



Department of Environmental Services

Standard Operating Procedure: Enforcement Response Plan

DATE: November 9, 2015
REVISION NO.: 0
APPROVED BY: Karen Khonsari, Director of Environmental Services

I. Subject

Guidelines for carrying out enforcement actions for violations of the City of Baton Rouge/Parish of East Baton Rouge Industrial Pretreatment Program.

II. Purpose

To establish a methodology for identifying industrial user (IU) noncompliance.

To meet 40 CFR 403.8(f)(5) and LPDES permit requirements, which require an Enforcement Response Plan that adequately addresses different type of violations and their corresponding enforcement actions.

To describe the types of escalated enforcement actions the City-Parish's Industrial Pretreatment Program will utilize to achieve compliance from industrial users operating in violation of applicable code or law and the time periods within which the City will initiate and follow up on these actions.

To establish criteria, responsible personnel, and procedures to select and initiate an appropriate enforcement response from among those provided in the Plan.

To establish a system for documenting compliance data in a manner which will enable the information to be used as evidence in administrative and judicial enforcement actions.

To ensure equitable and consistent treatment of industrial users.

To eliminate the economic benefit for industrial users to violate pretreatment standards.

Definition and Abbreviations

WWDP Wastewater Discharge Permit
IPP Industrial Pretreatment Program
NOV Notice of Violation
IU Industrial User
SOP Standard Operating Procedure

IV. Scope

This SOP describes the procedures used to identify noncompliance and the appropriate enforcement action(s) for each type of violation.

Swift enforcement actions such as informal warning and notice of violation can be issued by the Environmental & Wastewater Pretreatment Manager of the wastewater treatment facility. Other appropriate enforcement actions will be recommended to the Department of Environmental Services Director.

V. City Personnel Involved with the Pretreatment Program

1. Direct Involvement

The following personnel are directly involved with the day to day operation of the City's IPP. Job specifications are established by the City and are amended from time to time in accordance with the Program requirements. General responsibilities of IPP personnel and authority for taking enforcement action within the Enforcement Response Plan are delegated as follows:

- 1. Environmental Specialist:** The Environmental Specialist is responsible for conducting the Industrial User Survey, inspecting, sampling and monitoring permitted IUs, maintaining and cleaning field equipment, and performing demand monitoring, surveillance, or any other sampling as required by the Program. Environmental Specialists are responsible for routine sample scheduling and ordering equipment and parts. Environmental Specialists are authorized to issue a warning or NOV for industrial noncompliance, relating to discharge limit violations, inspections, and observations made while sampling or inspecting IUs.
- 2. Environmental & Wastewater Pretreatment Manager:** The Environmental & Wastewater Pretreatment Manager shall be thoroughly familiar with all Program requirements and responsibilities for ensuring implementation of the City's IPP requirements. The Environmental & Wastewater Pretreatment Manager is responsible for continually tracking both IUs and City monitoring data, reviewing and issuing IU discharge permits, determining instances of noncompliance, coordinating with the Environmental Specialists to initiate monitoring responses, compiling data for the annual report to LDEQ, submitting updates to the Environmental Manager regarding Program activities, implementing all changes made by Federal Government to the General Pretreatment Regulations (40 CFR Part 403), and implementing all changes made by the State Government to the Pretreatment Requirements for Existing and New Sources of Pollution regulations. The Environmental & Wastewater Pretreatment Manager is authorized to issue NOVs, Administrative Orders, Compliance Schedules, and prepares the annual list of significant violators for publications. The Environmental & Wastewater Pretreatment Manager shall also recommend to the Environmental Manager the imposition of administrative fines, revocation of permits, and both temporary and/or permanent termination of services in instances of noncompliance.
- 3. Environmental Coordinator:** The Environmental Coordinator shall oversee the division of IPP operations, evaluate recommendations of the Environmental & Wastewater Pretreatment Manager, direct Program activities according to the guidance of the Department Director, perform budgeting activities, recommend initiatory legal actions to the Parish Attorney and Department Director and forward recommendations for revisions to the City-Parish Code for further administrative review.

2. Indirect Involvement

The following personnel are not directly involved in the day to day operation of the IPP, but may become involved in enforcement of the Program:

1. **Director of Environmental Services:** The Director (D) is responsible for the administration and enforcement of all sections of the applicable City-Parish Code of Ordinances and is responsible for the administration and operation of the City's Wastewater Treatment Plants and Collection Systems. Within these responsibilities lies the authority to assess administrative fees, conduct conciliation meetings, issue and revoke WWDPs, terminate service and initiate judicial proceedings.
2. **Parish Attorney:** The Parish Attorney (PA) or his/her designee shall advise technical and managerial personnel on enforcement matters and execute the judicial responses and actions deemed necessary by the Mayor-President.

VI. Tools Required

There are three tools required:

- Sewer user ordinance
- IU file(s)

VII. Hazard ID

Not applicable.

VIII. Procedure

1. Identifying Noncompliance

Before enforcement proceedings begin, determine that the IU has not met the requirements of the pretreatment program. Noncompliance may be identified, at a minimum, during the activities identified in Figure 1.

Harmless technical violations, as deemed appropriate by the Environmental & Wastewater Pretreatment Manager and demonstrated by the users, can be exempt from enforcement action. Examples of technical violations: Excursion of pH limitations > 5.0 not more than fifteen minutes, non-reportable results due to laboratory QA/QC, equipment failure, etc. Determination will also be based on user's historical compliance record. Successive and chronic occurrence of technical violations will be subject to enforcement. All technical violations will be documented.

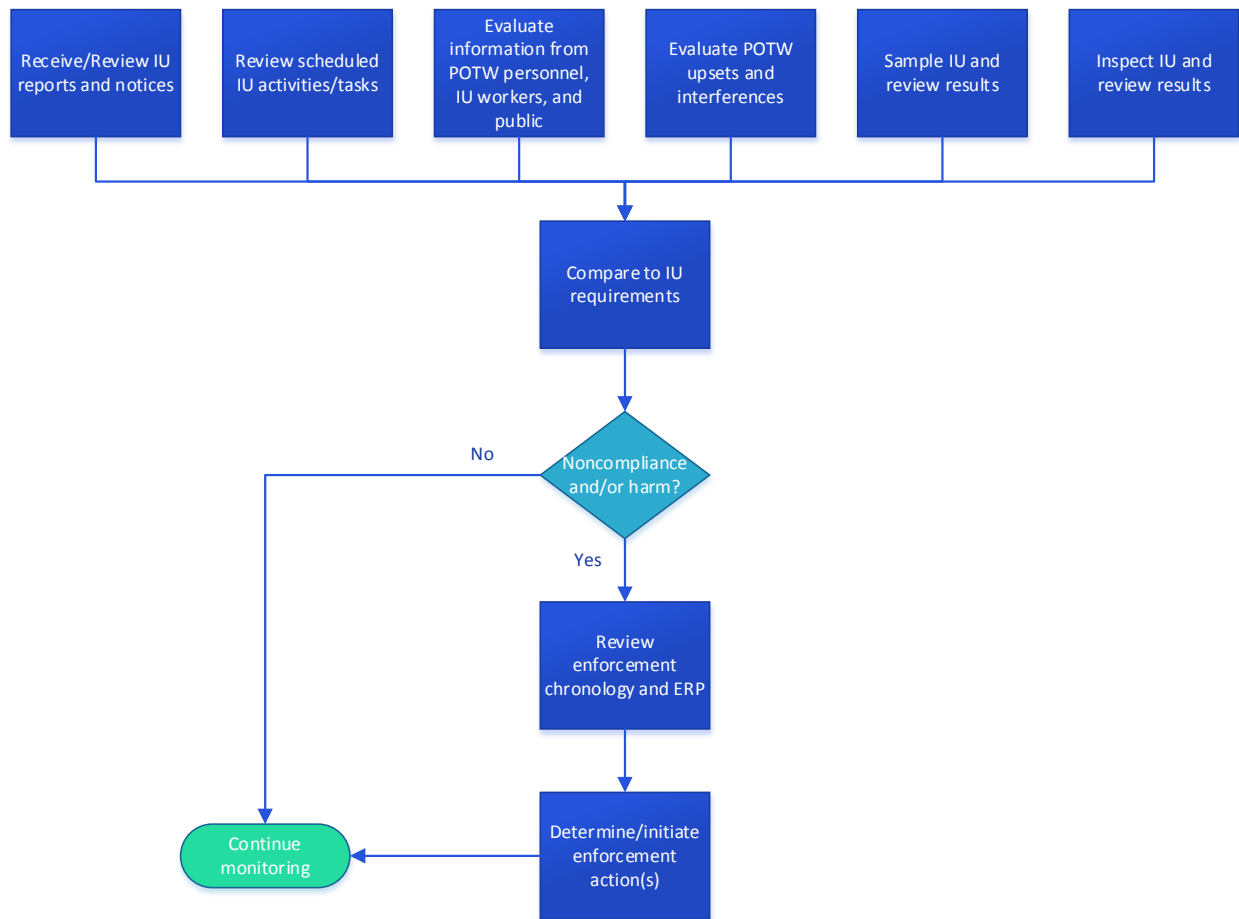


Figure 1. Identifying Noncompliance

2. Verifying Noncompliance

Before enforcement proceedings begin, determine that the IU has not met the requirements of the certain violation types may need to be verified prior to an enforcement action. Request for resubmission of data and site visits may also be used to verify data. All data and information collected must be admissible in court.

History of the IU's compliance should also be evaluated to determine the appropriate level of enforcement response.

3. Response to Noncompliance

Using the guidelines presented in **Table 1 - Enforcement Response Plan**, initiate or recommend the enforcement response that is applicable to a noncompliance. Review the Sewer Use Ordinance prior to initiating or recommending enforcement actions to ensure that proper procedures are being followed. Submit notice of violation or recommendation to the project manager for review and approval signature. Issuance of notice of violation or recommendation of other enforcement actions should be carried out within 10 working days from date the violation was identified.

4. Administrative Due Process

Notice of administrative enforcement action must give the user an opportunity to appear and be heard before the Control Authority to contest the reason for or severity of such action. Procedures for a show cause hearing may be used to satisfy this requirement. Due process opportunities for notice and hearing are required in emergency situations a reasonable time after the necessity for the emergency has passed.

5. Documentation

Maintain all records and documentation.

IX. References

- 40 CFR 403 General Pretreatment Regulations, final as of July 1, 1994
- Guidance Manual for POTW Pretreatment Program Development, U.S. EPA, October 1983
- Procedures Manual for Reviewing a POTW Pretreatment Program Submission, U.S. EPA, October 1983
- Guidance for Developing Control Authority Enforcement Response Plans, U.S. EPA, September 1989
- Guidance for Evaluating POTW Enforcement Response Plan Submittals, U.S. EPA, December 1991
- Pretreatment Monitoring and Enforcement Guidance, U.S. EPA, September 1986
- U.S. EPA Checklist for the Development or Modification of a Pretreatment Program, Region VI, July 1991

Table 1. Schedule of Civil Fines and Administrative Penalties

Civil Infraction	Type	Initial offense	First Repeat Offense	Second Repeat and Subsequent Offense	Period for Repeat Offense
Failure to maintain grease trap maintenance records.	Civil	50.00	100.00	250.00	1 Year
	Admin.	NOV	NOV	NOV	
Incomplete or missing records or reports.	Civil	50.00	100.00	250.00	1 Year
	Admin.	NOV	NOV	NOV	
Failure to provide reports within 30 days.	Civil	50.00	100.00	250.00	1 Year
	Admin.	NOV	NOV	NOV	
Violation of discharge limit.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to maintain grease trap.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year ¹
	Admin.	NOV	CO	CDO or REVOKE	
Discharge of waste that causes obstruction.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to notify of bypass.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to meet compliance date within 30 days	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to report spill or changed discharge.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to monitor all pollutants according to permit.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Sampling using incorrect sampling collection technique.	Civil	\$100.00	\$250.00	\$1,000.00	NA
	Admin.	NOV	CO	CDO or REVOKE	
Sampling at incorrect location.	Civil	\$100.00	\$250.00	\$1,000.00	NA
	Admin.	NOV	CO	CDO or REVOKE	
	Civil	\$100.00	\$250.00	\$1,000.00	
Failure to accurately report non-compliance.	Admin.	NOV	CO	CDO or REVOKE	1 Year
	Civil	\$100.00	\$250.00	\$1,000.00	
Copies of records denied.	Civil	\$100.00	\$250.00	\$1,000.00	NA
	Admin.	NOV	CO	CDO or REVOKE	
Entry for site visit denied or consent withdrawn.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to follow proper analytical requirements.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to report additional monitoring.	Civil	\$100.00	\$250.00	\$1,000.00	NA
	Admin.	NOV	CO	CDO or REVOKE	

Civil Infraction	Type	Initial offense	First Repeat Offense	Second Repeat and Subsequent Offense	Period for Repeat Offense
Failure to install monitoring equipment.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
Failure to obtain a sanitary sewer service application or notify of change in ownership.	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
	Admin.	NOV	CO	CDO or REVOKE	
	Civil	\$100.00	\$250.00	\$1,000.00	
Opening or connecting to public sewer without a permit.	Admin.	NOV	CO	CDO or REVOKE	1 Year
	Civil	\$100.00	\$250.00	\$1,000.00	1 Year
Dilution of waste stream in lieu of treatment.	Admin.	NOV	CO	CDO or REVOKE	1 Year
	Civil	\$100.00	\$250.00	\$1,000.00	
Unpermitted discharge; failure to obtain permit.	Civil	\$500.00	\$1,000.00	\$2,000.00	1 Year
	Admin.	CO	CDO or REVOKE	CDO or REVOKE	
Failure to install a required treatment device	Civil	\$500.00	\$1,000.00	\$2,000.00	NA
	Admin.	CO	CDO or REVOKE	CDO or REVOKE	
Failure to meet compliance deadlines for existing or new source.	Civil	\$500.00	\$1,000.00	\$2,000.00	1 Year
	Admin.	CO	CDO or REVOKE	CDO or REVOKE	
Discharge that endangers human health or the environment or has caused the POTW to exercise its emergency authority.	Civil	\$10,000.00 per significant offense	\$10,000.00 per significant offense	\$10,000.00 per significant offense	1 Year
	Admin.	CDO	JUDICIAL	SUSPEND or REVOKE	

Notes

1 If the "Failure to maintain grease trap" violation is noted, the User is subject to the Civil Fine(s) as scheduled above. If corrections are not made within 3 days, the City-Parish reserves the right to engage a contractor to complete the required actions to bring the grease trap into compliance. In addition to the Civil Fine(s), the User will be charged 2.0 times the contractor fee(s) to complete the required actions.

2 Response types include:

- NOV, notice of violation
- CO, consent order or compliance order. Best Professional Judgement will be used to determine which type to use. Consent order is a written agreement with IU which normally contains compliance schedules and remedial actions or stipulated fines. Consent order must have signatures of DES and industry representatives. Compliance order directs IU to achieve or restore compliance, and/or to develop a specific plan or program by a certain date. It usually contains compliance schedules and penalties. Compliance Order must only have the signature of the DES.
- CDO, cease and desist order, directs a noncompliant user to cease or terminate discharges immediately. The order may be issued immediately or after a hearing. In an emergency, CDO may given by telephone. However, a subsequent written order should be served on the IU, either in person or by registered mail. In nonemergency situations, CDO may be used to suspend or permanently revoke industrial wastewater discharge permit.
- NOTICE, mandatory public notice in newspaper if meets SNC criteria of 40 CFR 403.8 (f)(vii)
- REVOKE, revocation of permit and/or termination of service. Formal notice of termination to the noncompliant user or a physical blockage of the sewer connection to an industrial user.
- WARRANT, a document issued by a magistrate or judge which authorizes entry into private premises to either observe compliance with applicable laws or collect evidence of noncompliance.

3 SNC, Significant Noncompliance, requires NOTICE (see NOTICE).

- Chronic violations - 66% or more of all the measurements taken during a six-month period exceed the daily maximum limit or the average limit for the same pollutant parameter.
- TRC, Technical Review Criteria (TRC) violations - 33% or more of the measurements for each pollutant parameter taken during the six-month period equal or exceed the product of the daily maximum limit or the average 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).
- SNC will be calculated for 6 month periods based on rolling quarters. The 6 month periods are: January to June, April to September, July to December, and October to March.