



## **INDUSTRIAL PRETREATMENT PROGRAM**

### **ENFORCEMENT RESPONSE PLAN**

This document has been developed in accordance with the requirements of 40 CFR Part 403.8(f)(5), which requires that each Publicly Owned Treatment Works (POTW) develop and implement an enforcement response plan containing detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The City has developed and implemented this Enforcement Response Plan as a component of the Industrial Pretreatment Program.

#### **Noncompliance**

Any violation of pretreatment requirements (discharge limits, sampling, analysis, reporting, compliance schedules, regulatory deadlines, etc.) is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties.

#### **Significant Noncompliance**

Definition of Significant Noncompliance (SNC) as specified in 40 CFR 403.8(f)(2)(viii):

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.

### **Violation Charges**

Fines may be assessed for pretreatment violations in accordance with S.M.C. Sections 7-091.7 and/or 7-091.8. There may be assessed a \$1,000.00 minimum fine for all violations.

Any violation of compliance schedule milestones, or enforcement order for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date will be assessed a minimum fine of \$100.00 per day from the milestone date.

Any failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90 day compliance reports, and periodic reports) within 30 days from the due date will be assessed a minimum fine of \$100.00 per day from the due date.

### **Timeframes for Enforcement Responses**

All violations will be identified and documented within five days of receiving compliance information.

Initial enforcement responses (involving contact with the industrial user and requesting information on corrective or preventative actions) will occur within 30 days of violation detection.

Follow up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response.

Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses.

All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance.

**ESCALATING ENFORCEMENT RESPONSE GUIDE**

<b><u>Violation</u></b>	<b><u>Enforcement Response</u></b> <sup>1</sup>	<b><u>Personnel</u></b>
<b>Discharge Limit - City Monitoring or Self-Monitoring</b>		
Isolated	NOV & Fine <sup>2</sup>	ECO/S/D
Recurring	NOV & Fine <sup>3</sup>	ECO/S/D
Chronic	AO & Fine	D
	Compliance Schedule <sup>4</sup>	D
	Show Cause & Fine	D/CA
	Cease and Desist & Fine	D/CA
	Temporary Suspension	D/CA
	Termination	D/CA
	Civil Action	D/CA/DA
<b>Discharge</b>		
SNC <sup>5</sup>	Cease and Desist & Fine	D/CA
Shock Load	Termination	D/CA
Gross Contamination	Civil Action	D/CA/DA
Bypass		
Health Risk		
Hazardous		
<b>Unpermitted / Nonpermitted Discharge</b>		
	Phone Call & NOV	ECO/S/D
	NOV & Fine	S/D
	Cease & Desist	D
	Termination	D/CA
	Civil Action	D/CA/DA
<b>Dilution in Lieu of Treatment</b>		
	AO & Fine	D
	Compliance Schedule	D

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<sup>1</sup> Actions are listed in order of escalation value with corresponding personnel involvement.

<sup>2</sup> Fines for isolated discharge violations may be imposed depending on the severity of the violation, recent history of noncompliance, duration of noncompliance, and good faith and commitment.

<sup>3</sup> Fines for all violations will escalate in accordance with the severity of violation, harm to POTW, and economic benefit to violator, up to the maximum amount allowed by state and local laws.

<sup>4</sup> Dischargers that continue to violate during the compliance schedule period will be fined, but the Director may hold the fines in abeyance pending successful completion of the compliance schedule. This may be done for existing industries only. New industries must be in compliance upon commencement of operation.

<sup>5</sup> Publish annually in local newspaper.

<b><u>Violation</u></b>	<b><u>Enforcement Response</u></b>	<b><u>Personnel</u></b>
<b>Monitoring</b>		
Failure to / Improper	Phone Call & NOV NOV & Fine AO & Fine Show Cause & Fine Cease and Desist Termination	ECO/S/D S/D D D/CA D/CA D/CA
Tampering	Cease and Desist Termination Civil Action	D/CA D/CA D/CA/DA
<b>Reporting</b>		
Late Improperly Signed Incomplete	Phone Call & NOV NOV & Fine AO & Fine	ECO/S/D S/D D
Changed Discharge	Show Cause & Fine	D/CA
Spill	Cease and Desist Termination	D/CA D/CA
Falsification	Cease and Desist Termination Civil Action	D D/CA D/CA/DA
<b>Inspections</b>		
Entry Denial	Phone Call & NOV Obtain Warrant	S/D D/CA/DA
Records Denial	Phone Call & NOV Obtain Warrant	S/D D/CA/DA
<b>Compliance Schedules</b>		
Milestone Dates	Show Cause & Fine Cease and Desist Termination	D D/CA D/CA
<b>Nonpayment</b>		
Fines Uncontested or Upheld through Appeal (90 Days Late)	Temporary Suspension	D/CA

### Acronyms

**AO** - Administrative Order  
**CA** - City Attorney  
**CFR** – Code of Federal Regulations  
**CO** – Correction Order  
**D** - Director of Municipal Utilities  
**DA** - District Attorney  
**ECO** - Environmental Control Officer  
**NOV** - Notice of Violation  
**POTW** - Publicly Owned Treatment Works  
**S** - Technical Services Supervisor  
**SMC** – Stockton Municipal Code  
**SNC** – Significant Noncompliance

### Definitions

**Bypass** - To intentionally discharge wastewater to the sanitary sewer without pretreatment as specified by a Wastewater Discharge Permit.

**Cease and Desist** - A formal order requiring a user to stop violating a Discharge Permit limit.

**Chronic Discharge Limit Violation** - Three or more violations of the same discharge limit in a six month period.

**Fine** - Monetary penalty assessed by the Control Authority

**Gross Contamination** - Any discharge to the sanitary sewer that has caused, or has ability to cause, the POTW to violate its Waste Discharge Requirements.

**Hazardous** - As defined in 40 CFR Part 261.3 or California Administrative Code Title 22 Article 11.

**Health Risk** - To discharge wastewater or other materials to the sanitary sewer that is an immediate health threat to the POTW or the public at large.

**Isolated Discharge Limit Violation** - A single violation of a discharge limit in a six month period.

**Recurring Discharge Limit Violation** - A second violation of the same discharge limit in a six month period.

**Shock Load** - Any discharge to the sanitary sewer that has caused interference or pass-through at the POTW, or has caused the POTW to violate its Waste Discharge Requirements.

**Show Cause** - Formal meeting requiring the industrial user to appear and demonstrate why the Control Authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

**Temporary Suspension** - The temporary suspension of sewer service pending successful completion, installation, demonstration of treatment equipment or payment of fines.

**Termination** - A formal order requiring a user to stop discharging process or other wastewater to the sanitary sewer.

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