



**DISTRICT OF COLUMBIA
WATER AND SEWER AUTHORITY
PRETREATMENT PROGRAM**

**ENFORCEMENT
RESPONSE PLAN**

Approved January 2001

Revised March 2014

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SECTION 1

INTRODUCTION

1.1 OVERVIEW

The District of Columbia Water and Sewer Authority (DC Water) has responsibility for operating and maintaining the Blue Plains Advanced Wastewater Treatment Facility. The facility is responsible for maintaining compliance with a National Pollutant Discharge Elimination System (NPDES) permit, which requires DC Water to regulate industrial discharges to the sewer system in accordance with an approved pretreatment program. The Pretreatment group within the Department of Wastewater Treatment administers the pretreatment program and has primary responsibility to enforce all applicable pretreatment standards and requirements.

This Enforcement Response Plan (ERP) provides a framework for systematically investigating, documenting, and selecting appropriate enforcement actions, as well as conducting follow-up investigations to ensure Industrial Users (IUs) are in compliance with pretreatment standards and regulations. The enforcement procedures included in the ERP assist pretreatment staff in responding to violations of pretreatment regulations and discharge standards in a consistent and timely manner, allowing for escalating enforcement actions.

In general, non-compliances will initially be addressed through issuance of a Notice of Violation and increased self-monitoring, if applicable. Recurring violations may subject the violator to a compliance schedule and/or an administrative order, which may include fines. In cases where these enforcement actions are not effective in achieving compliance, civil fines, criminal prosecution, and/or suspension of service may be utilized.

1.2 LEGAL AUTHORITY

D.C. Act 12-284, otherwise known as the “Wastewater System Regulation Amendment Act of 1998”, provided DC Water with the legal authority to enforce the pretreatment program. This act was incorporated into D.C. Law 6-95. The statute can be found in D.C. Official Code § 8-105.01 *et seq.* The legal authority citations related to enforcement actions in the D.C. Official Code and the District’s pretreatment implementation regulations contained in Title 21 Chapter 15 of the District of Columbia Municipal Regulations (DCMR) are provided in Table 1.1.

Table 1.1 Legal Authority Citations

Legal Authority	D.C. Code	DCMR
Authority to require IUs to comply with applicable pretreatment standards and requirements.	8-105.06	1501
Authority to deny the discharge of pollutants that cause pass-through, or interference.	8-105.06	1501.2
Authority to regulate prohibited discharge standards.	8-105.06	1501.4
Authority to require compliance with categorical pretreatment standards as they are promulgated.	8-105.06	1501.15
Authority to establish and enforce deadlines for IU installation of pretreatment facilities or technology to meet pretreatment standards.	8-105.07	1502.11
Authority to require IUs to notify DC Water of noncompliances from self-monitoring and submit results of repeat sampling within 30 days.		1508.4
Authority to enter, inspect, sample, and monitor IUs to ensure compliance with standards.	8-105.08	1506.1
Authority to require a compliance schedule	8-105.07	1513.5
Authority to issue an administrative order	8-105.10	1513.6
Authority to impose administrative fines or penalties against IUs violating pretreatment standards and requirements	8-105.10	1516.1
Authority to suspend or revoke a wastewater discharge permit	8-105.10	1513.9

Legal Authority	D.C. Code	DCMR
Authority to halt discharges and seek injunctive relief	8-105.11	1517.1
Authority to suspend water service	8-105.12	1513
Authority to impose judicial fines or penalties against IUs violating pretreatment standards and requirements	8-105.14	1517

1.3 DOCUMENT MANAGEMENT

The ERP will be reviewed and revised as necessary every five years or when a change is necessary to maintain currency with federal and local regulations. The plan must be submitted to EPA Region III for approval prior to implementation.

SECTION 2

IDENTIFYING NONCOMPLIANCE

Inspections and compliance monitoring are the primary means for investigating and confirming non-compliance.

2.1 INSPECTIONS

Inspections are conducted at least annually on all Significant Industrial Users (SIUs). Inspections focus on all processes generating waste, chemical usage and storage, pretreatment operations, Best Management Practices (BMPs), documentation review, etc. Inspections can reveal violations resulting from suspected tampering with sampling equipment, falsification of information, noncompliance with construction schedules, illegal discharges, unreported spills, and unreported process changes or modifications to pretreatment facilities. Noncompliance observed during an inspection will be documented in the inspector's notes at the time of the inspection and in the final inspection report following the inspection. The Pretreatment Program Manager shall review the inspection report, determine an appropriate enforcement action, and notify the IU within 30 days of the inspection date of the observed noncompliance. A follow-up inspection may be conducted to verify the noncompliance, evaluate progress on a corrective measure, and/or confirm compliance status.

2.2 COMPLIANCE MONITORING

Compliance monitoring is conducted by DC Water at least annually on all SIUs for all parameters and monitoring locations identified in the users wastewater discharge permit. Where possible, advance notice is not provided to the SIU. SIUs are required to conduct self-monitoring of their permitted discharge at least semi-annually. Compliance monitoring can reveal violations of pretreatment standards.

A valid compliance monitoring event must adhere to the following procedures:

- Samples collected by the user must be from predetermined site(s) at the specified frequency as described in the permit and analyzed for all of the parameters listed in the permit, at a minimum. Additional samples may be collected but are not required to be analyzed for all of the parameters listed in the permit. Data from sites other than compliance locations are not subject to enforcement.
- Sample type and frequency must conform to permit requirements (e.g., grab or composite, four grabs over composite period, etc.).
- Proper documentation must be provided, including chain of custody forms, field calibration data and results, conformance to EPA-approved sample preservation and holding times, and QA/QC data (if applicable).

Repeat sampling must be conducted by the user where invalid compliance monitoring data is collected or when a pretreatment standard violation is detected. Repeat sampling results must be submitted to DC Water within 30 days of an SIU becoming aware of a violation or invalid sampling event. If DC Water conducted the sampling and a violation is identified, the repeat sampling can either be conducted by DC Water or DC Water can designate the SIU to conduct the repeat sampling.

2.3 REVIEW OF IU SELF-MONITORING REPORTS AND COMPLIANCE MONITORING DATA

IU noncompliance of pretreatment permit limits as a result of self-monitoring activities is identified through verbal notification, written correspondence, and submittal of self-monitoring reports. SIUs are required to notify the Pretreatment Program Manager within 24-hours of becoming aware of a violation. When verbally notified, the date and location of the violation as well as the discharge concentration of the parameter violated is recorded in a phone logbook. This page is then copied for filing in the industrial user's correspondence file. When e-mail notification is made, the e-mail is printed for filing in the industrial user's correspondence file. In some cases, the user may not be aware that a violation has occurred or has failed to verbally notify DC Water of the violation. In this case the violation would not be

identified until the self-monitoring report is received and reviewed by pretreatment staff. Self-monitoring reports shall be date-stamped upon arrival to document compliance with report due dates. Review of self-monitoring reports shall be conducted within 30 days of receipt, when possible, to detect and respond to violations.

A Notice of Violation will be given to SIUs for late reports. The NOV will document the lateness of the report and serve as a notice to the SIU that if their report is not received within 45 days (of the original due date) that they will be listed in Significant Noncompliance.

Compliance monitoring samples collected by DC Water shall be reviewed upon receipt from the laboratory. Laboratory reports should be received no more than 30 days after sample collection. Within 30 days following receipt of the laboratory report, the report shall be checked for accuracy and completeness and enforcement actions taken for any violations identified.

2.4 TRACKING COMPLIANCE STATUS

The compliance status of each SIU is tracked on an ongoing basis. The compliance determination is based on self-monitoring reports, DC Water sampling data, current inspection results, and whether due dates for compliance schedules and report submittals were met. Data may be tracked manually and/or entered into spreadsheets or a pretreatment database (currently using LINKO database).

The following types of pretreatment violations may be identified:

- **Exceeds discharge standards** – Any exceedence of a permit limit is a violation. Significant noncompliance (SNC) occurs when 1) 66% or more of samples exceed the numeric pretreatment standard or requirement, including instantaneous limits (chronic violation) or 2) 33% or more of samples equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable technical review criteria (TRC) value. The TRC value is 1.4 times the permit limit for

biochemical oxygen demand (BOD), total suspended solids (TSS), and fats, oil and grease, and 1.2 times the permit limit for all other pollutants except pH. SNC applies to SIUs only.

- **Causes interference or pass-through** – Any violation of a permit limit or pretreatment standard or requirement that causes interference, pass-through, endangers human health, or results in the emergency authority to halt or prevent discharge is considered a significant violation. SNC applies to all IUs and SIUs.
- **Failure to meet compliance schedule deadlines** – Up to 90 days late is a pretreatment violation. SNC occurs after 90 days, and applies to SIUs only.
- **Failure to meet reporting requirements** – Up to 45 days late is a pretreatment violation. SNC occurs after 45 days, and applies to SIUs only.
- **Failure to accurately report noncompliance** – this is considered a significant violation and applies to SIUs only.
- **Failure to comply with permitting requirements or pretreatment regulations, including BMP requirements** – generally, these would be considered pretreatment violations but not significant violations unless they are shown to adversely affect the operation or implementation of the pretreatment program. SNC applies to all IUs and SIUs.

SECTION 3

RESPONDING TO NONCOMPLIANCE

3.1 SUMMARY OF ENFORCEMENT ACTIONS

A brief summary of the enforcement actions available to enforcement personnel is discussed below. Enforcement actions shall escalate as necessary to resolve the noncompliance. All actions are initiated by the Pretreatment Program Manager. Escalating enforcement actions may involve the Director of Wastewater Treatment or Assistant General Manager (AGM), the Office of General Manager, and/or the Office of General Counsel.

3.1.1 Informal Actions

Informal enforcement actions may be used by DC Water when violations are minor or in addition to other enforcement actions. Examples of informal actions used to address minor violations include phone calls, e-mail, and inspection reports. For example, a phone call or e-mail reminder would be used to inform an IU of a minor reporting violation (e.g., incomplete self-monitoring report submitted prior to the due date). Inspection reports could be used to document minor violations identified during an inspection, such as the need for secondary containment, and failure to provide requested documentation.

3.1.2. Notice of Violation

A Notice of Violation (NOV) is a formal notice to the IU that a pretreatment violation has occurred. An NOV provides the IU with an opportunity to correct noncompliance on its own initiative rather than through an imposed compliance schedule and/or administrative order. The NOV documents the initial attempts by DC Water to resolve the noncompliance and sets the stage for escalating enforcement actions if required to resolve noncompliance.

Generally, the NOV will direct the IU to submit a written response within a specified time frame (the time frame will vary depending on the nature of the noncompliance and the complexity of the response). The response shall address the cause for the violation and corrective action measures taken to prevent recurrence. If the IU demonstrates a good faith effort to correct the problem, the Pretreatment Program Manager will closely track the IUs progress toward achieving compliance, but most likely no further enforcement action would be required.

3.1.3 Increased Monitoring

Depending on the magnitude and duration of the violation and/or the compliance history of the IU, the Pretreatment Program Manager may require the IU to conduct additional monitoring. This increased monitoring request may be verbal if it is a recommendation only in order to gather additional data points in the quarter for SNC evaluation. Mandatory increased monitoring may either be documented in the NOV and/or incorporated into a revised wastewater discharge permit. At a minimum, an SIU must resample the wastewater at the exact location where the violation occurred for those parameters that were violated and submit results to DC Water within 30 days of becoming aware of a violation.

3.1.4 Compliance Schedule

A compliance schedule may be used when insufficient progress has been made by an IU to voluntarily remedy its noncompliance or when the IU has been found to be in SNC due to recurring violations. A compliance schedule shall contain a detailed time schedule for specific actions that the IU shall take to either prevent a discharge or correct the source and/or cause of the violation. The time schedule for users voluntarily making progress may be longer and more flexible than those users demonstrating insufficient progress. A compliance schedule can either be incorporated into a wastewater discharge permit or an administrative order (i.e., Notice of Infraction and Proposed Order). A compliance schedule in a wastewater discharge permit will not extend the compliance deadline for any pretreatment standards or requirements.

3.1.5 Administrative Order

DC Water may issue a Notice of Infraction and Proposed Order if DC Water has reason to believe that an IU is violating pretreatment standards and regulations and has not voluntarily corrected the problem or the IU is determined to be in SNC. The Pretreatment Program Manager shall confer with the Department Director or AGM for approval to initiate this course of action. The Pretreatment Program Manager and appropriate staff shall work with DC Water's Office of General Counsel to draft the Notice of Infraction and Proposed Order.

The Notice of Infraction shall include the following information:

- Nature, time, and place of the violation(s);
- Corrective or remedial action to be taken and any fines imposed; and the
- Procedure for responding to a Notice of Infraction and Proposed Order and requesting a hearing.

Failure on the IU's part to respond to the Notice of Infraction will result in adoption of some or all of the Proposed Order. The Proposed Order may require the IU to do the following:

- Eliminate the violation(s);
- Comply with the Wastewater System Regulation Amendment Act of 1998 (the Act);
- Take specific actions to avoid future violations; and
- Pay fines, costs, or other amounts, as authorized by the Act.

The Proposed Order may also include a schedule for completion of any of the directives of the Proposed Order identified above. The Proposed Order may also provide for the suspension or revocation of the wastewater discharge permit if the IU does not

comply with the Order. The IU may respond in writing within 30 days to a Notice of Infraction and Proposed Order. If the IU denies any of the allegations in the Notice of Infraction, or asks that any term in the Proposed Order be modified (and DC Water does not concur), DC Water shall conduct a hearing within 30 days of receiving the response (unless an extension is granted). The hearing shall be conducted by a hearing examiner retained by DC Water on a contractual basis. The hearing examiner may issue a final order. If the IU does not ask that any terms in the Proposed Order be modified, or DC Water agrees with the recommended changes, a final order shall be issued by DC Water without conducting a hearing.

3.1.6 Administrative Fines

DC Water may impose an administrative fine on the IU as part of its effort to enforce compliance with pretreatment standards and regulations. A schedule of fines is provided in the pretreatment regulations (21 DCMR § 1516) and is presented below in Table 3.1. The Pretreatment Program Manager will determine when an administrative fine should be imposed and the amount of the fine. Fines shall be a minimum of \$300 and shall increase at least \$100 for every day the violation continues, up to the maximum daily fine listed in Table 3.1.

A Notice of Infraction and Proposed Order must be prepared when an administrative fine is imposed. The Director of Wastewater Treatment or AGM shall review the case and concur or make further recommendations. The case will then be referred to the Office of General Manager and/or Office of General Counsel for final approval. The Pretreatment Program Manager will prepare the bill to collect the fine. The bill will identify the violation and the fine amount for each individual violation (or each individual day a fine was imposed for the same violation), and the total amount due. The bill will accompany the Notice of Infraction and Proposed Order. Payment will be made through the Finance Department or through a Customer Service account established in eCIS.

Table 3.1 Administrative Fines

	Type of Violation	Maximum Daily Fine (for each day during which a violation occurs)
1.	Recurring failure to monitor discharges, comply with Best Management Practices, or comply with permit requirements not otherwise listed below	\$ 1,000
2.	Unintentional effluent dilution	\$ 1,000
3.	Wastestream intentionally diluted in lieu of treatment	\$ 10,000
4.	Significant Noncompliance due to Chronic or Technical Review Criteria violations	\$ 1,000
5.	Significant Noncompliance due to violations identified in 21 DCMR §§ 1515.3(c)-(h)	\$ 10,000
6.	Unintentional prohibited discharges	\$ 500
7.	Unintentional prohibited discharges which cause damage to the District's wastewater system or endangerment to health, welfare, or the environment	\$ 1,000
8.	Intentional Prohibited discharges	\$ 5,000
9.	Intentional prohibited discharges, which cause damage to the District's wastewater system or endangerment to health, welfare, or the environment	\$ 10,000
10.	Failure to report spill or change in discharge	\$ 1,000
11.	Falsification or tampering with discharge monitoring equipment	\$ 10,000
12.	Negligently operated pretreatment facility	\$ 1,000
13.	Failure to comply with a requirement issued in a Directive Letter or Notice of Violation	\$ 500
14.	Failure to comply with compliance schedule deadline imposed in response to a previous violation	\$ 1,000
15.	Failure to comply with a procedural order or deadline imposed pursuant to 21 DCMR §§ 1513 and 1514	\$ 1,000
16.	Failure to pay fine imposed in response to a previous violation within 60 days	\$ 1,000
17.	Failure to apply for or renew a permit (i.e., discharging without a permit)	\$ 10,000
18.	Recurring failure to provide requested information	\$ 1,000
19.	Failure to allow right of entry	\$ 1,000
20.	Falsification of data or failure to report or accurately report non-compliance	\$ 10,000

	Type of Violation	Maximum Daily Fine (for each day during which a violation occurs)
21.	Failure to retain records for a minimum of 3 years	\$ 1,000
22.	Improper sampling technique	\$ 1,000
23.	Failure to perform required monitoring during reporting period	\$ 1,000

3.1.7 Annual Publication of Significant Violators

A list of industrial users in significant noncompliance with pretreatment standards and requirements in any given calendar year shall be published annually by DC Water in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by DC Water (i.e., The Washington Post) in accordance with 40 CFR 403.8(f)(2)(viii). The procedures and criteria for determining significant noncompliance are provided in 21 DCMR § 1515. The notification will summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

3.1.8 Suspension of Permit

DC Water can revoke or suspend a wastewater discharge permit. Grounds for permit suspension or revocation include the following:

- Violation of any terms or conditions of the permit;
- Misrepresentation or failure to fully disclose all relevant facts during the permit application process or subsequent to permit issuance; or
- Causing imminent danger to the District's wastewater system, DC Water staff, or the environment.

A Notice of Infraction and Proposed Order must be prepared when a permit is suspended or revoked. The Director of Wastewater Treatment shall review the case and concur or make further recommendations. The case may be referred to the Office of General Manager and/or Office of General Counsel for final approval. If the IU requests a hearing, the hearing examiner also has the power to suspend permits for the purpose of enforcing the payment of monetary fines, penalties, or hearing and inspection costs.

3.1.9 Suspension of Water Service

DC Water has the legal authority to suspend water service, after informal notice to the discharger, in the event of an actual or threatened discharge to the WWTP that reasonably appears to present an imminent danger to the health or welfare of persons in order to avoid or abate the danger. DC Water may also suspend water service if the actual or threatened discharge presents an imminent danger to the environment or operation or integrity of the WWTP or collection system. However, in this case, DC Water must provide notice to the discharger as well as provide an opportunity to respond to the discharger in attempt to avoid or abate the danger prior to suspending service.

3.1.10 Civil Litigation

DC Water has the legal authority to file a lawsuit against an IU in a civil court in order to impose civil penalties, injunctions, or other equitable remedies and/or cost recovery. The General Manager shall decide whether to initiate these proceedings after consultation with the General Counsel. Civil litigation may be useful under the following circumstances:

- DC Water is seeking cost recovery for damages to DC Water's property;
- DC Water believes administrative actions are not sufficient to achieve or maintain compliance;
- The violation is serious enough to warrant court action to deter future violations; or
- The danger presented by the IU noncompliance does not permit lengthy negotiation of a settlement (typically incurred with administrative actions).

The civil lawsuit for injunctive court relief may require such actions as needed to correct any harm caused by a violation or to ensure that future violations do not occur, such as installation of IU pretreatment facilities. In addition, the IU may be liable for civil penalties up to \$10,000 for each day the violation continues.

3.1.10 Criminal Prosecution

If the Pretreatment Program Manager has gathered evidence of illegal activity, the case will be referred to the Office of General Manager and Office of General Counsel for evaluation. The General Manager shall decide whether to pursue this course of action after consultation with the General Counsel. Criminal lawsuits may be used in the following cases:

- A person willfully or negligently violates any provision of the Act or pretreatment regulations;
- A person knowingly makes any false statements in a pretreatment document; or
- A person falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required for compliance with pretreatment regulations.

Criminal lawsuits require additional evidence and proof beyond a reasonable doubt of knowledge of the intent of the violator to conceal a violation or fact. The DC Water General Counsel would coordinate further investigations for discovery of additional evidence or illegal activity. The District of Columbia Metropolitan Police Department may be contacted for assistance in obtaining sufficient evidence of criminal activity, or for assistance in conducting an on-site criminal investigation after obtaining sufficient evidence of criminal activity and a search warrant. DC Water shall notify EPA Region III of all potential criminal cases and work closely with the regional office in developing the case. Federal assistance may also be available from the EPA Environmental Crimes Unit in the Office of Enforcement and Compliance Assurance and the Federal Bureau of Investigation.

3.2 RESPONSIBILITIES OF ENFORCEMENT PERSONNEL

Pretreatment Inspectors may conduct the following enforcement-related activities:

- Screening compliance monitoring data for violations;
- Identifying suspected violations during facility inspections;
- Issuing informal (verbal) warnings; and
- Notifying the Pretreatment Program Manager of potential violations.

The Pretreatment Program Manager is responsible for initiating all enforcement actions, conducting or overseeing the enforcement-related activities of the inspectors, as well as the following additional responsibilities:

- Reviewing, investigating, and tracking instances of IU noncompliance;
- Determining appropriate enforcement responses and ensuring timely action;
- Issuing NOVs and compliance schedules, and publishing the annual list of IUs and SIUs in significant noncompliance; and
- Initiating administrative orders and assessing fines.

The **Department Director or Assistant General Manager** must concur with all enforcement actions that escalate past a Notice of Violation and increased monitoring. The Director or AGM provides guidance and assistance as needed to the Pretreatment Program Manager and has signing authority for compliance schedules and administrative orders (including administrative fines).

The **General Manager** must concur with all enforcement actions that escalate beyond an administrative order, including permit suspension, water service suspension, civil litigation, and criminal prosecution, and will initiate civil or criminal litigation, as needed.

The **General Counsel** has the responsibility to advise the above individuals on enforcement matters, provide assistance in preparing administrative orders, conducting hearings, and orchestrating judicial processes initiated by the General Manager.

3.3 SELECTING A PROPER ENFORCEMENT RESPONSE

Enforcement actions should match the seriousness of the violation, the IU's state of non-compliance (past and present), and, to some extent, the diligence with which the IU corrects the problem. The following criteria should be considered when determining a proper response:

- Magnitude and duration of the violation;
- Effect of the violation on the receiving water or POTW;
- Compliance history of the IU; and
- Good faith of the IU.

Magnitude and duration of the violation are important when determining compliance status and developing an enforcement response. An isolated instance of noncompliance can usually be handled by a NOV. If the magnitude (and/or duration) of the violation is sufficient to classify the user in significant noncompliance (SNC), then, in addition to the NOV, the user must be published in the newspaper with the annual list of users in significant violators, and a formal compliance schedule and/or Notice of Infraction and Proposed Order would be issued.

The impact of the violation on the receiving water and/or POTW is assessed to determine if the industrial discharge contained pollutants at a sufficient level to damage the collection system, cause interference of plant operations, pass-through the plant, cause a violation of the NPDES permit, or have a toxic effect on the river. Some less obvious impacts on POTW operations may include increased treatment costs, worker health and safety issues, and increased sludge contamination. Communication with the Department of Sewer Services and other Department of Wastewater Treatment staff is essential to identify and evaluate potential impacts on the collection system and plant. The enforcement response to a violation of this nature should include a Notice of Infraction and Proposed Order (including administrative fines) or civil penalties (if intent is demonstrated or cost recovery is needed), and a requirement to correct the condition

causing the violation. If the discharge causes repeated harmful effects to the receiving stream or POTW then termination of sewer service should be considered.

The compliance history of an IU is important when determining an appropriate enforcement response. A pattern of recurring violations of similar magnitude usually indicates that the user has not committed the resources necessary to identify and correct the problems causing the violations. In this case, a more severe enforcement action would be taken. If the compliance history shows improvement in the magnitude and duration of the violations or a sporadic pattern of noncompliance, then a less severe enforcement action may be appropriate.

Good faith efforts should also be recognized and rewarded with less severe enforcement action where possible. Good faith efforts are when the user honestly intends to correct the noncompliance and has documented corrective actions taken to substantiate this intent.

3.4 DOCUMENTING ENFORCEMENT ACTIONS

All pretreatment enforcement actions shall be documented by a formal letter to the IU and/or a memorandum to the IU correspondence file documenting phone conversations, meetings, and collection of supporting documentation. The time frame guidelines for documenting and initiating enforcement actions are provided below:

- All violations will be identified and documented in a memorandum-to-file within five (5) days of receiving compliance information;
- Initial enforcement responses (e.g., NOV letter) shall occur within 15 days of receiving compliance information, when possible; and
- Violations that threaten health, property, or environmental quality are considered emergencies and will receive an immediate response;

In addition, an annual pretreatment program report is prepared each year and indicates those facilities in SNC for the previous calendar year. A list of IUs in SNC

during any period within the calendar year is then submitted for publication in The Washington Post.

3.5 CONDUCTING FOLLOW-UP ACTIONS

The Pretreatment Program Manager shall closely track the IU's progress toward achieving compliance. If IU actions or results are unsatisfactory, DC Water can address the continued non-compliance in a progressive manner through implementation of consecutive enforcement actions including: requiring increased monitoring and/or inspection; issuing additional NOVs; establishing a formal compliance schedule with the IU; and/or issuing an administrative order with fines. Follow-up actions shall be taken within 60 days of the initial response for all continuing violations.

SECTION 4

ENFORCEMENT RESPONSE GUIDE

4.1 INTRODUCTION

The enforcement response guide (Table 4.1) is used as follows:

- Locate the type of noncompliance in the first column and identify the most accurate description of the violation.
- Determine the most appropriate response (see Section 3.3). For example, first offenders or IU's demonstrating good faith efforts may receive a more lenient response than repeat offenders or those demonstrating negligence in correcting compliance deficiencies.
- Apply the enforcement response to the IU, specifying corrective action or other responses required of the IU in accordance with the personnel and time frame guidelines established by the ERP.
- Follow-up with escalated enforcement action if the IU does not respond or the violation continues.
- All violations that are listed as SNC must be published in The Washington Post on an annual basis.

4.2 ENFORCEMENT RESPONSE GUIDE

The enforcement response guide is provided in Table 4.1.

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
Discharge of Prohibited Substance	Isolated, does not present an imminent endangerment to health, welfare, or the environment, no evidence of intent	NC	NOV Increased monitoring	P P
	Persistent, does not present an imminent endangerment, no evidence of intent	SNC (SIUs only)	Compliance schedule Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P, D/AGM P
	Isolated, causes an imminent endangerment to human health, welfare, the environment, or the POTW or evidence of intent or negligence	SNC	Administrative order Administrative fine Civil Litigation with Public Notice	P, D/AGM P, D/AGM GM, GC P
	Persistent, causes an imminent endangerment, or evidence that person intentionally, willfully or recklessly discharged a prohibited substance	SNC	Administrative order Administrative fine Suspension of permit Suspension of water service Civil Litigation Criminal Prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC GM, GC GM, GC P
Discharge Limit Violation	Isolated, not significant, no harm to POTW or environment	NC	NOV Increased monitoring	P P
	Persistent, not significant, no harm to POTW or environment	NC	NOV Increased monitoring Compliance schedule Administrative order Administrative fine	P P P, D/AGM P, D/AGM P, D/AGM
	Isolated, significant, no harm to POTW or environment	SNC (SIUs only)	Compliance schedule with Public Notice	P, D/AGM P
	Persistent, significant, no harm to POTW or environment	SNC (SIUs only)	Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P
	Isolated, significant, causes harm to POTW or environment	SNC	Administrative order Civil litigation with Public Notice	P, D/AGM GM, GC P
	Persistent, significant, causes harm to POTW or environment or evidence that person intentionally, willfully or recklessly caused a discharge limit violation	SNC	Administrative order Administrative fine Suspension of permit Suspension of water service Civil litigation Criminal prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC GM, GC GM, GC P

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
Effluent Dilution Violation	Effluent dilution (unintentional)	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Intentionally, willfully or recklessly diluted wastestream in lieu of treatment	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Criminal prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
Reporting Violation	Late or incomplete report or certification (<15 days)	NC	Phone call or e-mail notification	P
	Late or incomplete report or certification (15-45 days)	NC	NOV	P
	Late or incomplete report or certification (>45 days)	SNC (SIUs only)	Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P
	Intentional, willful or reckless falsification of data or failure to report or accurately report non-compliance	SNC	Administrative order Administrative fine Suspension of permit Criminal prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to report spill or changed discharge (no impact)	NC	NOV Increased monitoring Administrative order Administrative fine	P P P, D/AGM P, D/AGM
	Failure to report spill or changed discharge (with impact to POTW)	SNC	Administrative order Administrative fine Suspension of permit Civil litigation with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to provide requested information	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
Self-Monitoring and Inspection Violation	Improperly operated pretreatment facility	NC	NOV Compliance schedule	P P, D/AGM
	Negligently operated pretreatment facility	SNC (SIUs only)	Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P
	Failure to allow right of entry	NC	NOV Administrative order Administrative fine Suspension of permit Suspension of water service	P P, D/AGM P, D/AGM GM, GC GM, GC

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
	Failure to retain records for a minimum of 3 years	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Improper sampling technique (unintentional)	NC	NOV Increased monitoring	P P
	Improper sampling technique (intentional)	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to perform required monitoring during reporting period	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Intentional, willful or reckless falsification or tampering with discharge monitoring equipment	SNC	Administrative order Administrative fine Suspension of permit Suspension of water service Criminal prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC GM, GC P
	Failure to report violations to DC Water within 24-hours	NC	NOV	P
	Failure to collect and submit resample results within 30 days	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Failure to report additional monitoring	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Failure to comply with required Best Management Practices, isolated	NC	NOV	P
	Failure to comply with required Best Management Practices, recurring	SNC (SIUs only)	Compliance schedule Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P, D/AGM P
Compliance Schedule Violation	Missed milestone by less than 90 days, no effect on final milestone or effect on final milestone but valid cause	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Missed milestone by more than 90 days	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
	Failure to comply with a term of a Notice of Violation, Notice of Infraction, or Administrative Order	NC or SNC (SIUs only)	NOV Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P P, D/AGM P, D/AGM GM, GC GM, GC P
Fees, Fines, and Costs	Failure to remit within 30 days	NC	NOV	P
	Failure to remit within 60 days	NC	Administrative order Administrative fine Suspension of permit Suspension of water service	P, D/AGM P, D/AGM GM, GC GM, GC
Unpermitted Discharge	Failure to apply for a permit and no harm to POTW or environment	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Failure to apply for a permit and harm to POTW or environment	SNC	Administrative order Administrative fine Civil litigation Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to apply for a permit continues more than 45 days after notice by POTW	SNC (SIUs only)	Administrative order Administrative fine Civil litigation Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to renew permit prior to expiration date.	SNC (SIUs only)	Administrative order Administrative fine Civil litigation Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P

NC = Noncompliance

SNC = Significant noncompliance

I = Inspector

P = Pretreatment Program Manager

D/AGM = Director of Wastewater Treatment or Assistant General Manager

GM = General Manager

GC = General Counsel