

ENFORCEMENT RESPONSE GUIDE

DEFINITIONS

1. PS- Pretreatment Supervisor
2. MT- Manager of Treatment Facilities
3. M- Manager "Water Division
4. UB- Utility Board
5. IU-Industrial User
6. NOV- Notice of Violation
7. NTR – Notice to Resample
8. POTW- Publicly Owned Treatment Works (CU's Wastewater Treatment Facility)
9. Technical Review Criteria (TRC) Violation-33 percent or more of all of the measurements taken during a 6-month period equal or exceed the product of the daily average maximum limit including instantaneous limits or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).
10. Chronic Violations-66 percent or more of all of the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
11. Significant Noncompliance - See City Municipal Code – Title 18, Chapter 1, Section 18-113(F).
12. Enforcement Monitoring - a sampling event conducted daily over, or (for batch discharges) representative of, a period of (3) three consecutive working days of discharge. Enforcement monitoring will be conducted every other week of operation.

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
Unauthorized Discharges (No Permit). 1. Unpermitted Discharge	IU unaware of requirements; no harm to POTW/environment.	Phone call; NOV with application form attached to be submitted within 30 calendar days. Application deadline to be specified in the NOV. An extension may be granted only for Wastewater characterization section of application.	PS,MT	No
	IU unaware of requirements; harm to POTW/environment evident.	Cease-and-Desist Order requiring IU to halt exceedance(s) immediately or terminate discharge altogether. Issuance of a Compliance Order requiring submittal of a permit application within 30 calendar days and assessing any penalties or recovery of damages and costs.	MT,M	Yes
	IU has not submitted permit application by deadline	Termination of service and civil litigation or criminal investigation.	M,UB	Yes
	IU has not submitted permit application by deadline	NOV for missed deadline. Require submittal within 15 calendar days or further enforcement action will be pursued.	PS,MT	No

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
	IU has not submitted application with 15 calendar days of date specified in NOV.	Show-Cause Order assessing a penalty per day of exceedance and requiring the IU to appear before the manager to show cause as to why further enforcement should not be pursued. Penalty to be assessed from the 16th day forward.	MT,M	Yes
	Failure to submit permit application continues more than 60 days after receipt of NOV by the IU.	Civil litigation.	M,UB	Yes
Discharge Limit Exceedance	1. Exceedence of local or Federal Discharge Limit.	NTR detailing exceedance and requiring corrective action within 30 business days. Enforcement monitoring to begin and continue for a period of at least 30 days 1st occurrence, 60 days 2nd consecutive occurrence for same parameter.	PS,MT	No
	Exceed one or more daily or average parameter limit(s) by a factor of 3.0 or more (Except pH).	NOV detailing exceedance and requiring correction within 30 business days. Penalties may be assessed by Compliance Order or Agreed Order for each day of violation. Enforcement monitoring to begin and continue for a period of at least 60 days.	MT,M	No

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
	Chronic and/or TRC Violation as defined by EPA. (Except pH).	Show-Cause Order assessing a penalty per exceedance and requiring the IU to appear before the manager to show cause why further enforcement should not be pursued. Further action (if warranted) will be addressed in a Compliance Order or Agreed Order	MT,M	Yes
	Exceedences of any daily or average parameter limit(s) by more than a factor of 10 (1,000%). No harm to POTW/environment. (Except pH).	Show-Cause Order requiring the IU to appear before the manager to show cause why further enforcement should not be pursued. The order also requires the IU to make every possible effort to limit the amount and concentration of the pollutant. Further actions (if warranted) including a penalty per day per exceedance will be addressed in a Compliance or Agreed Order. Enforcement monitoring to begin and continue for a period of at least 60 days.	MT,M	Yes
	Discharge pH <5.0 or > 10.5 for any length of time	NTR detailing exceedance and requiring a response within 30 days which outlines steps taken to prevent exceedance in the future. Enforcement monitoring to begin and continue for a period of at least 30 days.	PS,MT	No

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
	Discharge pH <5.0 or >10.5 for 30 consecutive minutes or more. No harm to POTW/environment.	NOV detailing exceedance and requiring correction within 30 business days. Penalties be assessed by a Compliance Order or Agreed Order for each violation. Enforcement monitoring to begin and continue for at least 60 days.	MT,M	Yes
	Chronic pH Exceedance-66% or more of all one day monitoring events conducted during a 6 month period indicate any exceedance of pH limitations.	Show-Cause Order assessing a penalty and requiring the IU to appear before the Manager to show cause why further enforcement should not be pursued. Further action (if warranted) will be addressed in a Compliance Order or Agreed Order.	MT,M	Yes
	Exceedence of any daily or average parameter limit(s) that adversely affects the POTW, i.e, damage, harm, interference, inhibition or pass-through.	Cease-and-Desist Order requiring the IU to halt the exceedance immediately or terminate the discharge altogether. Issuance of a Compliance Order assessing any penalties and/or costs the manager deems appropriate.	M,UB	Yes
Monitoring and Reporting Violations				
1. Reporting Violations	Report is improperly signed or certified.	Phone calls.	PS	No
	Report is improperly signed or certified after phone call by POTW.	NOV requiring correction on the next report.	PS,MT	No
	Report is improperly signed or certified after issuance of NOV by POTW.	Compliance Order assessing a penalty and requiring the IU to properly sign or certify the next regularly scheduled report.	MT,M	Yes

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
	Report is late by fewer than 30 calendar days.	NOV.	PS,MT	No
	Report is late 30 calendar days or more.	Informal meeting between the IU and the Assistant Manager. NOV requiring report submittal no later than 45 days from the original report deadline.	PS,MT	Yes
	Report is late 45 calendar days or more.	Show-Cause assessing a penalty per day of exceedance and requiring the IU to appear before the manager to show cause why further enforcement should not be pursued.	MT,M	Yes
	Report is late 60 calendar days or more.	Compliance Order requiring IU to submit the required report within 15 calendar days. Any penalty is to be assessed for each day past the 60th day deadline.	MT,M	Yes
	Report is late 90 calendar days or more.	Civil litigation.	UB	Yes
	Failure to report spills or changed discharge (no harm to the POTW or environment).	NOV and Compliance Order requiring the IU to develop and implement a spill prevention plan by a specified deadline.	PS,MT	No
	Failure to report spill or changed discharge (harm to POTW or environment).	Cease-and-Desist Order requiring IU to halt the illegal discharge immediately or terminate its discharge altogether. Issuance of an Agreed Order or Compliance Order assessing a penalty per day of violation and addressing costs borne by the Utility.	MT,M	Yes

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
	Repeated failure to report spills.	Show--Cause Order assessing a penalty per incidence and requiring the IU to appear before the Manager to show cause why further enforcement should not be pursued.	MT,M	Yes
2. Falsification	First Occurrence.	Show-Cause Order requiring IU to appear before the Assistant Manager to show cause why enforcement action should not be pursued.	PS,MT	Yes
	Subsequent occurrences.	Termination of service or civil litigation or criminal investigation.	UB	Yes
3. Failure to Monitor Correctly	Failure to monitor all pollutants as required by IU's permit.	Informal meeting with IU to review required sampling and reporting.	PS	No
	Failure to monitor all pollutants as required by IU's permit (second occurrence).	NOV requiring complete sampling and analysis with report due no later than 30 calendar days from receipt of NOV.	PS,MT	No
	Reoccurring failure to monitor properly (third occurrence).	Show-Cause Order assessing a penalty for each incidence and requiring the IU to appear before the Manager to show cause why further enforcement should not be pursued.	MT,M	Yes
4. Improper Sampling (Incorrect Location, Sample Type, or Collection Technique).	No evidence of intent (first violation).	NOV explaining correct procedure and requiring proper sampling for the next self-monitoring report.	PS,MT	No
	Improper sampling continues (second violation).	Informal meeting with IU to review proper sampling criteria.	PS,MT	No

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
	Evidence of intent. (Failure to properly sample after informal meeting is viewed as evidence of intent).	Show-Cause Oder assessing a penalty for each incidence. Order requires IU to appear before the Manager to show cause why further enforcement should not be pursued.	MT,M	Yes
Compliance Violations				
1. Failure to Install Monitoring Equipment as Required by IU's Permit or Order.	Missed final installation deadline.	NOV requiring complete installation within 30 calendar days of receipt of NOV.	PS,MT	No
	Noncompliance with NOV (delay of more than 30 calendar days).	Compliance Order requiring final installation by a specified deadline. Assessment of a daily penalty if the requirements of this order are not met.	MT,M	Yes
2. Compliance Schedules (in a Permit or Order).	Missed interim milestone date by fewer than 30 days and will not affect final compliance deadline.	NOV that restates any remaining milestone deadlines.	PS,MT	No
	Missed interim milestone date by fewer than 30 days and will affect final compliance deadline.	Compliance Order detailing revised compliance schedule. Order may assess penalties if delay was avoidable (without good cause).	PS,MT	No
	Missed interim milestone date by more than 30 days and will not affect final compliance deadline.	Informal meeting with IU to review compliance schedule, milestone dates, and final compliance deadline.	PS,MT	No

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
3. Missed Final Compliance Deadline	Missed interim milestone date by more than 30 days and will affect final compliance deadline.	Show-Cause Order requiring IU to appear before the Manager to show cause why further enforcement should not be pursued. Must result in a revised Compliance Order.	MT,M	No
	Missed interim milestone date by more than 90 days.	Civil litigation	UB	Yes
	Failure to comply with Administrative Order.	Compliance Order assessing a penalty per day past the final compliance deadline and requiring immediate compliance. Civil litigation should be pursued if IU has not complied within 30 calendar days of the original final compliance deadline.	MT,M	Yes
Other Violations				
1. Waste Streams are Diluted	Dilution of regulated wastestreams with non-polluted water.	NOV citing regulatory prohibition against dilution and requiring correction within 30 calendar days of receipt of the NOV.	PS,MT	No
	Recurring violations (dilution continues to occur after NOV).	Informal meeting with IU to review ordinance prohibitions. Issuance of a Compliance Order with deadline for correction. Termination of service or civil litigation or criminal investigation.	PS,MT,UB	No
2. Failure to Mitigate Noncompliance or Halt Production	Failure to reduce the severity of violation(s) and/or Halt Production	Civil prosecution seeking an injunction to halt discharge. Termination of service if potential for POTW/environment harm is evident.	M,UB	Yes
Violations Detected During a Site Investigation				

ENFORCEMENT RESPONSE GUIDE

Noncompliance	Nature of the Exceedance/Violation	Enforcement Response	Personnel	Significant Noncompliance
1. Entry Denial	Entry Denial of consent withdrawn. Copies of records denied.	Obtain warrant and return to IU.	PS,MT	No
2. Illegal Discharge [Violation of EPA General Prohibited Discharge Standards (40 CFR 403.5 (a) and (b))]	No harm to POTW or environment. No interference or pass-through at the POTW.	NOV explaining the General Prohibited Discharge Standards as contained in 40 CFR (Code of Federal Regulations) 403.5 (a) and (b).	PS,MT	No
	Discharge causes harm, pass-through, and/or interference.	Cease-and-Desist Order requiring the IU to halt the exceedance immediately or terminate the discharge altogether. Issuance of a Compliance Order assessing any penalties and/or costs the Board deems appropriate.	MT,M	Yes
3. Improper Sampling	Sampling at incorrect location, using improper technique, or wrong sample type (unintentional).	NOV explaining correct procedure or location	PS,MT	No
4. Inadequate Record keeping	Inspector finds incomplete or missing (no evidence of intent).	NOV explaining the required record keeping and documentation.	PS,MT	No
	Resuming	Compliance Order requiring proper maintenance of records. Assessment of penalty to be based on severity of exceedance.	MT,M	No
5. Failure to Report Additional Monitoring	Inspector finds additional files.	NOV.	PS,MT	No
	Reoccurring (considerable falsification).	Compliance Order requiring submittal of all additional monitoring. Assessment of a penalty to be based on the severity of the violation. Termination of service and civil litigation or criminal investigation.	MT,M, UB	Yes