

# **GALLATIN INDUSTRIAL PRETREATMENT PROGRAM**

## **Enforcement Response Plan**

### **Enforcement Response Plan Introduction**

The purpose of this Enforcement Response Plan is to provide guidelines for anticipated enforcement situations in addressing and remedying violations of the Gallatin Industrial Sewer Use Ordinance. In general, enforcement actions will be taken in accordance with this Enforcement Response Plan, however, the enforcement actions listed here are not exclusive and the City of Gallatin reserves the right to implement other enforcement responses available to it under the Gallatin Industrial Sewer Use Ordinance and Tennessee state law separately or in combination with these responses. This Enforcement Response Plan establishes and outlines the procedures to be followed by Department staff to identify, document, and respond to pretreatment program violations. The Enforcement Response Plan provides guidance in determining and selecting the appropriate initial and follow-up enforcement actions, outlines staff responsibilities for these actions, and appropriate timeframes in which to take these actions.

### **Administrative Enforcement Remedies**

#### Notification of Violation

When the Superintendent finds that a User has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent may serve upon that User a written Notice of Violation. Within fifteen (15) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Superintendent. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in the Section shall limit the authority of the Superintendent to take any action, including emergency actions or other enforcement actions, without first issuing a Notice of Violation.

#### Consent Orders

The Superintendent may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents shall include specific action to be taken by the User to correct the non-compliance within a time period specified in the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 17-231(4) and (5) of the Gallatin Industrial Sewer Use Ordinance, and shall be judicially enforceable.

## Show Cause Hearing

The Superintendent may order a User which has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the date, time, and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User, as defined in Section 17-215 and required by Section 17-225(7)(A) of the Gallatin Industrial Sewer Use Ordinance. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

## Compliance Orders

When the Superintendent finds that a User has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent may issue an order to the User responsible for the discharge directing that the User come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or prerequisite for, taking any other action against the User.

## Cease and Desist Orders

When the Superintendent finds that a User has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Superintendent may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventative action as may be needed to properly address continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or prerequisite for, taking any other action against the User.

## Administrative Penalties

1. When the Superintendent finds that a User has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent may issue to such user an **administrative penalty** in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Such penalties shall be assessed on a per-violation, per-day basis, where each day on which non-compliance occurs or continues to occur shall be deemed a distinct and separate violation. In the case of monthly or long-term average discharge limits, penalties shall be assessed for each day during the period of violation.
2. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.
3. Users desiring to dispute such penalties must file a written request for the Superintendent to reconsider the penalty along with full payment of the penalty amount within thirty (30) days of being notified of the penalty. Where a request has merit, the Superintendent may request the Local Hearing Authority convene a hearing on the matter. In the event the User's appeal is successful, the penalty payment, together with any interest accruing thereto, shall be returned to the User. The Superintendent may add the costs associated with preparing administrative enforcement actions, such as notices and orders, to the penalty.
4. Issuance of an administrative penalty shall not be a bar against, or prerequisite for, taking any other action against the User.
5. Penalty Schedule for Violations

A penalty schedule for violations shall be maintained by the Superintendent as part of the Enforcement Response Plan.

6. All damages, penalties, and/or fees assessed and collected under the provisions of the **Gallatin Industrial Sewer Use Ordinance** shall be placed in a special fund and allocated and appropriated for the administration of the pretreatment program.

## Emergency Suspension

The Superintendent may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonable appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

1. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary,

including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Superintendent may allow the User to re-commence its discharge when the User has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the proceedings in Section 17-231(8) of the Gallatin Industrial Sewer Use Ordinance are initiated against the User.

2. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Section 17-231(3) or 17-231(8) of the Gallatin Industrial Sewer Use Ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

### Termination of Discharge

In addition to the provisions in Section 17-226(5) of the Gallatin Industrial Sewer Use Ordinance, any User who violates the following conditions is subject to discharge termination:

1. Violation of individual wastewater discharge permit or general permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operation or wastewater volume, constituents, and characteristics prior to discharge
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the Pretreatment Standards in Sections 17-216 through 17-221 of the **Gallatin Industrial Sewer Use Ordinance**.

Such User will be notified of the proposed termination of its discharge and will be offered an opportunity to show cause under Section 17-231(3) of the Gallatin Industrial Sewer Use Ordinance why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar against, or prerequisite for, taking any other action against the User.

### **Judicial Enforcement Remedies**

#### Injunctive Relief

When the Superintendent finds that a User has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent may petition the Chancery Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or

compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this ordinance on activities of the User. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or prerequisite for, taking any other action against the User.

#### Civil Penalties

1. A User has violated, or continues to violate, any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, shall be liable to the City for a maximum civil penalty of ten thousand dollars (\$10,000.00) per day, per violation. In the case of monthly or other long-term average discharge limits, penalties shall accrue for each day during the period of violation.
2. The Superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
3. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
4. Filing a suit for civil penalties not be a bar against, or prerequisite for, taking any other action against the User.

#### Criminal Prosecution

1. A User who willfully or negligently violates any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.
2. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000.00) or subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
3. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained pursuant to this ordinance, individual wastewater discharge permit, general permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be

punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

4. In the event of a second conviction, a User shall be punished by a fine of not more than three thousand dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years, or both.

### **Supplemental Enforcement Remedies**

#### Penalties for Late Reports

A penalty of one hundred dollars (\$100.00) may be assessed to any User for each day that a report required by the **Gallatin Industrial Sewer Use Ordinance**, a permit, or order issued there under is late, beginning five (5) days after the date the report is due, higher penalties may also be assessed where reports are for than 30-45 days late. Actions taken by the Superintendent to collect late reporting penalties shall not limit the Superintendent's authority to initiate other enforcement actions that may include penalties for late reporting violations.

#### Performance Bonds

The Superintendent may decline to issue or re-issue an individual wastewater discharge permit or a general permit to any User who has failed to comply with any provision of the **Gallatin Industrial Sewer Use Ordinance**, a previous individual wastewater discharge permit, general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

#### Liability Insurance

The Superintendent may decline to issue or re-issue an individual wastewater discharge permit or a general permit to any User who has failed to comply with any provision of the **Gallatin Industrial Sewer Use Ordinance**, a previous individual wastewater discharge permit, general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

#### Water Supply Severance

Whenever a User has violated or continues to violate any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual or general wastewater discharge permit, an order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Water service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

#### Public Nuisances

A violation of any provision of the **Gallatin Industrial Sewer Use Ordinance**, an individual or general wastewater discharge permit, an order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or

abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of Gallatin Municipal Code Chapter 10 governing such nuisances, including reimbursing the City for any costs incurred in abating, remedying, or removing said nuisance.

#### Annual Publication of Significant Non-compliance

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of Users which, at any time during the previous twelve (12) months, were in Significant Non-Compliance with applicable Pretreatment Standards and Requirements.

The term Significant Non-Compliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (3), (4), or (7) below) and shall mean:

1. Chronic violations of wastewater discharge limits, as defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceeded (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 17-216 through 17-221 of the [Gallatin Industrial Sewer Use Ordinance](#);
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of the wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits, as defined in Section 17-216 through 17-221 of the [Gallatin Industrial Sewer Use Ordinance](#) multiplied by the applicable criteria (1.4 for BOD, TSS, Oil & Grease and 1.2 for all other pollutants except pH);
3. Any other violation of a Pretreatment Standard or Requirement as defined in Sections 17-216 through 17-221 of the [Gallatin Industrial Sewer Use Ordinance](#) (Daily Maximum, long-term average, Instantaneous Limits, or narrative standard) that the Superintendent 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;
4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report non-compliance;
8. Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local Pretreatment Program.

**Enforcement Response Guide**

The remedies provided for in this plan are not exclusive; the Superintendent may take any, all, or any combination of these enforcement actions against a non-compliant User. Enforcement of pretreatment violations will generally be in accordance with this Enforcement Response Plan. However, the Superintendent may take other action against any User when the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any non-compliant User.

In determining the enforcement action(s) to be taken, the Superintendent may consider the following:

1. Good faith of the User;
2. The compliance history of the User;
3. The degree and extent of harm done to the natural resources of the State, to the public health, or to public and private property as a result of the violation;
4. The duration and severity of the violation;
5. The violation’s effect on the POTW;
6. The amount of money saved by the Industrial User, if any, by non-compliance, including the costs of continuing to discharge in non-compliance instead of stopping operations;

**Enforcement Response**

**1. Unauthorized Discharges**

A. Un-permitted Discharge (Permit Required):

Nature:	Industrial User unaware of requirements No harm to POTW or the environment
Response:	Telephone Call and/or Site Visit Provide Permit Application Forms to User <u>Personnel</u> : Pretreatment Coordinator
	Notice of Violation <u>Personnel</u> : Pretreatment Coordinator
Nature:	Industrial User unaware of requirements



Harm caused to POTW or the environment

Response: Notice of Violation  
Provide Permit Application Forms to User  
Personnel: Pretreatment Coordinator

Administrative Order  
Provide Permit Application Forms to User  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Nature: Continued failure to apply after notice of the requirements

Response: Administrative Order  
Provide Permit Application Forms to User  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Terminate Service  
Personnel: Superintendent

B. Non-permitted Discharge (Failure to Renew)

Nature: Industrial User has not submitted application  
(More than 15 days past due date)

Response: Telephone Call, E-mail  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Nature: Industrial User has not submitted application  
(More than 30 days past due date)

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order

Personnel: Pretreatment Coordinator

Administrative Penalty

Personnel: Pretreatment Coordinator

Civil Action

Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Terminate Service

Personnel: Superintendent

### C. Discharge Out-side Scope of Application/Permit

Nature: Industrial User Failed to Notify in Advance of Significant Change in Pollutants or Operations

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

## 2. Discharge Limit Violations

### A. Violation of Permit Limit (Local Limit or Categorical Limit)

Nature: Isolated, Not Significant

Response: Telephone Call, E-mail  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Nature: Isolated, Significant

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Public Notice

Personnel: Pretreatment Coordinator

Nature: Isolated, Significant – Harm to POTW or Environment

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Public Notice  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Nature: Reoccurring, Not Significant

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Reoccurring, Significant

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Public Notice  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

Nature: Reoccurring, Significant – Causing Harm to POTW or Environment

Response: Cease and Desist Order  
Personnel: Pretreatment Coordinator

Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Public Notice  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

### 3. Monitoring and Reporting Violations

#### A. Reporting Violations

Nature: Report is Late – More Than 5 Days, Less Than 30 Days  
Isolated

Response: Telephone Call, E-mail Notice  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Nature: Report is Late – More Than 5 Days, Less Than 30 Days  
Repeated

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Report is Late – More Than 30 Days  
Isolated

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Report is Late – More Than 30 Days  
Repeat

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Public Notice  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Nature: Report is Improperly Signed or Certified  
Isolated

Response: Telephone Call, E-mail Notice  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Nature: Report is Improperly Signed or Certified  
Repeat – Industrial User Aware of Requirements

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Show Cause Order  
Personnel: Pretreatment Coordinator

Public Notice  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Nature: Failure to Report Spill or Change in Discharge  
No Harm Caused

Response: Telephone Call, E-mail Notice  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Nature: Failure to Report Spill or Change in Discharge  
Harm Caused

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Nature: Failure to Report Spill or Change in Discharge  
Repeated

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

Nature: Falsification

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action

Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation

Personnel: Superintendent, Pretreatment Coordinator

Terminate Service

Personnel: Superintendent, Pretreatment Coordinator

## B. Failure to Monitor Correctly

Nature: Failure to Monitor All Pollutants As Required By Permit Isolated

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Monitor All Pollutants As Required By Permit Reoccurring

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

## C. Improper Sampling

Nature: Failure to Use Proper Sampling or Analytical Procedures  
No Evidence of Intent

Response: Telephone Call, E-mail Notice  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Use Proper Sampling or Analytical Procedures  
Evidence of Intent

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation  
Personnel: Superintendent, Pretreatment Coordinator

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

#### D. Failure to Install and Maintain Monitoring Equipment

Nature: Failure to Install and/or Maintain Monitoring Equipment  
Delay of Less Than 30 Days

Response: Telephone Call, E-mail Notice  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Install and/or Maintain Monitoring Equipment  
Delay of More Than 30 Days

Response: Administrative Order  
Personnel: Pretreatment Coordinator



Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Install and/or Maintain Monitoring Equipment  
Reoccurring – Violation of Administrative Order

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation  
Personnel: Superintendent, Pretreatment Coordinator

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

#### E. Compliance Schedules

Nature: Failure to Adhere to Compliance Schedule  
Missed Milestone By Less Than 30 Days

Response: Telephone Call, E-mail Notice  
Personnel: Pretreatment Coordinator

Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Adhere to Compliance Schedule  
Missed Milestone By More Than 30 Days – Good Cause

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty

Personnel: Pretreatment Coordinator

Nature: Failure to Adhere to Compliance Schedule  
Missed Milestone By More Than 30 Days – Without Good Cause

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

Nature: Failure to Adhere to Compliance Schedule  
Reoccurring Violation

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation  
Personnel: Superintendent, Pretreatment Coordinator

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

#### 4. Other Permit Violations

Nature: Wastestreams Diluted In Lieu of Treatment  
Initial Violation

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Wastestreams Diluted In Lieu of Treatment  
Reoccurring Violation

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation  
Personnel: Superintendent, Pretreatment Coordinator

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

Nature: Failure to Mitigate Non-compliance or Halt Discharge  
No Harm Caused

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Mitigate Non-compliance or Halt Discharge  
Harm Caused

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Nature: Failure to Properly Operate/Maintain Pretreatment Facilities  
No Harm Caused

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty

Personnel: Pretreatment Coordinator

Nature: Failure to Properly Operate/Maintain Pretreatment Facilities  
Harm Caused

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

#### 5. Violations Detected During Site Visits

Nature: Illegal Discharge  
No Harm Caused to POTW or the Environment

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Illegal Discharge  
Harm Caused to POTW or the Environment

Response: Show Cause Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation  
Personnel: Superintendent, Pretreatment Coordinator

Nature: Illegal Discharge  
Reoccurring – Violation of Administrative Order

Response: Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation

Personnel: Superintendent, Pretreatment Coordinator

Terminate Service

Personnel: Superintendent, Pretreatment Coordinator

Nature: Improper Sampling – Incorrect Procedures  
Unintentional

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Inadequate Recordkeeping  
Incomplete or Missing Files - Unintentional

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Inadequate Recordkeeping  
Incomplete or Missing Files – Reoccurring or Intentional

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Failure to Report Additional Monitoring  
Inspection Discovers Additional Reports

Response: Notice of Violation  
Personnel: Pretreatment Coordinator

Nature: Failure to Report Additional Monitoring  
Reoccurring Violation

Response: Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Nature: Entry Denied or Consent Withdrawn  
Copies of Records Denied

Response: Obtain warrant and return to Industrial User  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Administrative Order  
Personnel: Pretreatment Coordinator

Administrative Penalty  
Personnel: Pretreatment Coordinator

Civil Action  
Personnel: Superintendent, Pretreatment Coordinator, City Attorney

Criminal Investigation  
Personnel: Superintendent, Pretreatment Coordinator

Terminate Service  
Personnel: Superintendent, Pretreatment Coordinator

## Enforcement Responses

### 1. Procedures for Implementing Enforcement Responses

Monitoring reports, both Industrial User self-monitoring and City monitoring reports, will be reviewed within 15 days of receipt for possible violations. When a violation is indicated, an appropriate enforcement action shall be initiated against the Industrial User. In general enforcement actions shall be initiated within the indicated timeframe following discovery of the violation:

Notices of Violation: 30 Days  
Administrative Orders: 60 - 90 Days  
Civil/Criminal Actions: 180 Days

### 2. Penalty Schedule for Violations

#### A. Unauthorized Discharge:

1. **Minimum** five hundred dollars (\$500.00) per day, per violation.
2. Repeat violation amounts may increase by increments of five hundred dollars (\$500.00).

B. Discharge Limit Violations:

1. Monthly Average Limit:

<u>Parameter</u>	<u>Penalty Amount per violation (minimum)</u>
Arsenic	\$200.00
Cadmium	\$200.00
Chromium	\$200.00
Copper	\$200.00
Lead	\$200.00
Mercury	\$200.00
Molybdenum	\$200.00
Nickel	\$200.00
Selenium	\$200.00
Silver	\$200.00
Zinc	\$200.00
Cyanide	\$200.00
Total Phenol	\$200.00
Toluene	\$300.00
Benzene	\$300.00
1,1,1 Trichloroethylene	\$300.00
Ethylbenzene	\$300.00
Carbon Tetrachloride	\$300.00
Chloroform	\$300.00
Tetrachloroethylene	\$300.00
Trichloroethylene	\$300.00
1,2- <i>trans</i> -dichloroethylene	\$300.00
Methylene Chloride	\$300.00
Naphthalene	\$300.00
Total Phthalates	\$300.00
Xylene	\$300.00
Temperature	\$100.00
pH	\$100.00
Surfactants (MBAS)	\$100.00

C. Daily Average Maximum Limit:

1. Any user violating the daily average maximum limit, such that no interference, upset or pass-through incident resulting in violation of the NPDES limits occurs at the POTW, shall be assessed a penalty of up to five hundred dollars (\$500.00) for each multiple or fraction thereof by which the daily average maximum limit is exceeded for each pollutant.

*For example, a daily average maximum limit violation of five (5) times the daily average maximum limit for a single pollutant would incur up to a two thousand*

*dollar (\$2,000.00) penalty, assuming that no upset, interference or pass-through occurred at the POTW.*

2. Any user violating the daily average maximum limit, such that an interference, upset or pass-through incident does occur at the POTW to the extent that the NPDES limits are exceeded shall be assessed up to a ten thousand dollar (\$10,000.00) penalty or the amount of civil penalties and/or fines assessed against the City by State and/or Federal regulatory agencies plus any costs incurred by the City in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses and court reporter fees, against such charges arising from the NPDES violation, whichever is greater.

D. Instantaneous Maximum Limit Violations:

1. Any user violating the instantaneous maximum limit, such that no interference, upset, or pass-through incident resulting in violation of the NPDES permit limits occurs at the POTW, shall be assessed a penalty of up to one thousand dollars (\$1000.00) for each multiple or fraction thereof by which the instantaneous maximum limit is exceeded for each pollutant.
2. Any user violating the instantaneous maximum limit, such that an interference, upset, or pass-through incident does occur at the POTW to the extent that the NPDES permit limits or conditions are exceeded, shall be assessed up to a ten thousand dollar (\$10,000.00) penalty, or the amount of civil penalties and/or fines assessed against the City by the State and/or Federal regulatory agencies plus any costs incurred by the City in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses and court reporter fees, against such charges arising from the NPDES violation, whichever is greater.

E. Monitoring and Reporting Violations:

1. Minimum penalty of five hundred dollars (\$500.00) per violation.
2. Repeat violation amounts may increase by increments of one hundred dollars (\$100.00).

F. Other Permit Violations:

1. Minimum penalty of five hundred dollars (\$500.00) per day, per violation.
2. Repeat violation amounts may increase by increments of one hundred dollars (\$100.00).

G. Violations Detected During Site Visits:

1. Minimum penalty of two hundred dollars (\$200.00) per day, per violation unless violation is already covered by above.



2. Repeat violation amounts may increase by increments of one hundred dollars (\$100.00).