

# City of Nampa Wastewater Division

PRETREATMENT REGULATION ENFORCEMENT

## BACKGROUND

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The United States Code of Federal Regulations, Chapter 40, Section 403.8 f(1) and f(2) places the responsibility for enforcing the federal code and for developing and enforcing Local Limits which will ensure conformance to the applicable pretreatment standards on the holder of NPDES permit No. ID0022063, in this case, the City of Nampa Wastewater Division. It should be noted that there are no State of Idaho pretreatment standards.

The requirement of a POTW to implement and maintain an Enforcement Response Plan (ERP) as specified in the Code of Federal Regulations is as follows (40 CFR 403.8(f)(5)):

The POTW shall develop and implement an Enforcement Response Plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- (i) Describe how the POTW will investigate instances of noncompliance;
- (ii) Describe the types of escalating enforcement response the POTW will take in response to all anticipated types of Industrial Users violations and the time periods within which response will take place;
- (iii) Identify (by title) the official(s) responsible for each type of response;
- (iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8 (f)(1) and (f)(2). (403.8(f)(5))

Additionally, the purpose of these standards, as set forth in the City of Nampa Code, is as follows:

- To prevent the introduction of pollutants into the city wastewater system which would interfere with the normal operation of the system or the use and disposal of the resulting bio-solids in compliance with applicable statutes and regulations.
- To prevent the introduction of pollutants into the city wastewater system which do not receive adequate treatment in the Publicly Owned Treatment Works (POTW) and which will pass through the system into the receiving waters, the atmosphere, or otherwise be incompatible with the system.
- To improve the opportunity to recycle and reclaim wastewater and bio-solids from the POTW.
- To protect POTW personnel who may be affected by wastewater and bio-solids in the course of their employment; and to protect the general public.

The primary purpose of the enforcement response guide is to provide for timely and consistent responses to varying degrees of infractions of the pretreatment regulations.

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## DEFINITIONS

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The terms used in this document are defined as follows:

**Administrative Fine or Penalty:** A monetary fee required from an Industrial User (User) given by the Control Authority in response to defined noncompliance issues or recurring violations of the same category.

**Administrative Order (AO):** A notice to a User requiring a written response explaining the reason(s) for the noncompliance and the corrective action that will be taken to prevent any further reoccurrence. Consent Orders, Show Cause Hearings, Compliance Orders, and Cease and Desist Orders are types of Administrative Orders.

**Baseline Monitoring Report (BMR):** A report submitted by Users within 180 days after the effective date of an applicable categorical pretreatment standard—or at least 90 days before beginning discharge for new sources—that contains specific facility information, including flow and pollutant concentration data. For existing sources, the report must also certify as to the compliance status of the facility with respect to the categorical pretreatment standards.

**Best Management Practice (BMP):** A schedule of activities, prohibition of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. (40 CFR 403.3(e))

**Biochemical Oxygen Demand (BOD):** A measurement of the amount of dissolved oxygen used by aerobic microorganisms when decomposing organic matter in a given water sample at a certain temperature over a specific time period.

**Business Day or Working Day:** Every official workday of the week; the days between and including Monday through Friday and do not include public holidays and weekends. Public holidays observed include New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas.

**Categorical Pretreatment Standards:** Standards specifying the quantity, concentration, or pollutant properties of pollutants that may be discharged to POTWs. EPA promulgates pretreatment standards for specific industry categories in accordance with CWA section 307. These standards are codified in 40 CFR chapter I, subchapter N, parts 405-471. (paraphrased from 40 CFR 403.6)

**Cease and Desist Order:** An AO from the Control Authority directing a User to immediately halt any violating discharges contributing to the POTW.

**Civil Litigation:** The formal process of filing lawsuits a civil court. Responses may include, but are not limited to, civil suits for injunctive relief and/or civil penalties, criminal suits, and collection of contractual damages.

**Civil Penalty:** A monetary fee required from a User given by a court to be paid to the Control Authority as a result of Civil Litigation.

**Clean Water Act (CWA):** The primary federal law in the United States governing water pollution by regulating the discharge of pollutants into the waters of the United States and quality standards for surface waters.

**Code of Federal Regulations (CFR):** A codification of federal rules published annually by the Office of the Federal Register National Archives and Records Administration. Title 40 of the CFR contains the regulations for “Protection of the Environment.”

**Compliance Order:** An AO which gives notice to the User requiring them to take specific actions to bring them into compliance by certain date.

**Compliance Schedule:** A schedule of requirements (also called actions, operations, or milestones) that lead a User to compliance with pretreatment regulations.

**Consent Order:** An AO which forms an agreement between the Control Authority and User in which the User voluntarily agrees to return to a state of compliance through specific means by a certain date.

**Control Authority:** The POTW with an approved pretreatment program that serves Users. For purposes of this document, the Control Authority is the City of Nampa Wastewater Division.

**Corrective Notice:** an informal action presented by the City Pretreatment staff to the User that does not fit the severity of a formal Notice of Violation, but must be corrected in a timely manner designated by City Pretreatment Staff.

**Criminal Prosecution:** An action held in a court brought by the Control Authority against a violator accused of crime.

**CROMERR:** Cross-Media Electronic Reporting Rule provides the legal framework for electronic reporting under EPA’s regulatory programs (40 CFR part 3) ensuring enforceability of regulatory information collected.

**Discharge:** The introduction of pollutants into a POTW from any non-domestic source regulated under Federal Regulations, CWA, State, or Local Limits.

**Discharge Monitoring Report (DMR):** A report containing the results of self-monitoring by Users for wastewater required by NPDES Permits and submitted periodically (typically monthly, quarterly, semi-annually, or annually). The report must also certify as to the compliance status of the facility with respect to the categorical pretreatment standards.

**Enforcement Response Plan (ERP):** A crucial component of an approved POTW pretreatment program which includes step-by-step enforcement procedures developed and followed by POTW personnel to identify, document, and respond to violations by Users (paraphrased from 40 CFR 403.8(f)(5)).

**Environmental Protection Agency (EPA):** The federal agency which authorizes the NPDES permit program to perform permitting, administrative, and enforcement aspects of the NPDES program.

**General Prohibitions:** Prohibitions (as defined in 40CFR part 403.5(a)(1)) that apply to each User introducing pollutants into a POTW whether or not the User is subject to other national pretreatment standards or any national, state, or local pretreatment requirements:

- No IU may introduce into a POTW any pollutant(s) that cause pass through or interference.
- An IU may have an affirmative defense in any action brought against it alleging a violation of the General or Specific Prohibitions where the IU can demonstrate that:
  - It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and
  - A local limit designed to prevent pass through or interference (or both) was developed for each pollutant in the IU's discharge that caused pass through or interference, and the IU was in compliance with each such local limit directly before and during the pass through or interference; or
  - If a local limit designed to prevent pass through or interference or both has not been developed for the pollutant(s) that caused the pass through or interference, the IU's discharge directly before and during the pass through or interference did not change substantially in nature or constituents from the IU's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

**Good Faith:** A User's demonstrated willingness to comply with enforcement response actions by cooperation and completion of corrective measures in a timely manner.

**Idaho Department of Environmental Quality (IDEQ):** The primary regulatory agency that enforces Idaho state environmental regulations and administers a number of federal environmental protection laws. The DEQ develops and implements regulations and policies to meet federal guidelines, including those of the EPA, and is delegated the authority to enforce most of the EPA's environmental programs.

**Industrial User (IU):** A source of discharge which introduces pollutants from any non-domestic source and is regulated under the City of Nampa Pretreatment Program through a discharge permit.

**Interference:** A discharge that, alone or in conjunction with a discharge or discharges from other sources, both (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with applicable statutory provisions and regulations or permits.

**Judicial Action:** An enforcement action that involves court. This action requires consultation by the City Attorney and may include Civil Litigation or Criminal Prosecution.

**Local Limits:** Pretreatment Standards developed and enforced by the City of Nampa to implement Specific Prohibitions or General Prohibitions listed in 40 CFR 403.5(a)(1) and (b) and to prevent damage to the POTW or environment (see General Prohibitions and/or Specific Prohibitions). Local Limits concentrations are directly stated in Nampa City Code 8-9-4(A)(14).

**Idaho Pollutant Discharge Elimination System (IPDES):** A state-operated pollution discharge elimination system permitting program which helps address water pollution by regulating point sources that discharge pollutants to the waters of the United States.

**Noncompliance:** Any violation of one or more of the General Prohibitions described in the City's pretreatment ordinance and/or the conditions specified in the Wastewater Discharge Permit. Examples of noncompliance include the violation of effluent limits, missed reporting deadlines, or violations detected through sampling, inspections, or monitoring.

**Notice of Violation (NOV):** Formal notification to the User that they have violated their Permit or City Code, hand delivered, sent through certified mail, or submitted through an EPA approved electronic documents software.

**NPDES Permit or Permit:** A permit issued to a POTW pursuant to section 402 of the CWA; A license for a facility to discharge a specified amount of a pollutant into a receiving water under certain conditions. Permits may also authorize facilities to process, incinerate, landfill, or beneficially use sewage sludge.

**Pass Through:** A discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation). (40 CFR Part 403.3(p))

**pH:** A measure of the level of acidity or alkalinity of a substance. Regulations prohibit discharges with a pH lower than 6.0 and any pH above 9.0 unless the POTW is specifically designed to accommodate such discharges due to corrosion concerns.

**Plant Superintendent:** The individual who is assigned responsibility over the operation of the POTW. This person may also be referred to as the Wastewater Superintendent.

**Pollutant:** Any form of various chemicals, substances, and refuse materials which impair the purity of the water and soil. Examples include, solid waste, garbage, sewage or sewage sludge, chemical waste, biological materials, and industrial, municipal, or agricultural wastes.

**Pretreatment:** The reduction, elimination, or alteration of properties of pollutants in wastewater prior to discharging or introduction into a POTW through physical, chemical, or biological processes, except for that of dilution unless allowed by applicable pretreatment standards.

**Pretreatment Standard:** Any regulation containing pollutant discharge limits promulgated by the EPA which applies to Users. (See Categorical Pretreatment Standard)

**Publicly Owned Treatment Works (POTW):** A treatment works owned by a state or municipality, including systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances which convey wastewater to the POTW.

**Show Cause Hearing:** An AO requiring a User to meet with the Control Authority to give the reasons for noncompliance and discuss why further enforcement action(s) should not be taken.

**Significant Industrial User (SIU):** According to 40 CFR 403.3(v)(1) the term means:

- i. All Industrial Users subject to Categorical Pretreatment Standards; and
- ii. Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.

**Significant Noncompliance (SNC):** According to 40 CFR 403.8(f) (2) (viii)(A-H) SNC is any Industrial User violations that meet 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;
- (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, 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 (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 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.

**Specific Prohibitions:** Prohibitions (as defined in 40CFR part 403.5(b) and Nampa City Code 8-9-4(A)) that apply to each IU introducing pollutants into a POTW regardless of whether the IU is subject to other national pretreatment standards or any national, state, or local pretreatment requirements. The following pollutants must not be introduced into a POTW:

- 1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction, to cause fire or explosion or be injurious in any other way to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit of the meter. No waste stream having a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140°F) (60°C) using the test methods specified in 40 CFR 261.21 is allowed to be discharged to the POTW.
- 2) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system.
  - a. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred milligrams per liter (100 mg/l), for nonbiodegradable (mineral) fats, oils and greases or in excess of two hundred fifty milligrams per liter (250 mg/l) for biodegradable (nonmineral) fats, oils and greases, or containing substances which may solidify or become viscous at temperatures between thirty two degrees (32°) and one hundred fifty degrees Fahrenheit (150°F) (or 0° and 65°C).
  - b. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths ( $\frac{3}{4}$ ) horsepower (0.76 hp metric) or greater, shall be subject to the review and approval of the superintendent.
  - c. Any pretreatment sludges and spent chemicals generated shall be disposed of in accordance with section 405 of the clean water act and subtitles C and D of the resource conservation and recovery act.
- 3) Any wastewater having a pH less than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system, such as, but not limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine.
- 4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in the categorical pretreatment standards, as promulgated, which is hereby adopted by reference.
- 5) Any noxious or malodorous liquids, gases, or solids which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- 6) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act; any criteria, guidelines, or regulations affecting sludge use on disposal developed pursuant to the solid waste disposal act, the clean air act, the toxic substances control act, or State standards applicable to the sludge management method being used.)
- 7) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.
- 8) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life.

- 9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (66°C), or having temperatures sufficient to cause the influent to the treatment plant to exceed one hundred four degrees Fahrenheit (104°F) (40°C) unless the approval authority, upon the request of the City, approves the alternate limits.
- 10) Any pollutant released in such strength or volume as to cause interference in the treatment plant.
- 11) Any unpolluted water including, but not limited to, noncontact cooling water, unless approved by the Board of Sewer Appraisers.
- 12) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by the City in compliance with applicable State or Federal regulations.
- 13) Any wastewater which causes a hazard to human life or creates a public nuisance. (Ord. 3765, 12-17-2007)
- 14) Any waters or wastes containing heavy metals and similar objectionable or toxic substances to such a degree that any such material received in the composite sewage at the point of discharge exceeds the Local Limits stated in Nampa City Code 8-9-4(A)(14). All concentrations for metallic substances are for "total" metal unless indicated otherwise. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit shall apply
- 15) Truck or hauled pollutants, except at discharge points designated by the City and in accordance with this section.
- 16) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent.
- 17) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.
- 18) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- 19) Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- 20) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- 21) Any wastewater, which in the opinion of the Superintendent can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Superintendent (except that no special waiver shall be given from categorical pretreatment standards).
- 22) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage or other wastewater unless said person has first obtained testing and approval as may be generally required by the city of Nampa and paid all fees assessed for the privilege of said discharge.
- 23) Persistent pesticides and/or pesticides regulated by the federal insecticide fungicide rodenticide act (FIFRA).

- 24) Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
- 25) Pollutants which result in the presence of toxic gases, vapors or fumes within in the POTW in a quantity that may cause acute worker health and safety problems.
- 26) Any hazardous waste as defined in rules published by the state of Idaho or in 40 CFR part 261.
- 27) Sewage sludge, except in accordance with the city's NPDES permit, providing that it specifically allows the discharge to surface waters of sewage sludge pollutants.

**Surcharge:** An additional fine paid as part of an Administrative Fine by any User discharging wastewater that has pollutants in excess of limit requirements established by the Control Authority to assist in covering costs for treating the excess wastewater.

**Technical Review Criteria (TRC):** A factor equal to 1.4 for BOD, TSS, Fats, Oil and Grease or equal to 1.2 for all other pollutants except pH which is used to determine whether a Technical Review Criteria Violation has occurred.

**Total Suspended Solids (TSS):** The total dry-weight of undissolved suspended particles in a sample of water, wastewater, or other liquid that can be trapped by a filter.

**Upset:** An exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards due to factors beyond reasonable control of the User. The term "Upset" does not include noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

**User:** Any person or entity who contributes wastewater into the POTW. For the purposes of this document, the term "User" shall refer to both Industrial Users (IU) and Significant Industrial Users (SIU) as described above.

**Volatile Suspended Solids (VSS):** A water quality measurement obtained from the loss on ignition of total suspended solids. The greater the concentration of volatile solids, the stronger the wastewater.

**Wastewater Discharge Permit:** A document issued by the City of Nampa to Users granting them authorization to discharge wastewater to the POTW. The Permit may contain applicable pretreatment standards and requirements and may also be referred to as a "Waste Acceptance Permit."

## LIST OF ACRONYMS

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The acronyms used in this document include the following:

<b>AO:</b>	Administrative Order
<b>BOD:</b>	Biochemical Oxygen Demand
<b>CWA:</b>	Clean Water Act
<b>DMR:</b>	Discharge Monitoring Report
<b>EPA:</b>	Environmental Protection Agency
<b>ERP:</b>	Enforcement Response Plan
<b>IDEQ:</b>	Idaho Department of Environmental Quality
<b>IU:</b>	Industrial User
<b>NOV:</b>	Notice of Violation
<b>NPDES:</b>	National Pollution Discharge Elimination System
<b>POTW:</b>	Publicly Owned Treatment Works
<b>SIU:</b>	Significant Industrial User
<b>SNC:</b>	Significant Noncompliance
<b>TRC:</b>	Technical Review Criteria
<b>TSS:</b>	Total Suspended Solids
<b>VSS:</b>	Volatile Suspended Solids

# 1 ENFORCEMENT RESPONSE PROCEDURES

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This enforcement guide offers specific direction for the City's response to issues of noncompliance for Industrial Users. The following sections address the types of noncompliance and factors determining which enforcement response is used.

## 1.1 TYPES OF NONCOMPLIANCE

### 1.1.1 Noncompliance

A User is in a state of noncompliance when they fail to meet the General Pretreatment Regulations requirements (40 CFR Part 403), state requirements, Local Limits, or specific requirements identified within their industrial user agreement. Most cases of noncompliance that are not significant are:

- i) First time or infrequent violations of enforcement limits, reporting requirements, or other permit requirements that may be identified during an inspection, except violations that would constitute significant noncompliance as delineated below.
- ii) Minor deficiencies in the submittal of information or reports, which in and of themselves do not constitute significant noncompliance.
- iii) It is the aim of the Control Authority to resolve cases of noncompliance through lower levels of regulation enforcement and to increase the severity of enforcement only in cases when the issue remains unresolved, worsens, or reoccurs frequently. The level of enforcement action may continue to escalate until the noncompliance issue transitions into a state of SNC.

### 1.1.2 Significant Noncompliance (SNC)

At a minimum, and except as provided within the definition, one or more of the criteria listed in the definition for SNC shall constitute SNC (40 CFR 403.8(f)(2)(viii)(A-H)). The Industrial Pretreatment Coordinator or Control Authority reviews violations that meet one or more of these criteria on a case-by-case basis.

Dischargers who have been in SNC must be listed in the newspaper. The list must be published at least annually as required by 40 CFR 403.8(f)(2)(viii). EPA guidance indicates that the act of publishing a list of significant violators may be used by the POTWs as a deterrent to continued noncompliance (EPA 1989). The list of dischargers who are in SNC is published in the local newspaper with the largest circulation. Federal regulations require the public notice to contain the names of significant violators and an accompanying statement regarding the violations during the previous twelve months (40 CFR 403.8(f)(2)(viii)). However, EPA states that the public notice may also include additional information such as duration of violation, type and severity of violation, compliance action taken (if any), whether the User is currently complying with a compliance schedule, and whether the User has returned to compliance (EPA 1989).

## 1.2 FACTORS OF ENFORCEMENT RESPONSE

The levels of enforcement action within the Pretreatment Program are dependent upon several factors. The way in which the following factors are evaluated will determine which level of enforcement action is taken. It is important to be consistent when using these factors to determine the enforcement response for noncompliance. More information on the following factors is presented below:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the receiving waters
- Effect of the violation on the POTW
- Compliance history of the User
- Good faith of the User

### **Magnitude of Violation**

An initial enforcement response for most instances of noncompliance will be a site visit, telephone call, e-mail, or a warning letter that informs the discharger of the nature of the violation, and the consequence of a failure to correct the deficiency. For a given category of violation, the Control Authority may need to decide if the violation constitutes SNC as defined by 40 CFR 403.8(f)(2)(viii) and as defined herein. Since an isolated violation could threaten public health and the environment, damage public and private property, or threaten the integrity of the City's Pretreatment Program, IDEQ recommends that the Control Authority respond to any SNC with an enforceable order that requires the User to return to compliance by a specific date.

### **Duration of Violation**

Violations (regardless of severity) that continue over prolonged periods of time will subject the User to escalated enforcement actions. The Control Authority's enforcement policies are designed to result in a User's return to compliance.

### **Effect on Receiving Water**

Industrial User noncompliance might adversely affect receiving waters. Environmental harm should be presumed whenever an industry discharges a pollutant into the sewer system that:

- Passes through the POTW
- Causes interference with the POTW processes
- Causes a violation of the POTW's NPDES Permit
- Has a toxic effect on the receiving water

### **Effect on POTW**

Some violations may have negative impacts on the POTW itself. For example, they may result in:

- Increases in treatment costs
- Interference with or harm to POTW personnel, equipment, processes, or operations
- Causes an exceedance in a Biosolids limit or otherwise limits its beneficial reuse

These violations should be met with formal enforcement action in the form of an Administrative Fine, a Compliance Order to correct the violation, and recovery of costs incurred by the Control Authority.

In other cases, a User's discharge may cause any of the following:

- Upset of the POTW
- Damage the collection system
- Obstruction or explosion

- Additional expenses

The POTW's response will include cost recovery, civil penalties, and a Compliance Order to encourage the User to return to compliance.

### **Compliance History**

More aggressive enforcement actions should normally be taken against Users who frequently exceed numerical pretreatment standards compared to those that report isolated violations unless the isolated violations are significant. Review meetings or a written NOV should seek specific explanations of the cause of the frequent exceedances. If inadequate operating practices are found to be the cause, the Industrial Pretreatment Coordinator and/or City personnel should seek specific commitments and deadlines to improve operating practices. If additional treatment is required, an enforceable compliance schedule should be issued to the industrial facility.

### **Evaluating in Good Faith**

If a User appears to be acting in good faith to comply with pretreatment requirements, enforcement actions should begin on a cooperative level. Generally, a User's demonstrated willingness to comply should predispose the Pretreatment Personnel to select less stringent enforcement actions if possible. "Good Faith" is typically demonstrated by cooperation and completion of corrective measures in a timely manner.

Additionally, the Control Authority will be aware that the CWA requires extraordinary efforts to comply with its requirements in a timely manner. Good Faith shall be measured against this standard. Congress clearly expresses the efforts that are expected in the following:

The CWA requires industry to take extraordinary efforts if the vital and ambitious goal of the congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and in many cases, expensive pollution control measures must be incited and completes as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this act, that administrative and judicial reviews are sought on the discharger's own time. (U.S. Congress 1978, p. 468)

Thus, if a facility challenges a permit, contract, or applicable pretreatment standard and delays progress toward compliance, the facility assumes the risk that the permit, contract, or standard will be upheld on judicial review. If the facility begins aggressively to come into compliance only after a decision is made adverse to its interests, it cannot be considered to have acted in good faith. Likewise, if a facility follows business-as-usual procedures, it cannot be considered to have acted in good faith.

## **1.3 SNC FOR ADDITIONAL LIMITS**

The following procedures are used to calculate Chronic violations for SNC determinations for Users who have not only 1-day limits, but also 30-day limits. At the end of each month, each limit will be recorded as being either in or out of compliance for each parameter measured.

### **1.3.1 SNC due to Chronic Violations**

Chronic violations of wastewater Discharge limits, defined by 40 CFR 403.8(f)(2)(viii)(A) 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.

### 1.3.2 SNC using Technical Review Criteria (TRC)

At the end of each month, all lab data is compared against the Permit 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). For each limit, if the out of compliance periods equal 33% or more for the previous 6-month period, the User will be considered in a state of SNC as defined by 40 CFR 403.8(f)(2)(viii)(B).

## 2 ENFORCEMENT RESPONSE GUIDE

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This Enforcement Response Guide contains tools used to determine the appropriate responses to noncompliance issues with uniform application on a case-by-case basis. The following section outlines a general list of steps to be applied to all enforcement response and provides a range of response actions by category and severity.

Additionally, these responses are grouped into levels (resembling the stages of enforcement response) and tables are provided listing noncompliance issues, their respective response level, recommended action, and several other criteria. This section also addresses fines and penalties through a table which lists violations and the fines associated with the number of recurrences.

**Note:** These guidelines do not preclude assessing the maximum penalty of \$1,000 (per day per violation) or Permit Revocation in instances where the Plant Superintendent and/or Public Works Director see fit.

The time frame used to determine the proper enforcement level with a penalty will be a six (6) month rolling average like that used to determine SNC. Only the most recent six (6) month period will be used in these determinations. Nothing in these guidelines prevents the City of Nampa from going back beyond six months for any enforcement activity whether civil, criminal, or otherwise.

### 2.1 RECOMMENDED STEPS FOR ENFORCEMENT ACTION

The goal of these steps is to ensure that a uniform procedure for addressing noncompliance issues and selecting appropriate response actions is applied to all cases. The following list outlines a series of recommended steps that should be taken when any User is found to be in violation of any State standards, Local Limits, Pretreatment Regulations, or their permit:

- 1) Identify Noncompliance:
  - (A) Category
  - (B) Type
  - (C) Magnitude
  - (D) Duration
  - (E) Effect on receiving waters
  - (F) Effect on POTW
  - (G) Date(s) of occurrence
- 2) Determine if the noncompliance classifies as SNC.
  - If SNC, inform IDEQ of all enforcement actions.
- 3) Identify required personnel:
  - (A) Initiating personnel
  - (B) Authorizing personnel
- 4) Evaluate User historical record:
  - (A) Compliance history of the User
  - (B) Discharge Monitoring Report Summaries
  - (C) Good faith of the User

- 5) Determine appropriate enforcement action to be applied.
- 6) Notify the violating User of the issue by appropriate means.
- 7) Where applicable, require the User to:
  - (A) Identify the cause of the violation and report on the cause;
  - (B) Correct the violation and report on corrective action(s);
  - (C) Establish a date or dates by which the above corrective measures are to be completed;
  - (D) Re-sample all parameters in violation to demonstrate compliance within 30 days.
- 8) Review the User's response within five business days.
  - User response is required within five business days of notification of violation.
- 9) Determine appropriate next steps.
- 10) Apply escalated enforcement action(s) if User fails to return to compliance.

In order to retain accurate recordkeeping, the Control Authority will keep a well-documented record of all actions taken during all the above steps. Detailed records of enforcement response actions are necessary to develop User compliance history, inform responsible personnel regarding actions taken, and measure the effectiveness of this enforcement response guide.

## 2.2 RESPONSE TIME & ACTIONS

The following section identifies response times required for Discharge Monitoring Reports, self-monitoring, compliance reports, and follow up actions from the Control Authority. Emergency response times are also discussed and responses for self-reporting failures are addressed.

### **Discharge Monitoring Reports**

In cases where the Control Authority is conducting sampling and generating compliance data, Discharge Monitoring Reports (DMR) shall be generally sent out on a weekly basis to applicable SIU's. These reports contain up-to-date discharge information and constitute an inform enforcement action in cases of enforcement limit violations. It is the responsibility of the industry to have an authorized representative review this report and note any permit violations (enforcement limits, etc.) and address the cause(s) of the violations. It is the responsibility of the Industrial Pretreatment Coordinator to submit recommendation for formal enforcement action to the Wastewater Superintendent by the 10<sup>th</sup> of the following month. City Personnel will initiate the appropriate enforcement action usually within 30 days, but no later than 90 days upon receiving the Industrial Pretreatment Coordinator's recommendation(s) concerning formal enforcement action(s).

### **Self-Monitoring**

In the case where a User is conducting self-monitoring and generating associated compliance monitoring reports, these reports are due by the 10<sup>th</sup> of the following month.

### **Compliance Reports**

All compliance reports will be reviewed and an evaluation of compliance status made within 10 days upon receipt by the Industrial Pretreatment Coordinator. If, after the evaluation, one or more enforcement actions are deemed necessary, the following time frames for the initial enforcement should apply:

- If the violation is derived from a User report that is received by its due date, a 30-day period for initial enforcement action begins on the date when determination of noncompliance is made upon evaluation of the report.
- If a report is not received by its due date, the 30-day trial period shall begin upon discovery of the violation by evaluation of the report, but any report received more than five days late shall in itself constitute an actionable violation, as delineated in the Enforcement Response Guide. If the violation is found through an inspection or some other means, the 30-day period begins on the date the Industrial Pretreatment Coordinator or other responsible personnel acquire knowledge of the violation.

Any violations meeting the criteria for SNC will generally be addressed with an AO within 30 working days of the identification as SNC.

## **Follow Up Actions**

After initial enforcement action has been taken, it is essential that follow-up action be taken to determine the effectiveness of the initial enforcement action. If the initial enforcement brought about the desired result, the follow-up action could simply entail a confirmation letter to this effect. If, on the other hand, the initial enforcement action did not achieve the desired result, more stringent follow-up actions will be taken.

Follow-up response time begins on the compliance date specified in the initial action. The duration of the response time varies based on chosen follow-up action. By way of an example, if the initial enforcement action were an NOV, the user would be required to submit a response within 5 workdays. The follow-up action to the user response or failure to respond would be initiated after that 5-day period. The following deadlines are the outer limit of enforcement response times. Depending on the situation, a quicker response may be necessary.

Follow-up actions may include:

- A NOV issued within 5 business days
- An AO sent certified mail or hand delivered within 30 calendar days.
- Notice of Compliance Status Review Meeting sent certified mail or hand delivered within 30 calendar days.
- Seek Administrative Fines within 30 calendar days.
- Seek Civil Penalties within 30 calendar days.
- Contact City Attorney for possible Civil Litigation and/or Criminal Prosecution within 30 calendar days.
- Initiate Termination of Service within 30 calendar days.
- Initiate Revocation of Permit within 30 calendar days.

## **Emergency Response**

Certain events are considered emergencies and will receive immediate responses such as halting the discharge or termination of service. These events are typically characterized by circumstances that:

- Threaten health or environmental quality.
- Cause (or threaten to cause) interference to the POTW.
- Cause the Control Authority to violate any condition of its NPDES permit.

## **Failure to Self-Report**

In cases when noncompliance events occur, it is the responsibility of the User to inform the Control Authority of the events at the time of first discovery. Examples may include spills, upsets, or effluent in violation of discharge requirements. Failure to report a noncompliance event(s) constitutes a violation and will result in fines and/or an NOV.

Additionally, Users are responsible for informing the Control Authority of any violations or failure to meet effluent limit criteria and shall clearly indicate any noncompliance areas in the submission of monitoring reports. If the Control Authority reviews the data presented in a DMR in which the User has

not clearly indicated noncompliance and discovers effluent criteria violation(s), the User will be subject to fines and/or an NOV.

## 2.3 RANGE OF ENFORCEMENT ACTIONS

The following enforcement actions are available to the Control Authority to be used as needed at various response levels. The following enforcement actions range from informal notices to more stringent service restrictions.

### 2.3.1 Corrective Notice

A Corrective Notice is an informal notice designed to warn the User that an area of concern or minor violation has occurred and that steps should be taken to control the issue. This response should specify the violation, the date(s) the issue occurred, and what action the User should take. If a phone call, email or in person discussion is used, a written record of that notice shall be filed.

### 2.3.2 Formal Notice

A Formal Notice informs the User that they have violated their Permit or City Code through formal means. These notices must be hand delivered, sent through certified mail, or submitted through an EPA approved electronic documents software.

- (A) A **Notice of Violation (NOV)** is formal notification to the User that they have violated their Permit or City Code.
- (B) A **Penalty Assessment** is a notice to a User regarding the fines owed due to noncompliance issues.
- (C) A **Notice of SNC** is a formal notification to the User informing them that their noncompliance issues have risen to a state of SNC and outlines the next enforcement action(s) taken.

### 2.3.3 Administrative Order

An Administrative Order is a notice to the User requiring them to submit in writing within the timeframe specified in the Order the reason(s) for the noncompliance and describe the corrective action that will be taken to prevent reoccurrence. These responses must be hand delivered, sent through certified mail, or submitted through an EPA approved electronic documents software.

- (A) A **Consent Order** is an AO through which the Control Authority and User form an agreement to return the User to a state of compliance through specific means by a particular date.
- (B) A **Show Cause Hearing** is an AO which requires a User to meet with the Control Authority to give the reasons for noncompliance and explain why further enforcement action(s) should not be taken.
- (C) A **Compliance Order** is notice to the User that requires them to take specific actions by certain date.
- (D) A **Cease and Desist Order** is an AO from the Control Authority directing a User to immediately stop any discharges contributing to the POTW.

### 2.3.4 Judicial Action

Judicial Action is taken at the discretion of the Plant Superintendent, Public Works Director or Board of Sewer Appraisers. This response may include any or all, but are not limited to, the following: Civil suits for injunctive relief and/or Civil Penalty; Criminal Prosecution; and collection of contractual damages.

Criminal Prosecution may be pursued when there is evidence of intentionally and knowingly violating any provision of Federal Code or Nampa City Code. This might include, but is not limited to, items such as altering samples, changing/neglecting log entries to conceal violations, false reporting, etc.

Civil Litigation is the formal process of filing lawsuits and is reserved for occasions when the User does not adhere to Compliance Schedules or when fines or surcharges have not had the desired effect to encourage the User to return to compliance. Civil Litigation is used in the following cases:

- Emergency situations where injunctive relief is necessary to halt or prevent discharges that threaten human health, the environment, or interfere with the operation of the POTW.
- Efforts to restore compliance through cooperation with the User have failed and a court supervised settlement is necessary to enforce requirements.
- Imposing civil penalties and recovering losses incurred due to the noncompliance.

These actions require consultation, guidance, and implementation by the City Attorney (See Table 3).

### 2.3.5 Service Restriction

Service Restriction is used at the discretion of the Plant Superintendent, Public Work Director or Board of Sewer Appraisers as per the Industrial User Permit conditions and/or City Code.

- (A) A Service Suspension** occurs when the Control Authority temporarily discontinues service without terminating the Permit or removing the service connection.
- (B) Permit Revocation** denies the violating industry permission to continue to wastewater discharge to the city sewer by revoking the Permit agreement.
- (C) A Termination of Discharge** warns the User of impending termination of the sewer service connection and provides a date and time of the scheduled termination.

In the case of Service Restriction, the User shall immediately halt or eliminate contribution to the POTW. The Control Authority may reinstate the service upon proof of elimination of the noncompliant discharge.

### 2.3.6 Plugging Sewer Access

Plugging sewer access is the ultimate enforcement response and is performed at the discretion of the Plant Superintendent, Public Work Director or Board of Sewer Appraisers as per the Industrial User Permit conditions and/or City Code. This action forcibly eliminates the possibility of wastewater being discharged to the city sewer.

Enforcement actions may result in penalties to recover costs arising as a result of noncompliance, SNC determination, and/or to act as an incentive to return to compliance. The Plant Superintendent, Public Works Director or Board of Sewer Appraisers must approve penalties.

## 2.4 LEVELS OF ENFORCEMENT RESPONSE

The goal of the following level system is to establish the differences in severity among each type of enforcement response action. This level system helps distinguish the severity levels of noncompliance, SNC, and consequential failure to adhere to enforcement actions.

### 2.4.1 Level 1

These responses include informal Corrective Notices and Formal Notices from the Control Authority with the goal of bringing the User into compliance before reaching a state of SNC. At this level, the following enforcement actions may be used:

- Corrective Notice
- Notice of Violation
- Penalty Assessment
- Notice of SNC

A **Corrective Notice** is often all that is needed to bring the User back into compliance. However, when contacting the User does not result in measurable progress toward compliance, a NOV shall be issued. In order to establish a compliance record and “good faith” history of an Industrial User, it is important to accompany a corrective notice with an update to the User’s enforcement file with the following information:

- (A) Name of User
- (B) Name and title of contact person
- (C) Date and Time
- (D) Noncompliance category, type, and condition
- (E) Discussion items
- (F) Signature of person initiating the notice

An **NOV** is an action taken by the Control Authority in certain Level 1 responses as listed specifically in the enforcement response guide tables. An NOV must be hand delivered, sent through certified mail, or submitted through an EPA approved electronic documents software.

**Penalty Assessment** is a notice from the Control Authority in cases where the User has incurred fines by violation of the requirements listed in Table 1. The notice lists the violations and their respective penalties, summarizes fines owed, and requires the User to pay the fines by a specified date.

A **Notice of SNC** is a Formal Notice to the User that lists the noncompliance issues occurring and outlines those that have escalated into a state of SNC. It explains the enforcement actions that will follow as a result and lists the dates by which they will take effect. The goal of this notice is to ensure that the User is aware of their current status and can prepare to address the coming enforcement actions.

The Control Authority aims to resolve most noncompliance issues with Level 1 enforcement action, however, more stringent enforcement responses are required when a state of SNC has been reached.

### 2.4.2 Level 2

Upon reaching a state of SNC, the Control Authority shall issue a Level 2 response which includes any of the following formal enforcement responses:

- Consent Orders
- Show Cause Hearings
- Compliance Orders
- Cease and Desist Orders
- Judicial Actions

Level 2 responses often require the User to achieve a specific level of compliance by a particular date and may include fines or penalties for failure to resolve noncompliance issues. The Control Authority shall report any applicable Level 2 enforcement action(s) to the IDEQ and shall consult with city personnel prior to enforcement response. See Table 1 for a list of fine levels by violation type and number of occurrences. IDEQ shall be notified when required by state statute and/or local code.

### 2.4.3 Level 3

Level 3 enforcement is utilized in cases of SNC where previous enforcement action has been ineffective at returning the User to compliance or when emergency circumstances arise and immediate action is necessary to prevent further damage to the POTW or the environment. In emergency situations where immediate action is required, the Control Authority reserves the right to immediate service revocation and termination of hazardous discharge. Level 3 enforcement response requires consultation of the City Attorney and Public Works Director as outlined in Table 3 and may include any of the following actions:

- Judicial Action
- Service Suspension
- Permit Revocation
- Termination of Discharge
- Plugging Sewer Access

In cases where the User remains in violation of Federal regulations, State standards, or Local Limits and is unable or unwilling to return to compliance, the Control Authority may issue a Service Restriction through suspension, revocation, or termination of services. If the User continues illicit discharge, plugging sewer access can be used to forcefully remove the User's ability to discharge to the POTW.

## 2.5 FINES AND PENALTIES

In order to encourage a User to avoid violations, maintain a state of compliance, or return to a state of compliance, the Control Authority may distribute Administrative Fines for violations. Fines grow more severe if the offense continues to reoccur, with a maximum fine value of \$1,000 (per day per violation) under Idaho State stature. Fines and penalties may be applied to any User who has sewer connections with and discharges industrial waste to the POTW who is in violation of any of the criteria in the following table:

**Table 1. Enforcement Limit Violation Fines**

Penalty	NOV of same parameter <sup>(1)</sup>	Administrative Order <sup>(1)</sup>	pH <sup>(1)</sup>	NOV for pH continuously monitored <sup>(2)(4)</sup>	Failure to sample/Report <sup>(1)</sup>	Volatile Suspended Solids
<b>No Penalty</b>	1st Offense		1st Offense		1st Offense	
<b>\$250</b>	2nd Offense	1st Offense	2nd Offense	5th Offense	2nd Offense	65% and lower; \$500/day and NOV
<b>\$500</b>	3rd Offense	2nd Offense	3rd Offense	6th Offense	3rd Offense	
<b>\$1,000<sup>(3)</sup></b>	4th and subsequent Offenses	3rd and subsequent Offenses	4th and subsequent Offenses	7th and subsequent Offenses	4th and subsequent Offenses	

(1) In most recent six (6) month period.

(2) In a calendar month.

(3) Current limit under Idaho State stature, 2005.

(4) Certain Users are required by their Permit to continuously monitor pH with a pH probe and chart recorder/data logger instead of weekly, monthly, or quarterly grab pH samples.

It should be noted that fees and costs associated with noncompliance are required from a User in addition to any costs associated with their industrial user agreement. Meaning, if a User in penalized for violating the terms of their agreement with the Control Authority, the resulting fees do not contribute to any additional pretreatment or other costs as required in their agreement.

The purpose of fines in addition to effluent treatment costs up to and in excess of limits as defined in the User agreement is to discourage Users from paying fines as a substitute for working to achieve compliance.

## 2.6 ENFORCEMENT RESPONSE TABLES

The Enforcement Response Table lists categories of noncompliance by type along with specific conditions surrounding the noncompliance. The tables also list the penalties associated with the first offense of each noncompliance issue and the minimum level of enforcement action to be taken. The headings of the tables are shown below:

Noncompliance Category	Noncompliance Type	Noncompliance Condition	Response Level	Minimum Action	Penalty for 1st Offense	State of SNC?
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Each of the headings can be defined by the following:

- (A) **Noncompliance Category:** The general category in which the noncompliance issue resides.
- (B) **Noncompliance Type:** A subcategory under noncompliance category which explains the issue.
- (C) **Noncompliance Condition:** Further description of the specific conditions and circumstances applied to each type of noncompliance.
- (D) **Response Level:** The recommended level of enforcement action taken for the noncompliance.
- (E) **Minimum Action:** The least stringent response action recommended for the noncompliance.
- (F) **Penalty for 1<sup>st</sup> Offense:** The fine associated with the first offense of the type of noncompliance.
- (G) **State of SNC?:** States whether the noncompliance brings the User into a state of SNC.

It should be noted that, in some cases, more stringent enforcement actions may be required than are recommended in the enforcement response tables. The recommended response levels were selected with the goal of encouraging Users to return to compliance while avoiding more severe enforcement response actions. Decisions to select more stringent response actions shall be made at the discretion of the Plant Superintendent along with the approval of the appropriate signature authority as required and properly documented (See Table 3).

Table 2. Enforcement Responses

Noncompliance Category	Noncompliance Type	Noncompliance Condition	Response Level	Minimum Action	Penalty for 1st Offense	State of SNC?
General Reminders	Contacting Users with history of avoidable minor violations	Covered interceptor lids, locked gate, etc.	Level 1	CN	No Penalty	NO
Sampling	Failure to sample as required	Failure to meet requirements	Level 1	NOV	No Penalty	NO
		Failure to sample	Level 1	NOV	\$250	NO
Monitoring	Failure to install monitoring equipment	Late < 30 days	Level 1	NOV	No Penalty	NO
		Late > 30 days	Level 2	AO	\$250	<u>YES</u>
	Failure to monitor	Occurs rarely	Level 1	NOV	No Penalty	NO
		Occurs frequently	Level 2	AO	\$250	<u>YES</u>
	Failure to report additional monitoring when required	Level 1	NOV	No Penalty	NO	
	Missed sample aliquots in composite sample due to automatic sampler failure.	Level 1	CN	No Penalty	NO	
Reporting	Reporting Errors	Improper certification	Level 1	CN	No Penalty	NO
	Late Reports	Late < 30 days	Level 1	CN	No Penalty	NO
		Late > 30 days	Level 2	AO	\$250	<u>YES</u>
	Failure to report as required	Occurs rarely	Level 1	NOV	\$250	NO
		Occurs frequently	Level 2	AO	\$250	<u>YES</u>
	Falsification		Level 2	AO	\$250	<u>YES</u>
	Inadequate Recordkeeping		Level 1	NOV	No Penalty	NO
Failure to accurately report noncompliance		Level 2	AO	\$250	<u>YES</u>	
Hazardous Discharge	Threatens health of POTW, POTW personnel, or environment	Emergency: Immediate Response Required	Level 3	TOD	\$1000	<u>YES</u>

Enforcement Responses (Continued)

Noncompliance Category	Noncompliance Type	Noncompliance Condition	Response Level	Minimum Action	Penalty for 1st Offense	State of SNC?
Discharge without proper permitting	No harm to POTW/Environment	User unaware of requirements	Level 1	CN	No Penalty	NO
		User aware of requirements	Level 1	NOV	No Penalty	NO
	Harm to POTW/Environment	User unaware of requirements	Level 2	AO	\$250	<u>YES</u>
		User aware of requirements	Level 2	AO	\$250	<u>YES</u>
	Failure to apply for Permit	User unaware of requirements	Level 1	NOV	No Penalty	NO
		User aware of requirements	Level 2	AO	\$250	<u>YES</u>
Discharge violates Permit	No harm to POTW/Environment	Occurs rarely	Level 1	NOV	No Penalty	NO
		Occurs frequently	Level 1	NOV	\$250	NO
	Harm to POTW/Environment	Occurs rarely	Level 2	AO	\$250	<u>YES</u>
		Occurs frequently	Level 2	AO	\$1000	<u>YES</u>
Compliance Schedule	Violation of schedule milestones contained in Local Control Mechanism, Enforcement Order, or Discharge Permit.	Start construction < 90 days	Level 1	NOV	No Penalty	NO
		Start construction > 90 days	Level 2	AO	\$250	<u>YES</u>
		Complete construction < 90 days	Level 1	NOV	No Penalty	NO
		Complete construction > 90 days	Level 2	AO	\$250	<u>YES</u>
		Final compliance < 90 days	Level 1	NOV	No Penalty	NO
		Final compliance > 90 days	Level 2	AO	\$250	<u>YES</u>
Returning to Compliance	Failure to achieve compliance	No harm to POTW/Environment	Level 1	NOV	\$250	NO
		Harm to POTW/Environment	Level 2	AO	\$1000	<u>YES</u>
Accessibility	Minor accessibility issues: Covered interceptor lids, locked gate, etc.	Occurs rarely	Level 1	CN	No Penalty	NO
		Occurs frequently	Level 1	NOV	No Penalty	NO
	Access Denied	Site inspection	Level 2	AO	\$250	<u>YES</u>
		Records review	Level 2	AO	\$250	<u>YES</u>

### 3 CITY PERSONNEL RESPONSIBILITIES

Once noncompliance is detected, Pretreatment Personnel shall consult the guide for appropriate response procedures and seek approval from the Plant Superintendent in most, if not all, instances. This Enforcement Response Guide is not the final word as to the level of response that will be approved. It serves as a guideline to determine the recommended response.

**Table 3: Enforcement Actions and Responsible Personnel**

<b>Enforcement Response</b>		<b>Initiating Personnel</b>	<b>Authorizing Personnel</b>	
Corrective Notice (Informal Action)		Tech I / Tech II / PC / Superintendent	Tech I, Tech II, PC, Superintendent	Level 1
Formal Notice	Notice of Violation	Tech II / PC / Superintendent	Superintendent	
	Penalty Assessment	Tech II / PC	Superintendent	
	Notice of SNC	Tech II / PC	Superintendent	Level 1/2
Administrative Order	Consent Order	Tech II / PC	City Attorney / PWD	Level 2
	Show Cause Hearing	Tech II / PC	City Attorney / PWD	
	Compliance Order	Tech II / PC	Superintendent / City Attorney / PWD	
	Cease and Desist Order	Tech II / PC	City Attorney / PWD	
Judicial Action		PC / Superintendent	City Attorney / PWD	Level 2/3
Service Restriction	Service Suspension	PC / Superintendent	City Attorney / PWD	Level 3
	Permit Revocation	PC / Superintendent	City Attorney / PWD	
	Termination of Discharge	PC / Superintendent	City Attorney / PWD	
Plugging Sewer Access		PC / Superintendent	City Attorney / PWD	
Tech I/II = Pretreatment Technician I/II, PC = Pretreatment Coordinator PWD = Public Works Director, Superintendent = Plant Superintendent				

**Pretreatment Technician I**

The Pretreatment Technician I is authorized to issue Corrective Notices requiring Users to clean grease interceptors and grit/oil interceptors. All other enforcement actions require the approval of the Pretreatment Coordinator and/or the Plant Superintendent. The Pretreatment Technician I must keep the Pretreatment Coordinator informed of all actions taken.

**Pretreatment Technician II**

The Pretreatment Technician II is authorized to issue Corrective Notices, Notices of Violation, Administrative Orders, Compliance Orders, Penalty Assessments, and Notices of SNC in accordance with the Enforcement Response Guide and established Standard Operating Procedures at the discretion of the Pretreatment Coordinator and/or the Plant Superintendent. The Pretreatment Technician II must obtain the Plant Superintendent's signature and approval on each action and be prepared to explain and defend the level of response recommended. The Pretreatment Technician II must keep the Pretreatment Coordinator and Plant Superintendent informed of all actions taken.

**Pretreatment Coordinator**

The Pretreatment Coordinator is authorized to act within all levels but must receive authorization from the Plant Superintendent with regards to Penalty Assessments. The Pretreatment Coordinator must keep the Plant Superintendent informed of all actions taken.

**Plant Superintendent**

The Plant Superintendent is authorized to instigate action at all levels. The Plant Superintendent shall obtain advice and approval for all responses Level 2 and above from the City Attorney and the Public Works Director.

**City Attorney**

The City Attorney is involved with any situation at or above Level 2 and any enforcement action concerning Judicial Action. Service Restriction Level 3 responses and above are taken at the request of the Plant Superintendent, with approval of the Public Works Director, Board of Sewer Appraisers, and the City Attorney as per the Industrial User Permit conditions and/or City Code.

**Public Works Director**

The Public Works Director is involved with any situation at or above Level 2. Service Restriction Level 3 responses and above are taken at the request of the Plant Superintendent, with approval of the Public Works Director, Board of Sewer Appraisers, and the City Attorney as per the Industrial User Permit conditions and/or City Code.