

City of Geneva, Ohio
Industrial Pretreatment Program
Enforcement Response Plan
2013 Revision

Table of Contents

I. PURPOSE..... 2

II. ADMINISTRATION AND JURSDICTION 2

III. DEFINITIONS OF ABBREVIATIONS AND TERMS 3

IV. RESPONSIBILITIES AND PROCEDURES..... 5

 A. TASKS AND RESPONSIBILITIES 5

 B. INDUSTRIAL USER INVENTORY DATA..... 7

V. COLLECTING AND DISSEMINATING INFORMATION 7

 A. REPORTING FORM..... 7

 B. CHAIN OF CUSTODY 7

 C. MONITORING AND INSPECTION PLAN 8

 D. SCREENING PROCEDURES, VIOLATION TRACKING AND REPORTING 8

VI. PROGRAM ACTIVITY..... 8

 A. ENFORCEMENT RESPONSE GUIDE..... 8

 B. DESCRIPTION OF ENFORCEMENT ACTIONS..... 9

 C. USE OF ENFORCEMENT RESPONSE GUIDE..... 10

 D. TIMEFRAMES FOR RESPONSES..... 12

VII. ENFORCEMENT RESPONSE GUIDE13

I. PURPOSE

The purpose of the Industrial Pretreatment Program Enforcement Response Plan (ERP) is to develop and implement a plan with consistent and fair enforcement responses to instances of noncompliance with the Environmental Protection Agency's General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR Part 403) and the Code of Ordinances of the City of Geneva (Chapter 1043). The Federal requirements of the plan are detailed in 40 CFR 403.8(f)(5):

“The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance.”

The Federal requirements state the plan shall, at a minimum, include the following:

- A. Procedures for investigating instances of noncompliance;
- B. Describe the types of escalating enforcement responses the POTW will take in response to anticipated types of industrial user violations, including the time periods of each response;
- C. Identify the official(s) responsible for each type of response; and
- D. Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards.

All enforcement personnel identified in this plan should be familiar with the contents of this plan to ensure that each person is aware of his/her responsibilities in the enforcement process. This is critical in administering an effective enforcement program.

The Enforcement Response Plan has been developed in accordance with the *Geneva Codified Ordinances*, Chapter 1043, Industrial Pretreatment, and references from the USEPA publication *Guidance for Developing Control Authority Enforcement Response Plans, September 1989*.

II. ADMINISTRATION AND JURISDICTION

All entities discharging nondomestic waste to the POTW are subject to the provisions of the ERP. The Control Authority consistently administers and implements all elements of the ERP. The ERP

does not preclude the Control Authority from taking any, all, or any combination of actions against a noncompliant industrial user.

III. DEFINITIONS OF ABBREVIATIONS AND TERMS

Compliance Schedule	A schedule of required activities (also called milestones) necessary for an industrial user to achieve compliance with all pretreatment program requirements.
Control Authority (CA)	The City of Geneva, which directly administers and enforces pretreatment standards and requirements against industrial users.
Domestic Wastewater	<ol style="list-style-type: none">1. Wastewater from normal residential activities including, but not limited to, wastewater from kitchen, bath, and laundry facilities, or2. Wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, non-commercial sinks, and similar structures) of commercial, industrial, or institutional buildings, provided that the wastewater exhibits characteristics which are similar to those of wastewater from normal residential activities. Specifically <i>excluded</i> from this definition is wastewater from commercial, industrial, or institutional laundries or food preparation facilities.
ERP	Enforcement Response Plan
Industrial User (IU)	Any non-domestic source that introduces pollutants into a POTW.
Instantaneous Limit	The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
Interference	A discharge that, either alone or in conjunction with a discharge or discharges from other sources: <ol style="list-style-type: none">1. Inhibits or disrupts the POTW processes or operations, sludge processes, use or disposal; and2. Causes a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or

disposal in compliance with statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations).

Publicly Owned Treatment Works (POTW) Devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant.

Significant Industrial User (SIU) An industrial user which meets any of the following criteria:

1. Is subject to Categorical Pretreatment Standards.
2. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling water and boiler blowdown).
3. Contributes 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW.
4. Has reasonable potential for adversely affecting the POTW's operation.
5. Discharges to the POTW liquid, solid, or gaseous wastes resulting from the processes employed in industrial or manufacturing activities as required by the Superintendent.

Significant Noncompliance (SNC) An industrial user is in SNC if its violations meet one or more criteria in (3), (4), or (8) below. An SIU is in SNC if its violations meet any of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter at any permitted monitoring point during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in 1043.01 1.4;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter at any permitted monitoring point during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by 1043.01 1.42 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

3. Any other violation of a Pretreatment Standard or Requirement as defined by 1043.01 1.4 (Daily Maximum, monthly average, Instantaneous Limit or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction or attaining compliance;
6. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

IV. RESPONSIBILITIES AND PROCEDURES

Detailed in this section is a discussion of the tasks and responsibilities for the Industrial Pretreatment Program including enforcement responsibilities. Also the industrial user inventory data is fully addressed from the annual inspections and industrial user inventories.

A. TASKS AND RESPONSIBILITIES

In order to adequately implement the Industrial Pretreatment Program and its enforcement, specific duties and responsibilities need to be addressed. The specific duties and responsibilities for control authority personnel are provided below.

City of Geneva Control Authority Personnel Responsibilities

<u>Position</u>	<u>Responsibilities</u>
City Manager (CM)	Overall administer of program; initiates judicial enforcement action(s). Performs functions and duties as enumerated in the Sewer Use Ordinance. Reviews and assesses penalties. Reviews industrial discharge permits, violation notices, and correspondence.
Assistant City Manager	Assumes the responsibilities of the City Manager upon designation by the City Manager.
Law Director (LD)	Provides legal consultation as requested by the Superintendent on consent agreements and administrative orders and will take the lead on all referrals for civil litigation and POTW initiated criminal investigations.
Wastewater Superintendent (WS)	Responsible for compliance with the terms and conditions of the POTW's NPDES permit and for the overall operation and maintenance of the POTW, including employee safety, protection of the collection system and the treatment plant, effluent quality and sludge use and disposal. The Superintendent shall have authority to issue NOVs with fines and refer to LD for civil litigation.
Wastewater Assistant Superintendent	Assume the responsibilities of the Superintendent when the Superintendent is not available.
Pretreatment Coordinator (PC)	Evaluates industry discharges through baseline data reports, disclosure forms, industry and POTW sampling results. Responsible for recommending enforcement actions, issuing NOVs and publishing the annual list of SNC violators. Maintains industry files, required records, and industrial reports. Performs industry inspections, updates industrial user inventory, implements notification requirements, and evaluates pretreatment facility engineering plans. Prepares and submits required periodic OEPA reports, reviews new federal and state program regulations, and drafts revisions for local programs. Supervises pretreatment activities of Laboratory Technician and assists with sampling work.
Laboratory Technicians	Perform sampling and deliver to in house and contract laboratory. Analyze wastewater samples for conventional pollutants on limited basis. Compile and maintain industrial sampling records. Accompany and assist

Pretreatment Coordinator on industrial inspections. Perform maintenance and calibration of sampling and monitoring equipment.

A. INDUSTRIAL USER INVENTORY DATA

The City maintains a current inventory of all sources of non-domestic waste. This inventory is updated annually and at the time of the annual inspection. Revisions to the inventory are made throughout the year at the time the change is reported to the City.

V. COLLECTING AND DISSEMINATING INFORMATION

This section includes the procedures for receiving, analyzing and distributing general pretreatment information and industrial user information. This includes correspondence, reports, sampling analysis, compliance monitoring, file system, notifications of standards and regulations and tracking and screening procedures.

A. REPORTING FORM

Reporting forms utilized by the Industrial Pretreatment Program include discharge reports, memos and documents. Specific forms or reports are listed below. Samples of these forms and reports are maintained in the Pretreatment Coordinator's office.

- Annual Inspections
- Discharge Permits
- Grease Trap Inspections
- Monitoring Reports
- Ohio EPA Permit to Install
- Self Monitoring Forms
- Toxic Organic Management Plan (TOMP)
- 40CFR433 Baseline Monitoring Report (BMR)

B. CHAIN OF CUSTODY

In order to properly and legally transfer industrial user samples from the monitoring station of the industrial user to the laboratory, a chain of custody must be utilized. The chain of custody utilized by the Wastewater Treatment Plant shall be maintained at the lab at the wastewater treatment plant.

C. MONITORING AND INSPECTION PLAN

The Pretreatment Coordinator prepares an annual monitoring and inspection plan. The City monitors the wastewater from each SIU at least once per year. The City requires all sampling and analysis to be performed in accordance with 40CFR Part 136. City sampling procedures, including Quality Assurance/Quality Control procedures, discussed elsewhere in the approved pretreatment program document, are followed to maximize sample integrity

D. SCREENING PROCEDURES, VIOLATION TRACKING AND REPORTING

All reports from IUs and reports generated by the City are carefully reviewed, on an as received basis for timeliness, completeness and accuracy. The screening process includes an evaluation of compliance with report due dates, numerical and narrative standards, sampling handling and analysis requirements, signatory/certification requirements, monitoring frequency, etc. This review will be performed by the Superintendent or Pretreatment Coordinator within five (5) working days after receiving the various IU reports and lab results of monitoring required events.

Violations and discrepancies identified during compliance screening will be reviewed to evaluate the type of enforcement response needed. This review will be conducted by the Superintendent or Pretreatment Coordinator, although legal consultation may be necessary in some cases. The program's enforcement response guide, as detailed in Section VII, will be used to assist in this evaluation. The guide identifies types of responses that are appropriate based on the nature, duration, frequency, and potential impact of the violation and the attitude of the violator. The Superintendent makes the final decision on the appropriate enforcement level based on the enforcement response guide, and the initial enforcement response will occur within fifteen (15) working days of violation detection. All enforcement action taken should be documented on a dedicated calendar of events. The calendar should be used to track due dates for self-monitoring reports, compliance schedule milestones, compliance schedule status general and pending enforcement actions (e.g. dates for Show Cause Hearing or permit suspension/revocation proceedings).

VI. PROGRAM ACTIVITY

A. ENFORCEMENT RESPONSE GUIDE

The Enforcement Response Guide describes how instances of noncompliance will be investigated, the types of escalated enforcement actions that will be taken in response to industrial user violations, and the personnel responsible for the enforcement response. It is to be used only as a guide and may not apply to all circumstances. Deviations from the guide and

timeframes by the City do not release an industry from its obligation to comply with Federal, State, and local regulations.

B. DESCRIPTION OF ENFORCEMENT ACTIONS

Verbal Notification: Verbal notifications by telephone or in person provide an immediate notification of violations. In general, verbal notifications are used for minor isolated violations or as an initial step leading to an escalated enforcement response. All verbal notifications related to enforcement or the investigation of suspected violations are documented in writing and placed in the respective IU file.

Warning Letter: Warning letters are issued under the same circumstances as verbal notifications. They may be issued as follow-up to verbal notifications or in lieu of verbal notifications.

Informal Meeting: An informal meeting is used to gather information concerning noncompliance, discuss steps to alleviate noncompliance, and determine the commitment level of the IU. All informal meetings are documented in the City's files.

Notice of Violation (NOV): An NOV is a written notice to the noncompliant IU that a pretreatment violation has occurred. An NOV includes a statement detailing the legal authority under which the City issued the NOV, a description of the violation(s), and the date(s) the violation(s) occurred. The NOV requires a response from the IU that details the causes of the violation(s), and the corrective actions taken to correct the violation and prevent similar violations from occurring. In general, NOVs are considered to be more stringent enforcement responses than warning letters.

Administrative Order (AO): AOs are enforcement documents that direct the IU to undertake and/or to cease specific activities by specified deadlines. The terms of an AO may or may not be negotiated with IUs. AOs may incorporate compliance schedules, administrative penalties, termination of service and show cause orders. An AO is the minimum level of enforcement used to address SNC.

Show Cause Hearing: A show cause hearing is a formal meeting requiring the IU to appear, explain its noncompliance, and show cause as to why more severe enforcement actions against the user should not go forward. The meeting may also serve as a forum to discuss corrective action and compliance schedules.

Termination of Service: Termination of service is the revocation of an IU's privilege to discharge nondomestic wastewater into the sewer system. Termination of service is used when the discharge from an IU presents imminent endangerment to the health or welfare of persons, or the environment, or threatens to interfere with the POTW's operations, or as an escalating enforcement action to a significant violation when the noncompliant IU fails to respond

adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the IU's connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IU's discharge permit, or a court ruling.

Administrative Fines: An administrative fine is a punitive monetary charge assessed by the City rather than a court. The purpose of the fine is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative fine the following factors are considered:

- Type and severity of the violation
- Number of violations cited
- Duration of noncompliance
- Impact of the violation on the receiving water, sludge quality, and POTW operation
- Whether the violation threatened public health
- Economic benefit or savings the IU gained from noncompliance
- Compliance history of the IU
- Whether the IU is making a good faith effort to comply

Civil Litigation: Civil litigation is the formal process whereby the City files a lawsuit against the IU to secure court ordered action to correct violations and to secure penalties for the violations including recovery of costs to the POTW for the noncompliance. Civil litigation also includes enforcement measures which require involvement or approval of the court, such as injunctive relief.

Criminal Litigation: The City of Geneva POTW does not rely on criminal prosecution for its enforcement authority. So referral to the State of Ohio or Ohio EPA may be made. For violations that may warrant criminal prosecution, the Control Authority will refer the case to the Ohio EPA or the State of Ohio for further action. Circumstances that trigger EPA or State referrals include evidence of willfulness, evidence of neglect, and bad faith shown by the Industrial User.

C. USE OF ENFORCEMENT RESPONSE GUIDE

The City should consistently follow the enforcement response guide so that it is acting in a predictable manner. Multiple factors should be considered when selecting a response from the alternative enforcement options listed for each type of noncompliance. Since the remedies designated in the enforcement response guide are all considered appropriate, the responsible person must weigh each of the following factors in deciding whether to use a more or less stringent response.

1. **Magnitude of the Violation:** An isolated instance of noncompliance can be enforced with an informal response or an NOV. However, if an isolated

violation meets the significant noncompliance criteria, the response shall be an enforceable order that requires a return to compliance by a specific deadline.

2. Duration of the Violation: A violation (regardless of severity) which continues over prolonged periods of time may be subject to escalated enforcement actions. The City may consider termination of service or obtaining a court order to halt discharge for prolonged violations resulting in serious harm to the POTW. The City may also fine the user to recover the costs of repairing the damage which may have occurred to the POTW.
3. Compliance history of the user: A pattern of recurring violations may indicate either that the user's treatment system is inadequate or that the user is not properly operating and maintaining its treatment system. Users exhibiting recurring compliance problems shall receive more stringent enforcement responses to ensure that consistent compliance is achieved.
4. Good faith of the user: "Good faith" may be defined as the user's honest intention to remedy its noncompliance. Users demonstrating willingness to comply may influence the selection of less stringent enforcement responses. However, good faith does not eliminate the necessity of an enforcement action.
5. Previous success of enforcement: A previous enforcement action taken against a particular user did not return the user to compliance and hence a more stringent action is necessary. (e.g., if an NOV did not succeed in returning a user to compliance, an AO is the more appropriate response).
6. Effect on the POTW, environment and/or public health: Any violation that has a negative impact on the POTW, environment, and /or public health may incur a severe initial enforcement response including termination of service and civil litigation.
7. Significant noncompliance: Any violation that results in SNC will be addressed through formal enforcement action regardless of the enforcement response otherwise dictated by the enforcement response guide. The minimum level of enforcement used to address SNC is an AO.
8. Escalating enforcement response: Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.

9. Violations falling under more than one category: Violations that fall under more than one category in the enforcement response guide will be addressed through the most severe enforcement response. All alleged violations will be included in the more severe response.

D. TIMEFRAMES FOR RESPONSES

1. All violations will be identified within 5 working days of receiving compliance information.
2. Initial enforcement responses will occur within 15 working days of violation detection.
3. Follow up actions for continuing or recurring violations will be taken within 60 working 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 response such as halting the discharge or terminating service.
5. All violations meeting SNC criteria will be addressed with an enforceable order within 30 working days of the identification of SNC.

Enforcement Response Guide: Monitoring & Reporting

Noncompliance	Circumstance	Response	Personnel
A. Failure to submit required reports or data.	Isolated or infrequent occurrence.	Telephone contact	PC
	Failure to respond after telephone contact.	NOV	PC
	Failure to respond to NOV.	NOV with fine	WS
	Failure to respond to NOV with fine.	Administrative Order with fine per additional days	CM
	Failure to carry out AO.	Civil Litigation	LD
B. Failure to submit required reports or data.	Repeated or frequent occurrence.	NOV	PC
	Failure to respond to NOV.	NOV with fine	WS
	Failure to respond to NOV with fine.	AO with fine	CM
	Failure to carry out AO.	Civil Litigation	LD
C. Inadequate record keeping.	Inspection finds files incomplete to missing (no evidence of intent)	NOV	PC
	Recurring	AO with fine	CM
D. Failure to report all monitoring data.	Inspection finds additional files (no evidence of intent).	NOV	PC
	Recurring	AO with fine	CM
	Failure to carry out AO.	Civil Litigation	LD
E. Failure to meet compliance schedule.	For good cause.	Written acceptance of excuse and revision of schedule	PC, WS

Enforcement Response Guide: Monitoring & Reporting

Noncompliance	Circumstance	Response	Personnel
F. Failure to meet compliance schedule.	Bad faith.	NOV with fine	WS
	Failure to respond to NOV with fine.	Administrative Order with fine	CM
	Failure to carry out AO.	Civil Litigation Termination of Service	LD CM
G. Failure to monitor correctly or improper sampling.	Failure to monitor all pollutants as required by permit.	Informal Meeting NOV	WS PC
	Recurring failure to monitor.	AO with fine	CM
	Failure to carry out AO.	Civil Litigation	LD
	Evidence of intent.	Terminate service	CM
H. Failure to install monitoring equipment.	Delay of less than 30 days.	NOV	PC
	Delay of 30 days or more.	AO with fine for each additional day	CM
	Recurring, violation of AO.	Civil Litigation Termination of Service	LD CM
I. Falsification of any information on reports applications, etc.	Isolated occurrence.	Civil Litigation	LD
	Recurring incidence.	Termination of service	CM
J. Entry Denial	Entry denied or consent withdrawn Copies of records denied.	Obtain warrant and return to IU.	PC, WS CM, LD

Enforcement Response Guide: Unauthorized Discharges & Discharge Limit Violations

Noncompliance	Circumstance	Response	Personnel
A. Discharge without a Permit	IU unaware of requirement; no Harm to POTW or environment	NOV with Application Form	PC
B. Nonpermitted Discharge (failure or renew)	Application submitted within 10 days	Phone Call NOV	PC
	Application not submitted more than 10 days after due date.	AO with fine	CM
	Failure to carry out AO.	Civil Litigation	LD
C. Failure to notify of effluent violation including notification of spill incidents and plug flows.	Isolated or infrequent occurrence. No harm to POTW or environment	NOV Informal Meeting	PC WS
	Failure to carry out AO.	Civil Litigation Termination of Service	LD CM
D. Spill incidents and unusual or unscheduled plug flows.	Reported and investigated.	NOV Informal Meeting	PC WS
E. Repeated spill and plug flow incidents.	Reported and investigated.	AO to upgrade plug flow or spill prevention program	CM
	Failure to carry out AO.	Show Cause Hearing Termination of service	LD CM
F. Repeated spill and plug flow incidents.	Following upgrade of plug flow or spill prevention program.	NOV with fine	WS
	Failure to respond to NOV with fine.	AO with fine	CM
	Failure to carry out AO.	Termination of service	CM

Enforcement Response Guide: Unauthorized Discharges & Discharge Limit Violations

Noncompliance	Circumstance	Response	Personnel
G. Exceeding discharge limits or Prohibited discharge.	Infrequent or isolated occurrence. Minor excursion. No POTW interference or NPDES permit violation.	NOV	PC
H. Exceeding discharge limits or Prohibited discharge.	Frequent minor excursions. No known damage, POTW interference, or NPDES permit violation.	NOV with fine	WS
	Failure to respond to NOV with fine.	AO with fine	CM
	Failure to carry out AO.	Civil Litigation	LD
I. Exceeding discharge limits or Prohibited discharge.	Major excursion. Minor damage, POTW interference, or NPDES permit violation.	NOV with fine	WS
	Failure to respond to NOV with fine.	AO with fine	CM
	Failure to carry out AO.	Civil Litigation Termination of Service	LD CM
J. Exceeding discharge limits or Prohibited discharge.	Damaging	AO with fine Civil Litigation	CM LD
	Failure to carry out AO.	Prosecution Termination of service	LD CM
K. Exceeding discharge limits or Prohibited discharge.	Disastrous	Prosecution Termination of service	LD CM
L. Waste streams are diluted in lieu of treatment.	Initial violation.	AO with fine	CM

Enforcement Response Guide: Unauthorized Discharges & Discharge Limit Violations

Noncompliance	Circumstance	Response	Personnel
M. Failure to properly operate and maintain pretreatment equipment.	Frequent minor excursions; minor or no damage.	NOV with fine.	WS
	Failure to respond to NOV with fine.	AO with fine	CM
	Failure to carry out AO.	Civil Litigation Termination of Service	LD CM