

ATTACHMENT C

CITY OF GREER COMMISSION OF PUBLIC WORKS

ENFORCEMENT MANAGEMENT STRATEGY

This Enforcement Management Strategy has been developed by Greer Commission of Public Works (CPW) as a comprehensive and effective enforcement response plan in coordination with the Federal and State requirements and with the CPW's Sewer Use and Pretreatment Ordinance. The intent is to give guidance to the staff regarding the methods and manner of enforcement and to provide information to Users who may become subject to enforcement proceedings. ~~This Enforcement Management Strategy is intended as a guide and to supplement the remedies and procedures set forth by applicable laws and regulations.~~

**1 Purpose of the Plan**

**Greer CPW desires to make its staff and the public aware of its enforcement response plan by 1) describing how instances of non-compliance will be investigated; 2) stating the type of escalated enforcement actions for violation and the time period for action; and 3) reflecting its primary responsibility to enforce applicable pretreatment standards and other requirements of its Sewer Use and Pretreatment Ordinance. The plan will also contain guidelines or requirements for inspections, sampling, monitoring, other reports, hearings, permitting, suspensions, revocations, sanctions, fines and penalties.**

**This plan will strengthen internal management, enhance the CPW's reputation as a responsible public agency, remove the subjective element from enforcement and involve other public and regulatory agencies in coordinated efforts in health, sanitation and environmental concerns.**

**2. Duties**

The General Manager has been empowered to enforce compliance with permits and regulations. Acting under the General Manager is the Pretreatment Coordinator. The Pretreatment Coordinator shall be responsible for implementing the Pretreatment Program. The Laboratory Section Manager shall be responsible for the sampling and analysis required in wastewater discharge permits to be performed by CPW. Analyses not performed by the laboratory staff shall be performed by a qualified laboratory. The Pretreatment Coordinator shall inform the General Manager of any violations of discharge limitations. The Pretreatment Coordinator shall be responsible for assuring that the Industrial Users comply with reporting requirements, and for enforcement actions. The Pretreatment Coordinator shall be responsible for all administrative actions such as the submissions of reports, industrial inspections, periodic survey update, and issuing permits. The Pretreatment Coordinator shall annually evaluate the Enforcement Program to assure it is effective and reasonable. A report on the findings of the evaluation shall be given to the General Manager.

**3. Enforcement Procedures**

Once non-compliance is identified, the General Manager shall be advised of the nature of the violation. The Pretreatment Coordinator may demand monitoring in the event the violation was of a discharge limitation or which resulted in interference. The Pretreatment Coordinator shall notify the User of any violations and of any intended enforcement regarding the violation.

- A. The Warning of Minor Violation (WOMV) shall be in the form of a written Summary of Violations labeled Warning of Minor Violation. A WOMV shall be sent to the User and retained for record by the User. A WOMV does not require a response to CPW but should prompt the User to take corrective action.
- B. The Notice of Violation (NOV) shall be in the form of a letter sent to the User within fifteen days after the violation is noted. The User shall respond, if required, within fifteen days of receipt to the NOV and state (1) the cause of the violation; and (2) what corrective action will be taken to prevent future violations. If the Pretreatment Coordinator does not receive a response, or receives an inadequate response to an NOV for which a response was required, a Notice of Significant Noncompliance shall then be issued.
- C. A Notice of Significant Noncompliance (NOSN) shall be sent to the User by certified mail within ten days of the determination of its need. The User shall respond within fifteen days of receipt of the NOSN and state (1) the cause of the violation; and (2) what corrective action will be taken to prevent future violations. The Pretreatment Coordinator may also require the User to propose and submit a schedule of compliance. If the User indicates that corrective action will take longer than 90 days, the Pretreatment Coordinator may ask the User to enter into a Consent Agreement.
- D. If a User fails to respond to a Notice of Significant Noncompliance, the Pretreatment Coordinator shall issue a Rule to Show Cause for a ~~Adjudicatory~~ hearing and give notice of the relief, civil penalties, expenses, costs and fees to be sought ~~at the Adjudicatory Hearing~~.
- E. If the violation is caused by a discharge that is of imminent danger to public health, or has resulted in observed damage to the wastewater system or receiving stream then a Notice of Revocation (NOR) shall be sent immediately and may include a requirement to immediately cease the discharge. A hearing shall be held within fifteen days after the User is directed to cease the discharge.

#### **4. Classification of Violations**

The classification of violations under these regulations and permit are as follows:

- A. A Warning of Minor Violation (WOMV) shall be given when there is any violation less than that under the criteria for requiring a Notice of Violation.

- B. A Notice of Violation (NOV) shall be given when there is any violation less than that under the criteria for a Notice of Significant Noncompliance (NOSN) and more than that under the criteria for a Warning of Minor Violation (WOMV).
- C. A Notice of Significant Noncompliance (NOSN) indicates a greater violation, including but not limited to, those violations set out in paragraph 11.1.
- ~~C. A Notice of Significant Noncompliance (NOSN) indicates a greater violation, including but not limited to, those violations which meet the following criteria:~~
- ~~1. When a User has ignored and failed to respond to a NOV for which a response was required;~~
  - ~~2. When a User violates a compliance schedule milestone or reporting requirements;~~
  - ~~3. When there are chronic violations in which sixty-six percent or more of all the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit for the same pollutant;~~
  - ~~4. When there are Technical Review Criteria (TRC) violations in which thirty-three percent or more of all the measurements taken during a six month period for the same pollutant equal or exceed the product of the daily maximum or monthly average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, COD, TSS, fats, oils, and grease and TRC = 1.2 for all other pollutants except pH. A TRC violation for pH is any measurement less than 5.0 standard units, unless other limits are approved by the General Manager);~~
  - ~~5. When there is a violation of a limit (daily maximum or monthly average) that the General Manager determines has caused alone, or in combination with other discharges, interference or pass-through; (a) which involves a failure to comply with compliance schedule milestones contained in permits, Consent Agreements, or Administrative Orders; (b) which involves a failure to accurately report noncompliance; (c) which has caused imminent danger to human health or welfare or to the environment; (d) which involves a failure to comply with reporting requirements in discharge permits or with this Regulation or any applicable regulation; (e) which results in the CPW exercising its emergency authority; or (f) which the General Manager determines adversely affects the operation of the Pretreatment Program.~~

- D. A Notice of Revocation (NOR) shall be given orally if time does not permit written notice. However, such oral notice shall be subsequently documented as time is available. When practical, written notice shall be given. A NOR shall be given when a violation of a permit condition or limitation, or a violation of these regulations threatens to cause an interference with, or have an adverse impact upon, the operation of the facilities; or danger to human health, welfare, or the environment is imminent. A NOR shall result in the revocation of a User's permission to discharge. Any User notified of revocation of permission to discharge shall immediately stop or eliminate its discharge. A **show cause** hearing shall be held within fifteen days of the NOR **to allow the User to show cause why determined whether** the suspension may be lifted or the User's permit terminated. Prior to the date of the hearing the User shall submit to the General Manager a detailed written statement describing the causes of the violations and the measures taken to prevent any future violations. In the event the User fails to comply voluntarily with the Order, the General Manager shall take such steps as deemed necessary including immediate severance of the sewer connection. The General Manager may reinstate permission to discharge upon proof of elimination of the violations.

## **5. Revocation or Termination of Permit**

Any User who violates the conditions of this Ordinance, per applicable State and Federal regulations, is subject to having his permission to discharge terminated.

- ~~1. Failure to factually report the wastewater constituents and characteristics of the discharge;~~
- ~~2. Failure to report significant changes in operations, or wastewater constituents and characteristics;~~
- ~~3. Refusal of reasonable access to the User's premises for the purpose of inspection and monitoring;~~
- ~~4. Violation of conditions of permit;~~
- ~~5. Tampering with, or deliberately altering, monitoring equipment;~~
- ~~6. Changes in POTW NPDES permit, receiving stream water quality standards, POTW treatment plant process, sludge disposal practices or requirements, or other modifications of a similar nature that impact the CPW's ability to accept industrial wastewater;~~
- ~~7. Causes necessitating an emergency suspension;~~
- ~~8. Discharge of wastewater prohibited by this Regulation;~~
- ~~9. Significant noncompliance; or~~
- ~~10. Non-payment of sewer User charge or other charges, fines, costs and expenses.~~

A User whose permission to discharge has been revoked may re-apply for permission to discharge and shall pay all delinquent fees, charges, penalties, any impact fees which may

be established by CPW and be effective at the date of the reapplication, and such other sums as may be due to CPW.

**6. Informal Conference Prior to Hearing Date**

Upon request, the Pretreatment Coordinator will schedule an information conference with the User and attempt to negotiate an enforceable Compliance Schedule by way of a Consent Agreement. The Consent Agreement may contain such other terms and conditions, including but not limited to, provisions for additional monitoring, full or partial cessation of discharge, interim limits, submittal of technical reports, addition of or modification of pretreatment facilities, payment of all administrative costs, expenses, attorney's fees and civil penalties.

**7. Failure to Comply with Consent Agreement**

If a User fails to comply with a Consent Agreement, this failure shall constitute a separate and new violation and give rise to additional costs, fines and penalties, as well as grounds to seek other and different relief than that consented to in the original Consent Agreement.

**8. Publication of List of Significant Violators**

Pretreatment Regulations require CPW to publish, at least annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by CPW, a list of Users which were in Significant Noncompliance with applicable pretreatment standards and requirements during the previous twelve months. The procedure for compiling the list of such Users is as follows:

- A. The Pretreatment Coordinator shall prepare a compliance history from CPW records for each individual Significant Industrial User (SIU), or other User.
- B. The compliance history so obtained for each SIU or other User shall be reviewed to determine if a pattern of noncompliance exists or if the industry has been, or continues to be, in SNC. To the extent that an industry meets these criteria, it will be placed on the list for publication.

**9. Adjudicatory Hearings**

~~Adjudicatory Hearing shall mean a hearing that is held pursuant to this Ordinance.~~  
Adjudicatory Hearings are trial-type proceedings where there is to be a determination made in a contested case pursuant to the power of CPW.

**Adjudicatory Hearings include hearings arising from a Rule to Show Cause issued by the CPW and a request made by an interested party. The Rule to Show Cause notice shall identify the party, the provisions of the Pretreatment Ordinance that were violated, facts stated with particularity alleged as grounds entitling it to relief, the relief requested, and notify the party that it may be subject to examination and cross-examination and must**

**make any employee or consultant or other person represented by the requestor available for examination and cross-examination. An affected party may also request an Adjudicatory Hearing.**

Requests for an Adjudicatory Hearing shall be served on CPW within fifteen days following **actual or constructive notice** of any final administrative decision by CPW on an application, permit, certificate or other licensing matter, or on a violation. Requests for Adjudicatory Hearings shall include the name of the requestor **and the nature of interest in the matter for which the hearing is requested,** ~~his interest and the names of parties which he represents~~ **information sufficient to identify the decision or order appealed from, the date of receipt of the decision or order appealed from, facts stated with particularity alleged as grounds entitling it to relief, the relief requested,** ~~the reasons for the request, the major issues which are purposed to be contested at the hearing,~~ and a statement by the requestor agreeing to be subject to examination and cross-examination and to make any employee or consultant of such requestor, or other person represented by the requestor, available for examination and cross-examination at the expense of the requestor. **Any request shall include a complete name and address of the party filing the request along with the name and address of counsel if the party is represented by an attorney.**

The General Manager may grant or deny a request for an Adjudicatory Hearing on the basis of a consideration of whether the person making such a request has standing to seek a determination under the law and whether such request is a matter subject to an Adjudicatory Hearing under these regulations.

~~An initial pleading as used herein shall refer to the document by which an Adjudicatory Hearing may be commenced. A request may be considered an initial pleading. Every initial pleading shall, at a minimum, contain the following:~~

- ~~a. — A title which indicates the nature of the proceeding and the parties involved therein;~~
- ~~b. — The complete name and address of the party filing the pleadings and, if applicable, the organization or interest whom he represents;~~
- ~~c. — The legal authority and the jurisdictional basis for the hearing;~~
- ~~d. — A clear and concise statement of the issues upon which the pleading is maintained and identification of the particular regulation, standard, guideline, or provision of law which is the subject of the hearing. If the party is unable to state the matters in detail at the time of the initial pleading or other notice is served, such initial pleading or other notice may be limited to a simple statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished to all parties;~~
- ~~e. — A prayer setting forth the relief sought;~~

~~f. If the party filing the pleading is represented by counsel, the name and address of the attorney;~~

~~g. A statement by the requestor agreeing to be subject to examination and cross-examination and to make any employee or consultant of such requestor available for examination and cross-examination at the expense of such requestor, or such person upon the request of the hearing examiner on his own motion, or on the motion of any party.~~

An answer to the initial pleading **(Rule to Show Cause or Request for Adjudicatory Hearing)** shall be served on the requestor within ten days after service of the document to which the answer is directed unless additional time is required pursuant to provisions of this section. ~~Allegations contained in said initial pleading which are not specifically admitted by the party filing an answer are deemed denied.~~ The answer **shall respond to the allegations contained in the request and any additional allegations upon which the party relies. The answer shall include a complete name and address of counsel if represented by an attorney.** contain, but not limited, to the following:

- ~~1. A clear and concise statement identifying the party filing the answer and the matter to which the answer relates;~~
- ~~2. A clear and concise statement of all manners upon which the party filing the answer relies. There shall be no replies other than an answer.~~

Leave to file amendments to any pleading may be allowed or denied provided, however, leave to amend shall be freely given when justice requires it.

A party desiring to withdraw a pleading filed with CPW or the hearing examiner shall file a motion for withdrawal. If any party has an objection thereto, he shall, within ten days after the receipt of the motion, serve a statement on the hearing examiner setting forth the reasons for his objection and serve a copy of the same on each part. In the absence of objections or a request for a hearing, a motion of withdrawal shall, within ten days after filing thereof, be deemed allowed. The hearing examiner shall then file an order of dismissal, with or without prejudice.

Service by CPW of initial pleadings, complaints, orders, decisions, pleadings, motions, processes, and other documents shall be by personal delivery or by first-class mail. Service on CPW shall be by servicing and filing two copies of the paper with the Commission of Public Works, 301 McCall Street, Greer, South Carolina by personal service or by first-class mail upon all parties to the proceedings. A certificate of service shall accompany all papers when filed by any party and shall be filed within ten days after service is made.

The hearing examiner may, on motion, at any time during the course of any proceeding, permit such substitutions or additions of parties as justice may require. Third party interveners should meet the same standards as required of those intervening in matters before the Court of Common Pleas.

The hearing examiner shall observe the rules of evidence observed by the Court of Common Pleas, with the exception that hearsay evidence may be admissible provided that it is deemed necessary to ascertain facts not reasonably susceptible of proof without such evidence **and the hearsay evidence is properly identified as such and is given appropriate consideration in reaching a determination. The hearing examiner shall exclude hearsay evidence when such testimony would violate fundamental fairness.**

All testimony shall be taken under oath and all parties shall have the right to cross-examination of the witness.

The hearing examiner and all other parties, through the hearing examiner, shall have the right to issue subpoenas requiring the attendance and testimony of witnesses and the production of any documents in question in the proceeding; provided, however, that where the issuance of such a subpoena is resisted or contested, the hearing examiner shall rule on the availability of the subpoena in that particular case.

A party may file a motion for the production or view of any object which relates to the subject matter of any proceeding then pending before the hearing examiner. The motion shall be granted where justice requires.

Anytime during the course of the proceeding, the hearing examiner may order that testimony of a witness be taken by deposition. Application to take testimony by deposition shall be made by motion directed to the hearing examiner. Such motion shall set forth the reasons for desiring the deposition, the time when, the place where, the name and address of each witness, and the subject matter concerning which each witness is expected to testify. The hearing examiner shall allow the motion only upon showing that circumstances are such that the witness to be deposed cannot appear before the hearing examiner without substantial hardship being caused. If such hardship is financial in nature, any party may agree to reimburse the witness for expenses, including loss of wages incurred by appearing. In such cases, the motion to allow taking of a deposition shall therefore be denied. Motions for the taking of depositions shall not be allowed if the depositions result in any undue burden to another party or in any undue delay of the proceeding. If the motion is allowed, the hearing examiner shall give at least five days' notice of the taking of the depositions to all parties. Depositions shall be taken orally before a person having power to administer oaths. Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine.

Objections to questions shall be in short form stating the grounds of objections relied upon. The questions asked, the answers thereto, and all objections shall be reduced to writing certified by the officer before whom the deposition is taken. Said officer shall forward the deposition to the hearing examiner. Subject to appropriate rulings on evidence, the testimony taken as deposition shall be included in the record of the Hearing as if the testimony contained therein had been given by the witness in the presence of the hearing examiner. After notice is served for taking a deposition, upon motion of the party to be examined, made prior to the date set, the hearing examiner may, for good cause shown, order that the deposition shall not be taken; that certain matters shall not be inquired into; or that the scope of the examination shall be limited to certain matters. The hearing examiner



may make any other order necessary to protect the party or witness from harassment or oppression.

The parties may file a written stipulation with the hearing examiner at any stage of the proceeding. At the hearing a stipulation may be orally read into the record. Contested cases may be resolved by informal disposition through means of stipulation, agreed settlement, consent order (with or without a financial penalty), or default.

On the basis of the evidence presented, the hearing examiner shall issue the determination. The hearing examiner shall deliver by certified mail to the parties a copy of the decision.

After a determination is made by the hearing examiner, any party may apply to the CPW for a review of the determination of the hearing examiner. However, application must be submitted in writing within fifteen days of receipt of the determination stating specifically the grounds of objection to such determination. The CPW may on its own motion take up the review of the determination of the hearing examiner at a regularly scheduled CPW meeting. On the basis of the completed record of proceedings and testimony and evidence presented before the hearing examiner, the determination shall be affirmed, modified, reopened or set aside by the CPW.

#### **10. Administrative Penalties**

In addition to other penalties, charges, sanctions or restrictions, revocations or limitations as may be provided in the Sewer Use and Pretreatment Ordinance, a User may be fined up to two thousand dollars (\$2,000.00) for each offense. Each day on which a violation occurs or continues shall be deemed a separate and distinct offense. **In case of a monthly or long-term average discharge limits, the administrative penalty may be assessed for each day during the period of violation.** CPW shall have such remedies for the collection of such assessments as it has for collection of other service charges.

#### **11. Ranges of Enforcement Response**

**CPW will choose the response appropriate to the violation and in the context of the user's prior violations.**

**CPW will consider the following criteria when determining a proper response:**

1. **Magnitude of the violation;**
2. **Duration of the violation;**
3. **Effect of the violation on the receiving water;**
4. **Effect of the violation on the POTW;**
5. **Compliance history of the industrial users;**
6. **Good faith of the industrial user.**

##### **11.1 Magnitude of the Violation**

**Generally, an isolated instance of noncompliance can be met with an information response or a NOV. However, since even an isolated violation could threaten public**

health and the environment, damage public and private property, or threaten the integrity of CPW's program (e.g., falsifying a self-monitoring report), EPA recommends that CPW respond to any "significant noncompliance" with an enforceable order that requires a return to compliance by a specific deadline. EPA has defined significant noncompliance as violations which meet one or more of the following criteria:

1. Violations of wastewater discharge limits

- a. Chronic violations. 66% or more of all the measurements taken for the same pollutant parameter in a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Daily Maximum Limit, same Daily Average Limit, or Instantaneous Limit.
  - b. Technical Review Criteria (TRC) violations. 33% or more of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including Daily Maximum Limit, Daily Average Limit, or Instantaneous 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).
  - c. Any other violation of a Pretreatment Standard or Requirement including Daily Maximum Limit, Daily Average Limit, Instantaneous Limit, or narrative standard that CPW believes has caused, alone or in combination with other discharges, interference or pass-through including endangering the health of CPW 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 CPW's exercise of its emergency authority to halt or prevent such a discharge.
2. 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.
  3. Failure to provide within 45 days after the due date, standard required reports such as self-monitoring reports and reports on compliance schedules.
  4. Failure to accurately report noncompliance.

5. Any other violation or group of violations, which may include a violation of Best Management Practices, CPW determines will adversely affect the operation or implementation of the local pretreatment program.

## 11.2 Duration of the Violation

Violations (regardless of severity) which continue over prolonged periods of time should subject the industrial user to escalated enforcement actions. For example, an effluent violation which occurs in two out of three samples over a six-month period or a report which is more than 45 days overdue is considered significant; while a report which is two days late would not be deemed significant.

CPW's response to these situations must prevent extended periods of noncompliance from recurring. EPA recommends issuance of administrative orders for chronic violations. If the industrial user fails to comply with the administrative order, CPW may assess administrative penalties or initiate judicial action. If the prolonged violation results in serious harm to the POTW, CPW may also consider terminating service or obtaining a court order to halt further violations as well as to recover the costs of repairing the damage.

## 11.3 Effect on the Receiving Water

One of the primary objectives of the National Pretreatment Program is to prevent a "pass through" of pollutants which enter the receiving stream. Consequently, any violation which results in environmental harm should be met with a severe response. Environmental harm should be presumed whenever an industry discharges a pollutant into the sewerage system which:

Causes a "pass through"

Causes a violation of the POTW's NPDES permit (including water quality standards)

Has a toxic effect on the receiving waters (i.e., fish kill)

At a minimum, responses to these circumstances may include an administrative order and an administrative fine. In addition, the response may ensure the recovery from the noncompliant user of any NPDES fines and penalties paid by CPW. Where authorized, CPW may also pursue damages for the destruction or harm to local natural resources. If a user's discharge causes repeated harmful effects, CPW may seriously consider terminating service to the user.

## 11.4 Effect on the POTW

Some of the violations may have negative impacts on the POTW itself. For example, they may result in significant increases in treatment costs, interfere or harm POTW personnel, equipment, processes, operations, or cause sludge contamination resulting in increased disposal costs. These violations may be met with an administrative fine or civil penalty and an order to correct the violation in addition to recovery of additional costs and expenses to repair the POTW. For example, when the industrial user's

discharge upsets the treatment plant, damages the collection system through pipe corrosion, causes an obstruction or explosion, or causes additional expenses (e.g. to trace a spill back to its source), the POTW's response may include cost recovery, civil penalties, and a requirement to correct the condition causing the violation.

#### 11.5 Compliance History of the User

A pattern of recurring violations (even of different program requirements) may indicate either that the user's treatment system is inadequate or that the user has taken a casual approach to operating and maintaining its treatment system. These indications will alert CPW to the likelihood of future significant violations. Accordingly, users exhibiting recurring compliance problems may be strongly dealt with to ensure that consistent compliance is achieved. Compliance history is an important factor for deciding which of the two or three designated appropriate remedies to apply to a particular violator. For example, if the violator has a good compliance history, CPW may decide to use the less severe option.

#### 11.6 Good Faith of the User

The user's "good faith" in correcting its noncompliance is a factor in determining which enforcement response to invoke. "Good faith" may be defined as the user's honest intention to remedy its noncompliance coupled with actions which give support to this intention.

Generally, a user's demonstrated willingness to comply may predispose CPW to select less stringent enforcement responses. However, good faith does not eliminate the necessity of an enforcement action. For example, if the POTW experiences a treatment upset, it will recover its costs regardless of prior good faith. Good faith is typically demonstrated by cooperation and completion of corrective measures in a timely manner (although compliance with previous enforcement orders is not necessarily good faith).

#### 11.7 Enforcement Response Guide

[This guide is essentially for use by the staff and is not an absolute requirement. CPW reserves its right to vary or make exceptions for its general responses as in its discretion may serve the best interest of

**A. UNAUTHORIZED DISCHARGES (NO PERMIT)**

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>	<u>Significant Non-Compliance</u>	<u>Personnel</u>
1. <u>Discharge without a permit, or approval.</u>	<u>One time when discharger is unaware of permit requirement, no known POTW damage.</u>	<u>NOV</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
2. <u>Non-permitted discharge (expired permit).</u>	<u>Failure to apply for permit renewal within ten (10) days of due date</u>	<u>NOV</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
3. <u>Discharge without a permit or approval.</u>	<u>Which results in interference or pass through of POTW or continuing violation of categorical or local limitations.</u>	<u>NOSN, Show Cause Hearing (Administrative Order, Cease and Desist Order, and/or seek injunctive relief and damages).</u>	<u>Yes</u>	<u>General Manager or authorized representative</u>

**A. UNAUTHORIZED DISCHARGES (NO PERMIT) (continued)**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Range of Response</u></b>	<b><u>Significant Non-Compliance</u></b>	<b><u>Personnel</u></b>
<b><u>4. Dilution in lieu of treatment.</u></b>	<b><u>Deliberately increase the use of process or other water to dilute a discharge as a partial or complete substitute for treatment</u></b>	<b><u>NOSN, Show Cause Hearing, (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>General Manager or authorized representative</u></b>
<b><u>5. Recurring dilution in lieu of treatment.</u></b>	<b><u>Continue to deliberately increase the use of process water or other water to dilute a discharge as a partial or complete substitute for</u></b>	<b><u>NOSN, NOR Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>General Manager or authorized representative</u></b>

## **B. APPLICABLE PRETREATMENT LIMITATIONS**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Range of Response</u></b>	<b><u>Significant Non-Compliance</u></b>	<b><u>Personnel</u></b>
<b><u>1. Exceeding final limitations (categorical or local).</u></b>	<b><u>Infrequent or isolated violation greater than applicable pretreatment standards or less than TRC.</u></b>	<b><u>WOMV, NOV</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator</u></b>
<b><u>2. Exceeding final limitations (categorical or local).</u></b>	<b><u>Violation(s) which place an Industrial User in SNC.</u></b>	<b><u>NOSN, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>Pretreatment Coordinator, General Manager</u></b>
<b><u>3. Exceeding interim limitations.</u></b>	<b><u>Without known interference or pass through but which places Industrial User in SNC with limit.</u></b>	<b><u>NOSN, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>Pretreatment Coordinator, General Manager</u></b>
<b><u>4. Exceeding interim limitations.</u></b>	<b><u>With interference or pass through.</u></b>	<b><u>NOSN, NOR, Show Cause Hearing (Administrative Order, Cease and Desist Order, and/or seek injunctive relief and</u></b>	<b><u>Yes</u></b>	<b><u>General Manager or authorized representative</u></b>

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### C. SAMPLING, MONITORING, AND REPORTING

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>	<u>Significant Non-Compliance</u>	<u>Personnel</u>
<u>1. Failure to sample, monitor or report (routine reports, BMRs).</u>	<u>Isolated or infrequent.</u>	<u>WOMV, NOV</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
<u>2. Failure to provide reports for compliance schedules, self-monitoring data or categorical standards or to resubmit incomplete, inaccurate or improper reports returned to User by the CPW within 45 days from the due date or the date the report was returned to the User for</u>	<u>Reports not submitted or properly resubmitted for 45 days or more after their due date.</u>	<u>NOSN, Show Cause Hearing (Administrative Order).</u>	<u>Yes</u>	<u>Pretreatment Coordinator, General Manager</u>
<u>3. Failure to sample, monitor, report, or notify.</u>	<u>User does not respond to letters, does not follow through on verbal or written agreement.</u>	<u>NOSN, Show Cause Hearing (Administrative Order).</u>	<u>Yes</u>	<u>Pretreatment Coordinator, General Manager</u>



**C. SAMPLING, MONITORING, AND REPORTING (continued)**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Range of Response</u></b>	<b><u>Significant Non-Compliance</u></b>	<b><u>Personnel</u></b>
<b><u>4. Failure to notify of applicable pretreatment standard violation as a result of self-monitoring</u></b>	<b><u>Isolated or infrequent. No interference or pass through.</u></b>	<b><u>WOMV, NOV requiring report within 10 days.</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator, General Manager</u></b>
<b><u>5. Minor sampling, monitoring or reporting deficiencies (computations or typographical errors).</u></b>	<b><u>Isolated or infrequent.</u></b>	<b><u>WOMV, NOV</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator</u></b>
<b><u>6. Major or gross sampling, monitoring or reporting deficiencies (missing information, late reports).</u></b>	<b><u>Isolated or infrequent.</u></b>	<b><u>NOV</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator</u></b>
<b><u>7. Major or gross reporting deficiencies.</u></b>	<b><u>Continued. Remains uncorrected for 30 days or more.</u></b>	<b><u>NOSN, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>Pretreatment Coordinator, General Manager</u></b>
<b><u>8. Failure to notify of slug discharge.</u></b>	<b><u>Isolated or infrequent. No interference or pass through.</u></b>	<b><u>NOV</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator</u></b>

**C. SAMPLING, MONITORING AND REPORTING (CONTINUED)**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Range of Response</u></b>	<b><u>Significant Non-Compliance</u></b>	<b><u>Personnel</u></b>
<b><u>9. Failure to notify of slug discharge.</u></b>	<b><u>Known interference or pass through or threat to human safety.</u></b>	<b><u>NOSN, NOR, Show Cause Hearing, (Administrative Order, Cease and Desist Order, and/or seek injunctive relief and damages).</u></b>	<b><u>Yes</u></b>	<b><u>General Manager or authorized representative</u></b>
<b><u>10. Reported slug load.</u></b>	<b><u>Isolated or infrequent with- out known interference or pass through.</u></b>	<b><u>NOV</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator</u></b>
<b><u>11. Reported slug load.</u></b>	<b><u>Isolated or infrequent with known interference, or pass through with threat to human safety.</u></b>	<b><u>NOSN, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>Pretreatment Coordinator General Manager</u></b>

**C. SAMPLING, MONITORING AND REPORTING (CONTINUED)**

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>	<u>Significant Non-Conformance</u>	<u>Personnel</u>
<u>12. Reported slug load.</u>	<u>Recurring with known interference or pass through or threat to human safety.</u>	<u>NOSN, NOR, Show Cause Hearing (Administrative Order, Cease and Desist Order, and/or seek injunctive relief and damages).</u>	<u>Yes</u>	<u>General Manager or authorized representative</u>
<u>13. Failure to report changed discharge.</u>	<u>Isolated or infrequent with no interference or pass through.</u>	<u>NOV</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
<u>14. Failure to report changed discharge.</u>	<u>With known interference and/or pass through or threat to human safety.</u>	<u>NOSN, Show Cause Hearing (Administrative Order, Cease and Desist Order, and/or seek injunctive relief and damages).</u>	<u>Yes</u>	<u>General Manager or authorized representative</u>
<u>15. Reporting false information.</u>	<u>Any instance.</u>	<u>NOSN, NOR, Show Cause Hearing (Termination of Service).</u>	<u>Yes</u>	<u>General Manager or authorized representative</u>

#### D. COMPLIANCE SCHEDULES AND INTERIM LIMITS FOUND IN PERMITS

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>	<u>Significant Non-Compliance</u>	<u>Personnel</u>
<u>1. Missed Interim Date.</u>	<u>Will not cause late final or other interim dates.</u>	<u>NOV, WOMV</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
<u>2. Missed Interim Date.</u>	<u>Will result in other missed interim dates. Violation for good and valid cause.</u>	<u>NOV</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
<u>3. Missed Interim Date.</u>	<u>Will result in other missed interim dates. No good or valid cause.</u>	<u>NOSN, Show Cause Hearing (Administrative Order).</u>	<u>Yes</u>	<u>Pretreatment Coordinator, General Manager</u>
<u>4. Missed Final Date.</u>	<u>Violation due to force majeure (beyond control of User).</u>	<u>Letter</u>	<u>No</u>	<u>Pretreatment Coordinator</u>
<u>5. Missed Final Date.</u>	<u>30 days or more outstanding. Failure or refusal to comply without good or valid cause.</u>	<u>NOSN, NOR, Show Cause Hearing (Administrative Order).</u>	<u>Yes</u>	<u>Pretreatment Coordinator or General Manager</u>

**E. NONCOMPLIANCE DETECTED THROUGH SAMPLING AND/OR FIELD INSPECTIONS AND INVESTIGATIONS**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Range of Response</u></b>	<b><u>Significant Non-Compliance</u></b>	<b><u>Personnel</u></b>
<b><u>1. Minor violation of permit condition.</u></b>	<b><u>No evidence of negligence or intent.</u></b>	<b><u>WOMV</u></b>	<b><u>No</u></b>	<b><u>Pretreatment Coordinator</u></b>
<b><u>2. Minor violation of permit condition.</u></b>	<b><u>Evidence of negligence or intent.</u></b>	<b><u>NOSN, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>Pretreatment Coordinator</u></b>
<b><u>3. Major violation of permit condition.</u></b>	<b><u>Evidence of negligence or intent.</u></b>	<b><u>NOSN, Show Cause Hearing (Administrative Order, Cease and Desist Order, and/or suit for injunction for relief and damages).</u></b>	<b><u>Yes</u></b>	<b><u>General Manager or authorized representative</u></b>
<b><u>4. Entry Denial.</u></b>	<b><u>Failure or refusal to comply with requirements of Ordinance.</u></b>	<b><u>NOSN, obtain search warrant, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>General Manager or authorized representative</u></b>
<b><u>5. Failure to install monitoring facilities</u></b>	<b><u>Failure to or refusal to comply with requirements of Ordinance</u></b>	<b><u>NOSN, NOR, Show Cause Hearing (Administrative Order).</u></b>	<b><u>Yes</u></b>	<b><u>Pretreatment Coordinator</u></b> <b><u>General Manager</u></b>

## **11.8 RESPONSE REQUIREMENTS**

- A. **CPW [reserving its right to make exceptions] will respond to violations of the Ordinance in accordance with the following:**
1. **All violations should be identified and documented within 10 days of receiving compliance information.**
  2. **Initial enforcement responses involving contact with the Industrial User, and requesting information on corrective or preventative action(s), should occur within 30 days of violation detection.**
  3. **Follow up action for continuing or reoccurring violation should be taken within 60 days of the initial enforcement response. For all continuing violations the response will include a compliance schedule.**
  4. **Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.**
  5. **All violations meeting the criteria for Significant Noncompliance should be addressed with an enforceable Order within 30 to 60 days of the identification of Significant Noncompliance.**
- B. **Industrial User response to noncompliance:**
1. **Any instance of Industrial User noncompliance must be reported within 24 hours of knowledge of the noncompliance to the General Manager or his authorized representative followed by a written report, when required, within five working days.**
- The report of noncompliance shall include:**
- a. **A description of the characteristics of the noncompliance.**
  - b. **A statement of the cause of noncompliance.**
  - c. **An account of the time and duration of noncompliance including dates and times; or if not corrected, the anticipated time the noncompliance is expected to continue, and activities being taken to reduce, eliminate, and prevent recurrence of the noncompliance.**
  - d. **For noncompliance of permit limitations repeat sampling event and submit test results to CPW within 30 days. Such notification shall not relieve the User of any expense, loss, damage, or other**

liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

2. Industrial dischargers requiring a permit, but found to be unpermitted, shall submit a completed industrial application within 15 days of receipt.
3. All Administrative Orders shall be implemented upon receipt by the industry.
4. All schedules of compliance shall be implemented upon receipt of the final schedule by the industry.
5. Notice of Violation (NOV) and Notice of Significant Noncompliance (NOSN) shall be responded to within 15 days of the receipt of the Notice.
6. All other activities required of the Industrial User in accordance with the Regulation shall be implemented as specified.