). Sampling and Inspection of Industrial Users

The Control Authority's Pretreatment Program will include field investigations. The field investigations may be routine compliance monitoring or special monitoring in response to violations, technical problems, or to support permit modifications. The Control Authority will be responsible for the coordination of all NCSD sampling, inspections, and for ensuring that they are performed in accordance with established procedures. It is critical that proper procedures be followed during sampling and inspections, including quality assurance/quality control and chain-of-custody procedures, so that all information collected may be used as evidence in enforcement proceedings, if necessary. (All permit violations found from routine compliance monitoring, special monitoring, or IU self-monitoring are subject to appropriate enforcement action.)

D). Types of Violation

The following is a list of the different types of violations, by category. This list is not inclusive but serves as a general list of anticipated types of non-compliance. The IU's permit, SUR, and State and Federal Regulations serve as additional references for Pretreatment Requirements.

Un-Permitted Discharges: Users are responsible for obtaining and renewing permits, if required.

Permit Limits Violations: Users are responsible for maintaining compliance with all permit effluent limits. The Control Authority will evaluate the extent of any limit violation(s). In determining the extent of violations, significant non-compliance (SNC) as defined by State and EPA Regulations, will be determined.

Monitoring Violations: A User who fails to adequately conduct all the monitoring required in the permit, including monitoring frequencies and sampling methods specified, is in violation. This includes a User who does not resample in accordance with their permit when a limit violation occurs.

Reporting Violations: A User who fails to provide information (e.g., self-monitoring reports) required in their permit or the SUR in the required time frame is in violation. Late

or incomplete reports will also be considered violations. A SIU who submits a report more than 45 days late will be considered in SNC.

Permit Conditions: Failure to apply or reapply for a permit is considered a violation. Users who violate the general or other conditions (e.g., slug loading, dilution prohibition) outlined in their permits or the SUR shall be in violation.

Enforcement Orders: Failure to meet the requirements of an order (e.g., interim limits, milestone dates, etc.), whether the order was entered voluntarily or mandated by the Industrial Pretreatment Supervisor (IPS), shall be considered a violation. Missing a scheduled compliance milestone by more than 90 days is considered SNC.

E). Significant Non-Compliance

As defined by 40 CFR 403.8(f)(2)(viii), the Control Authority will comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users (IU) which, at any time during the previous 12 months, were in significant non-compliance with applicable Pretreatment Requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or

Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) 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 Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW 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 paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment Program.

If an IU enters Significant Non-Compliance (SNC), a show cause hearing may be required by the Control Authority to discuss the violations that led to SNC. At that hearing, the Control Authority may choose to issue a Notice, Order, and/or Penalty.

III. ENFORCEMENT EVALUATION

The violations and discrepancies that are identified during compliance screening will be reviewed to evaluate the type of enforcement response needed. An ERG has been developed in accordance with the Control Authority's SUR, State and Federal Regulations to assist in this evaluation and is included as Attachment A of this plan. The ERG identifies the types of responses that are appropriate based on factors concerning the nature of the violation (such as average or maximum limit; reporting late or deficient), the duration of the violation, the frequency of the violation (isolated or recurring), the potential impact of the violation, and the compliance history of the IU or SIU. The ERG assists in this evaluation reflecting the following concepts:

- (1) The Control Authority must review and respond to violations of Pretreatment Requirements.
- (2) The Control Authority will notify the Industrial User when a violation is found.
- (3) For most violations, the Control Authority will receive an explanation and, as appropriate, a plan from the IU to correct the violation within a specified time.
- (4) If the violation(s) persist(s) or the explanation and the plan are not adequate, the Control Authority's response will become more formal and commitments (or schedules, as appropriate) for compliance will be established in an enforceable document.
- (5) The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after taking initial action. (See Attachment B, Administrative Penalty Matrix).

The enforcement responses are divided into informal responses and formal responses:

- (1) Informal actions include:
 - ✓ Informal Documented Correspondence to Industrial Users (e-mail, letter, phone call)
- (2) Formal actions include:
 - ✓ Notice of Violation (NOV)
 - ✓ Notice of Significant Non-Compliance (SNC)
 - ✓ Show Cause Hearing (SCH)
 - ✓ Consent Orders (CO) and Administrative Orders (AO)
 - ✓ Compliance Schedules
 - ✓ Administrative penalties
 - ✓ Civil suit for injunctive relief and/or civil penalties and damages
 - ✓ Criminal prosecution
 - ✓ Termination of services (revoking permit or authorization letter)

IV. PENALTY CALCULATION RATIONALE

In accordance with the authority vested in the Publicly Owned Treatment Works' (POTW) under the SUR, the civil penalty calculation shall be based upon a documented record of non-compliance of a State or Federal Rule or Regulation, Standard, Permit, or the SUR. The civil penalty may be included in an Order issued by the Control Authority.

The penalty range and amount are derived with consideration of the following factors:

- 1. Degree of harm or potential for harm (PFH) to the public health, safety, or the environment,*
- 2. Extent of deviation (EOD) from the requirements of the Statute, Regulation, Standard or Permit,*
- 3. Frequency or duration of the violation,*
- 4. Economic benefit as a result of non-compliance,*
- 5. Cost of restoration of the environment or abatement of the environmental harm,*
- 6. Past performance record or history of non-compliance,*
- 7. Degree of willfulness or negligence.*

NOTE: It is recommended that a civil penalty assessment rationale be developed for each enforcement action for which a civil penalty over \$1,000 is assessed.

The Control Authority reserves the right to issue an Order or Notice with a statutory maximum penalty of \$2,000 per violation per day.

Penalties for long-lasting and/or continuing violations (such as, but not limited to unauthorized discharges or poor operation and maintenance) and recovery of economic benefit, when determined, may be assessed per occurrence, per week, or per month.

Stipulated penalties may be used when appropriate. The POTW may escalate enforcement actions and increase penalty amounts to encourage compliance and ensure efficiency of operation during upgrades.

STEPS FOR CALCULATING A CIVIL PENALTY (FOR SNC VIOLATIONS)

STEP 1

Confirm all the pertinent facts of the alleged violation(s) with appropriate personnel.

STEP 2

Calculate the Economic Benefit derived by the responsible party for non-compliance, if applicable.

[NOTE: This calculation can only be done using reasonable capital and operational cost estimates assuming that the installation/proper maintenance/licensing of the required equipment or personnel; or proper installation/construction; or appropriate sampling; or site remediation/protection/registration would have allowed the IU to achieve compliance with the applicable regulations. This information may not be available prior to the initial enforcement conference and the penalty would need to be adjusted upward at a later date to include this penalty component.]

STEP 3

Determine whether the IU has had previous Orders for the same violation to provide for a Violation Reoccurrence Factor (Repeat Violator). For a second offense violation within a three-year period, the higher end of the Gravity Range should be considered.

STEP 4 (Gravity Range)

Calculate the penalties for each violation with consideration of the SUR and "Penalty Matrix."

STEP 4a

Determine an appropriate degree of "Potential for Harm" to human health or the environment.

STEP 4b

Determine the appropriate degree of the "Extent of Deviation" from the applicable statute or regulation.

STEP 4c

Select the applicable penalty range from the "Administrative Penalty Matrix". (Attachment B)

STEP 4d

Determine the amount of penalty from the penalty range by evaluating the criteria for the number of violation occurrences. (e.g., Is this the first violation this year or third?)

STEP 4e

Repeat the steps for each relevant violation during the enforcement period.

STEP 5

Calculate the Total Gravity Range adding all the violation gravity ranges together.

[Note: The penalty may be adjusted upward to address additional violations in excess of those on which the Total Gravity Range was calculated and/or the documented demonstration of un-cooperativeness, i.e., unjustified delays in preventing, correcting, or

mitigating violations, violations of previous orders, failure to provide timely or complete information, etc.]

STEP 6

Determine additional "Adjustment Factors":

1. Degree of cooperation or good faith efforts (0-90%)
2. Measures taken to prevent reoccurrence (0-90%)

Maximum Adjustment Allowed = (90%)

[Note: Consideration of these factors allow for the downward adjustment of the total penalty amount calculated]

STEP 7

The Total Civil Penalty settlement amount is based upon the following formula:

TOTAL CIVIL PENALTY = Economic Benefit (as is or adjusted) + **Total Gravity Range** (as is or adjusted) - additional **Adjustment Factors** (from STEP 6).

V. ADMINISTRATIVE PENALTY MATRIX (Attachment A)

This Administrative Penalty Matrix is used to determine the Gravity Range penalty range for violations. Each violation cited should be run through the Administrative Penalty Matrix to determine the Total Gravity Component of the penalty. Potential for Harm (PFH) means the potential for harm to the WWTP, human health, or the environment (in the event of Pass Through). Extent of Deviation (EOD) is pertaining to the degree that the IU deviates from the relevant requirement, statute, or regulation.

ATTACHMENT A

ENFORCEMENT RESPONSE GUIDE

(ERG)

ATTACHMENT A

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE GUIDE (ERG)

UN-PERMITTED DISCHARGE (NO PERMIT)						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
Unpermitted Discharge	Discharge Unknown to IU No Harm to POTW or Environment PFH - Minor EOD - Minor to Moderate	<u>Any of the following:</u> Notice of Violation (NOV) with or without Penalty, Show Cause Hearing (SCH), or Consent Order (CO) \$100 - \$800/Day	Within 15 days	IPS	Submit Industrial Waste Survey (IWS) within 30 days	<u>Any of the following:</u> SCH, CO, Administrative Order (AO) with Penalty
	Discharge Unknown to IU Harm to POTW or Environment PFH - Moderate to Major EOD - Moderate to Major	<u>Any of the following:</u> NOV with Penalty, SCH, AO with Penalty, or Emergency Suspension of Service (ESS) \$800 - \$2000/Day	Immediate	IPS	Halt Discharge immediately, Submit IWS <u>and</u> Written Explanation within 15 days.	<u>Any of the following:</u> ESS, Termination of Service (TOS), Criminal Investigation (CI), or Civil Litigation (CL)
	Discharge Known to IU No Harm to POTW or Environment PFH - Minor EOD - Minor to Moderate	NOV with or without Penalty \$100 - \$800/Day	Within 15 days	IPS	Halt Discharge immediately, Submit IWS <u>and</u> Written Explanation within 15 days	<u>Any of the following:</u> SCH, CO, AO with Penalty, ESS, or TOS
	Discharge Known to IU Harm to POTW or Environment PFH - Moderate to Major EOD - Moderate to Major	<u>Any of the following:</u> NOV with Penalty, SCH, AO with Penalty, ESS, TOS, CI, or CL \$800 - \$2000/Day	Immediate	IPS	Halt Discharge immediately, Submit IWS <u>and</u> Written Explanation within 15 days	<u>Any of the following:</u> ESS, TOS, CI, or CL

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PERMIT LIMIT VIOLATION						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Permit Limit</u>	Isolated - Not Significant PFH - Minor EOD – Minor	Documented Correspondence (only if first offense) otherwise, NOV without Penalty \$100 - \$400/Day	Within 15 days	IPS	Resample <u>and</u> Submit Written Explanation within 30 days	NOV with Penalty
	Isolated - Significant (>TRC) PFH - Minor EOD - Moderate to Major	NOV with or without Penalty \$400 - \$1200/Day	Within 15 days	IPS	Resample <u>and</u> Submit Written Explanation within 30 days	<u>Any of the following:</u> NOV with Penalty, SCH, or CO
	Reoccurring - Not Significant PFH - Minor EOD – Minor	<u>Any of the following:</u> NOV with or without Penalty, SCH, or CO \$100 - \$400/Day	Within 15 days	IPS	Resample <u>and</u> Submit Written Explanation within 30 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty
	Reoccurring – Significant (>TRC) PFH - Minor to Major EOD - Moderate to Major	<u>Any of the following:</u> NOV with or without Penalty, SCH, or CO \$400 - \$2000/Day	Within 15 days	IPS	Resample <u>and</u> Submit Written Explanation within 30 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO, AO with Penalty, ESS, or TOS
	Industry in Significant Non- Compliance or Chronic Non- Compliance PFH - Minor to Major EOD - Minor to Major	SCH or CO \$100 - \$2000/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> Corrective Action Plan (CAP) within 30 days, meet for SCH (if applicable)	<u>Any of the following:</u> CO with Penalty, AO with Penalty, ESS, or TOS

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REPORTING VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Reporting</u>	DMR is Improperly Signed or Certified - Isolated Event PFH - Minor EOD - Minor	Documented Correspondence (only if first offense) otherwise, NOV with or without Penalty \$100-\$400/Day	Within 15 days	IPS	Re-submit DMR <u>with</u> Written Explanation within 5 days	NOV with Penalty
	DMR is Improperly Signed or Certified – Reoccurring PFH - Minor EOD - Minor to Moderate	NOV with or without Penalty \$100 - \$800/Day	Within 15 days	IPS	Re-submit DMR <u>with</u> Written Explanation within 5 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty
	Late DMR or Report (<5 days late) PFH - Minor EOD – Minor	Documented Correspondence (only if first offense) otherwise, NOV with or without Penalty \$100-\$400/Day	Within 15 days	IPS	Submit DMR or Report <u>with</u> Written Explanation within 5 days	NOV with Penalty
	Late DMR or Report (>5 days late) PFH - Minor EOD – Moderate	NOV with or without Penalty \$50 - \$400/Day	Within 15 days	IPS	Submit DMR or Report <u>with</u> Written Explanation within 5 days	NOV with Penalty
	Late DMR or Report (> 30 days or more) PFH - Minor EOD - Moderate to Major	NOV with Penalty \$400-\$1200/Day	Within 15 days	IPS	Submit DMR or Report <u>with</u> Written Explanation within 5 days	<u>Any of the following:</u> SCH, CO, or AO with Penalty
	Late DMR or Report (> 45 days or more - SNC) PFH - Minor EOD - Major	<u>Any of the following:</u> SCH, CO, or AO with Penalty \$800-\$1200/Day	Within 15 days	IPS	Submit DMR or Report <u>with</u> Written Explanation within 5 days	ESS or TOS

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REPORTING VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Reporting</u>	Failure to Report Spill No Known Harm to POTW or Environment PFH - Moderate to Major EOD - Moderate to Major	NOV with or without Penalty \$400 - \$1200/Day	Within 15 days	IPS	Submit Written Explanation within 5 days <u>with</u> CAP <u>and</u> Spill Control Plan (as necessary) within 10 days	<u>Any of the following:</u> SCH, CO, or AO with Penalty
	Failure to Report Spill Harm to POTW or Environment PFH - Moderate/Major EOD - Moderate/Major	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty \$800 - \$2000/Day	Immediate	IPS	Submit Written Explanation within 5 days <u>with</u> CAP <u>and</u> Spill Control Plan (as necessary) within 10 days	<u>Any of the following:</u> SCH, AO with Penalty, ESS, TOS, CI, or CL
	Falsification PFH - Moderate to Major EOD - Major	<u>Any of the following:</u> SCH, AO with Penalty, ESS, TOS, CI, or CL \$1200 - \$2000/Day	Immediate	IPS	Submit Written Explanation <u>and</u> CAP within 5 days	<u>Any of the following:</u> ESS, TOS, CI, or CL

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MONITORING VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Monitoring</u>	Failure to Monitor Pollutants as Required by Permit - Isolated Event (SNC) PFH - Minor EOD – Minor	NOV with Penalty, SCH, CO \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO with Penalty, or AO with Penalty
	Failure to Monitor Pollutants as Required by Permit - Reoccurring (SNC) PFH - Minor to Moderate EOD – Moderate	NOV with Penalty, SCH, CO \$400 - \$1200/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO with Penalty, AO with Penalty, ESS, or TOS
	Failure to Resample After a Permit Violation - <u>Isolated Event</u> PFH - Minor EOD – Minor	<u>Any of the following</u> NOV with or without Penalty \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	NOV with Penalty
	Failure to Resample After a Permit Violation - Reoccurring PFH - Minor to Moderate EOD – Moderate	NOV with Penalty, SCH, or CO with Penalty \$400 - \$1200/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> SCH, AO with Penalty, ESS, or TOS

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MONITORING VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Improper Sampling</u>	Not Intentional PFH - Minor to Moderate EOD - Minor to Moderate	NOV with or without Penalty \$100 - \$1200/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with or without Penalty, SCH, CO, or AO with Penalty
	Evidence of Intent PFH - Moderate to Major EOD - Moderate to Major	<u>Any of the following</u> SCH, CO, AO with Penalty, or ESS \$800 - \$2000/Day	Immediate	IPS	Submit Written Explanation <u>and</u> CAP within 5 days	<u>Any of the following:</u> ESS, TOS, CI, or CL
<u>Failure to Install Monitoring Equipment</u>	Delay of Less Than 30 days PFH - Minor EOD - Minor	NOV with or without Penalty \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty
	Delay of 30 days or more PFH - Minor to Moderate EOD - Moderate to Major	<u>Any of the following</u> NOV with Penalty, SCH, or CO \$400 - \$1600/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> SCH, CO, AO with Penalty, or ESS

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MONITORING VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Failure to Report Additional Monitoring</u>	Isolated Event PFH - Minor EOD - Minor	NOV with or without Penalty \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with or without Penalty, SCH, CO, or AO with Penalty
	Reoccurring PFH - Minor EOD - Moderate	NOV with Penalty \$400 - \$800/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO, AO with Penalty, or ESS
OTHER VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Failure to Properly Operate & Maintain Pretreatment Facility</u>	Isolated Event (with no affect upon discharge quality) PFH - Minor EOD - Minor	<u>Any of the following:</u> Informal Documented Correspondence; NOV with or without Penalty \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty
	Reoccurring PFH – Minor EOD – Moderate	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with penalty \$400 - \$800/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> SCH, CO, AO with Penalty, ESS, or TOS

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OTHER VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Failure to Renew Permit</u>	Failure to Submit Permit Application When Due ≤30 days PFH - Minor/EOD - Minor >30 days PFH - Minor/EOD Moderate >60 days PFH - Minor /EOD – Major	NOV with or without Penalty \$100 - \$400/Day \$400 - \$800/Day \$800 - \$1200/Day	Within 15 days	IPS	Submit Industrial Waste Survey (IWS) <u>and</u> Written Explanation within 30 days	<u>Any of the following:</u> NOV with Penalty, SCH, AO with Penalty, ESS, or TOS
<u>Entry Denial</u>	Isolated or Reoccurring PFH - Minor EOD – Moderate	Obtain Warrant and Return with or without Penalty \$400 - \$800/Day	Immediate	ED	Submit Written Explanation within 10 days	<u>Any of the Following:</u> ESS, TOS, CI, or CL
<u>Inadequate Record Keeping</u>	Inspection Results in Incomplete or Missing Documents PFH - Minor EOD - Minor	<u>Any of the following:</u> Informal Documented Communication of deficiency, NOV with or without Penalty \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the Following:</u> NOV with Penalty, SCH, CO, or AO with Penalty
	Reoccurring Violation of Above PFH - Minor EOD - Moderate	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty \$400 - \$800/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 15 days	<u>Any of the following:</u> SCH, AO with Penalty, ESS, or TOS
<u>Illegal Discharge</u>	Isolated PFH - Minor to Major EOD - Moderate to Major	<u>Any of the following:</u> NOV with Penalty, SCH, CO, or AO with Penalty \$400 - \$2000/Day	Immediate	IPS	Halt Discharge immediately, Submit Written Explanation <u>and</u> CAP within 5 days	<u>Any of the following:</u> SCH, AO with Penalty, ESS, TOS, CI, or CL
	Reoccurring PFH - Moderate to Major EOD - Moderate to Major	SCH or AO with Penalty \$800 - \$2000/Day	Immediate	IPS	Halt Discharge immediately, Submit Written Explanation <u>and</u> CAP within 5 days	<u>Any of the following:</u> ESS, TOS, CI, or CL

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE GUIDE (ERG)

OTHER VIOLATIONS						
VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Violation of Administrative or Consent Order Requirements</u>	Isolated or Reoccurring PFH - Minor to Major EOD - Moderate to Major	<u>Any of the following:</u> NOV with Penalty, SCH, AO with Penalty, ESS, TOS, CI, or CL \$400 - \$2000/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 10 days	<u>Any of the Following:</u> Penalty, ESS, TOS, CI, or CL
<u>Failure to Meet Compliance Schedules</u>	Missed Milestone (<30 days) with acceptable explanation; <u>Will Not Affect</u> Final Milestone PFH - Minor EOD – Minor	NOV granting extension without Penalty \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 10 days	NOV with Penalty
	Missed Milestone (>30 days) with acceptable explanation; <u>Will Affect</u> Final Milestone PFH - Minor EOD – Minor	<u>Any of the Following:</u> NOV with or without Penalty, SCH, or CO \$100 - \$400/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 10 days	<u>Any of the Following:</u> NOV with Penalty, SCH, CO, or AO with Penalty
	Missed Milestone (>30 days) with <u>NO</u> acceptable explanation <u>Will Affect</u> Final Milestone PFH - Minor EOD – Moderate	<u>Any of the Following:</u> NOV with Penalty, SCH, CO, or AO with Penalty \$400 - \$800/Day	Immediate	IPS	Submit Written Explanation <u>and</u> CAP within 10 days	<u>Any of the Following:</u> SCH, CO, AO with Penalty, ESS, or TOS

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE GUIDE (ERG)

OTHER VIOLATIONS

VIOLATION TYPE	NATURE OF VIOLATION POTENTIAL FOR HARM (PFH) EXTENT OF DEVIATION (EOD)	POTW ENFORCEMENT ACTION OPTIONS PENALTY LIABILITY RANGE	POTW TIME FRAME	POTW OFFICIAL	INDUSTRIAL USER RESPONSE REQUIRED	ESCALATED ENFORCEMENT ACTION OPTIONS
<u>Violation of Permit or SUR Conditions</u>	Isolated or Reoccurring PFH - Minor to Major EOD - Minor to Major	<u>Any of the following:</u> NOV with or without Penalty, SCH, CO, AO, \$100 - \$2000/Day	Within 15 days	IPS	Submit Written Explanation <u>and</u> CAP within 30 days	<u>Any of the Following:</u> ESS, TOS, CI, or CL

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE GUIDE

Time Frames for Responses:

- A. All violations will be identified and documented within fifteen (15) days of receiving information.
- B. Initial enforcement responses [involving contact (NOV) with the Industrial User and requesting information on corrective or preventative action(s)] will occur within thirty (30) days of violation detection.
- C. Follow-up actions for continuing or re-occurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a Consent or Administrative Order schedule.
- D. Violations which threaten health, property, or environmental quality are considered an emergency and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant non-compliance will be addressed with an enforceable order within thirty (30) days of the identification of the significant non-compliance.
- F. All days are working days.
- G. All enforcement responses are subject to modification.
- H. The ED has the authorization and overall responsibility over the IPS.

Possible Enforcement Actions

- | | |
|--|---|
| 1 - Informal Documented Correspondence | 6 - Administrative Order (AO) |
| 2 - Notice of Violation (NOV) | 7 - Emergency Suspension of Service (ESS) |
| 3 – Notice of Significant Non-Compliance (SNC) | 8 - Termination of Service (TOS) |
| 4 - Show Cause Hearing (SCH) | 9 - Criminal Investigation (CI) |
| 5 - Consent Order (CO) | 10 - Civil Litigation (CL) |

Note: Consult “Penalty Calculation Rationale” in Enforcement Response Plan when determining appropriate penalty liability.

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE GUIDE

Abbreviations, Terms & Definitions

Administrative Order (AO) - An administrative order is an enforceable document issued by the Control Authority to an industrial user, person, or company to take certain corrective action regarding violation(s) to Control Authority's Industrial Pretreatment Program or Ordinances, State or Federal regulations. An administrative order is issued with a penalty.

Civil Litigation (CL) - An action taken by the Control Authority against an industrial user seeking injunctive relief, monetary penalties and/or actual damages.

Consent Order (CO) - A consent order is a voluntary agreement worked out between the Control Authority and an industrial user regarding a violation of the Control Authority's Industrial Pretreatment Program or Ordinance, State or Federal regulations. A consent order can be issued with or without a penalty.

Criminal Investigation (CI) - An action initiated through referral by the Control Authority when activities or actions by an industrial user or its employees are observed, or when information is gathered, which provides evidence of the commission of an environmental crime.

ED – Executive Director

Harm to POTW – The incremental effect of a non-domestic (industrial) discharge that results in measurable or observed damage to the collection lines, pump stations and appurtenances, or causes treatment process interference or pass through of pollutants at the wastewater treatment plant.

Informal Documented Correspondence - May be a phone call or email but must be documented. Only appropriate for Minor and isolated infractions

Isolated Event - May be one or several violations but indicates a new condition.

IPS - Industrial Pretreatment Supervisor

IU - Industrial User

IWS - Industrial Waste Survey

Notice of Violation (NOV) - A NOV notifies the IU that the Control Authority believes the IU committed one or more violations and provides instructions for how to come into compliance. A NOV can be issued with or without a penalty.

Penalty - Monetary penalty assessed by the CA as penalties allowed under the ordinance.

Reoccurring Violation – A violation for which an enforcement action was taken that re-occurs within thirty (30) to ninety (90) days following the date of completion of an approved corrective action plan designed to remedy the noncompliance addressed.

Show Cause Hearing - Formal notice to meet requiring the IU to appear and demonstrate why the CA should not take a proposed enforcement action against them. The meeting may also serve as a forum to discuss Corrective Actions and Compliance Schedules.

SNC - Significant Non-compliance

SUR - Sewer Use Resolution

ATTACHMENT B

ADMINISTRATIVE PENALTY MATRIX

ATTACHMENT B

INDUSTRIAL PRETREATMENT PROGRAM

ADMINISTRATIVE PENALTY MATRIX

		EXTENT OF DEVIATION (EOD)		
	Penalty Range*	Minor	Moderate	Major
POTENTIAL FOR HARM (PFH)	Minor	\$100 – \$400 (20%)	\$400 – \$800 (40%)	\$800 – \$1,200 (60%)
	Moderate	\$400 – \$800 (40%)	\$800 – \$1,200 (60%)	\$1,200 – \$1,600 (80%)
	Major	\$800 – \$1,200 (60%)	\$1,200 – \$1,600 (80%)	\$1,600 – \$2,000 (100%)

NOTE: Violations of the Sewer Use Resolution (SUR), Orders, permits, federal or state pretreatment program rules, or regulations, provides for maximum civil penalties in the amount of \$2,000 per day of violation.

[*Penalty ranges are derived from the percentages shown of the maximum penalty amount set forth in the SUR, state, or federal regulations.]