

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA
BARBARA APPROVING AN UPDATED PRETREATMENT
PROGRAM ENFORCEMENT RESPONSE PLAN

WHEREAS, The City of Santa Barbara operates and maintains 257 miles of publicly-owned wastewater collection system sewer mains;

WHEREAS, the City of Santa Barbara operates and maintains the El Estero Wastewater Treatment Plant under a National Pollutant Discharge Elimination System (NPDES) Permit;

WHEREAS, The NPDES Permit contains federal requirements under the Clean Water Act requirements and Title 40 of the Code of Federal Regulations (40 CFR) Part 403, administered by the United States Environmental Protection Agency; and

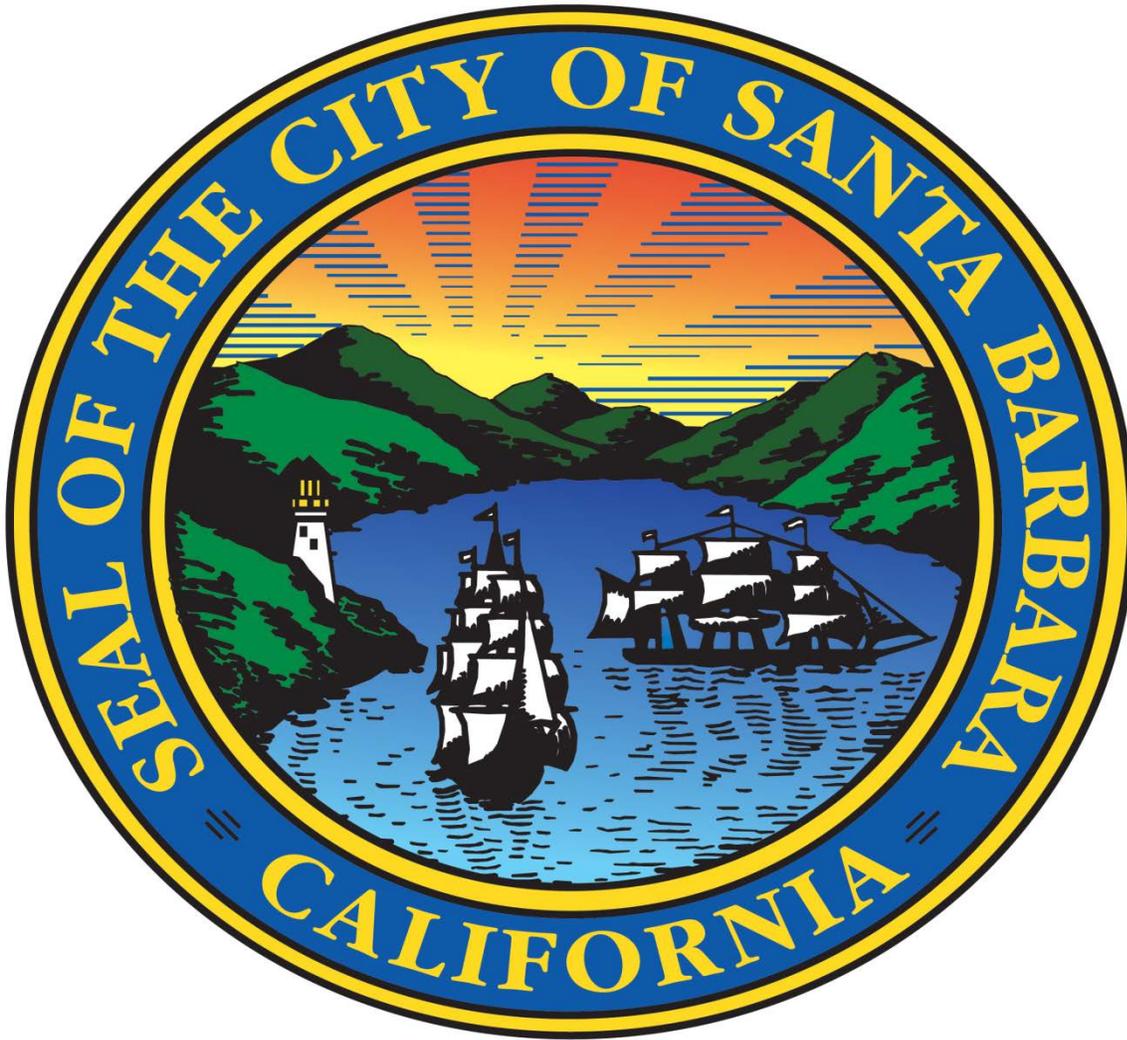
WHEREAS, one requirement of the Clean Water Act, 40 CFR , Part 403, and the NPDES Permit is that the City implement an Industrial Liquid Waste Pretreatment Program, governing the quality and quantity of wastewater discharged into the City's wastewater collection system; and

WHEREAS, The City has implemented an Industrial Waste Pretreatment Program under Municipal Code Title 16 and now has updated its Enforcement Response Plan as a Part of this Program.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

- A. The revised Enforcement Response Plan, attached hereto as Exhibit "A" and incorporated herein by this reference as though set forth in full, is hereby approved.
- B. The Public Works Director is hereby directed and authorized to implement the Enforcement Response Plan and to make future modifications to the Enforcement Response Plan as such modifications are necessary to carry-out the Plan and are consistent with Santa Barbara Municipal Code Chapter 16.

City of Santa Barbara Pretreatment Program Enforcement Response Plan



October 2014

Santa Barbara Municipal Code Chapter 16.12.010

City of Santa Barbara Environmental Control Enforcement Response Plan

City of Santa Barbara Pretreatment Program Enforcement Response Plan

TABLE OF CONTENTS

Purpose.....	1
Enforcement Legal Authority	1
Introduction	2
Definitions	3
ERP Activation	8
File Review and Enforcement Analysis	10
Evaluating the Degree of Noncompliance.....	10
Violation Classification.....	11
Enforcement Procedures.....	12
Enforcement Duties.....	14
Pretreatment Program Coordinator.....	14
Public Works Director	15
Duties of the City Attorney	15
Enforcement Response Guide	16

City of Santa Barbara Pretreatment Program Enforcement Response Plan

PURPOSE

This Enforcement Response Plan (ERP) was adopted pursuant to the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977, and subsequently amended. The Code of Federal Regulations (CFR), Title 40 Protection of The Environment, codifies general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government.

These laws and rules, specifically 40 CFR Part 403, General Pretreatment Regulations for Existing and New Sources of Pollution were designed to establish responsibilities of industry and government to protect water quality by implementing National Pretreatment Standards. 40 CFR Part 403.8(f)(5) requires that Publicly-Owned Treatment Works (POTW) develop and implement an ERP to investigate and respond to instances of industrial user noncompliance. This ERP details the enforcement procedures and lists key steps necessary to assure that wastewater discharges maintain compliance with all local, state and federal limitations.

ENFORCEMENT LEGAL AUTHORITY

The City of Santa Barbara (City) is required under Federal law to have a pretreatment program. The City of Santa Barbara Municipal Code, Title 16 (Sewer System) provides the standards and the legal authority for enforcement of the pretreatment program as well as the detailed procedures for implementing 40 CFR 403.8(f)(1) and 403.8(f)(2), which create pretreatment standards. Title 16 also includes detailed administrative enforcement procedures and civil and criminal penalties for violations.

Under this ERP, the Pretreatment Program Coordinator is responsible for full implementation of inspection and documentation activities leading to the activation of penalties for noncompliance. The primary responsibilities of Pretreatment Program Coordinator, however, are to monitor, coordinate and maintain the processes necessary for regulated entities to comply fully with the City's wastewater ordinances.

This ERP includes a wide range of enforcement options available based on an assessment of the nature and severity of the violation. Along with departmental enforcement officials, the City Attorney will enforce applicable City of Santa Barbara Municipal Code requirements, including court action if required. Specific enforcement tools and their anticipated uses are detailed in the Enforcement Procedures section of this ERP. The specific legal authority for specific aspects of the pretreatment program is included within the City of Santa Barbara Municipal Code as the Sewer Use Ordinance.

INTRODUCTION

The ERP outlines the procedures followed by Pretreatment Program staff and management to identify, document, and respond to pretreatment violations. Incorporated into the ERP are specific criteria by which Pretreatment Program staff can determine the enforcement action most appropriate to the nature of the violation. In addition, this ERP describes the duties of the Pretreatment Program staff, methods used to determine compliance with applicable regulations, and procedures to review compliance data. This ERP also includes the Enforcement Response Guide (ERG), which is a table referencing the degree of noncompliance with the range of enforcement responses that can be taken.

This ERP has been prepared by following USEPA's *Guidance for Developing Control Authority Enforcement Response Plans* (ERP Guidance). The ERP is organized into the following sections:

- Definitions;
- ERP activation;
- File review and enforcement analysis;
- Enforcement procedures;
- Enforcement duties; and
- Enforcement Response Guide.

DEFINITIONS

Administrative Citations: Enforcement actions, which assess monetary penalties for noncompliance.

Administrative Orders: Enforcement documents, which direct Users to undertake or to cease, specified activities. Administrative Orders may incorporate compliance schedules, timeframes, administrative penalties, and termination of service orders. Administrative Orders include:

- **Finding of Noncompliance** – a written notice instructing the User to identify and correct causes of noncompliance.
- **Consent Order** – documents noncompliance and includes actions required to be accomplished by specific dates. Consent Orders are developed during Compliance Meetings and both parties agree to terms.
- **Show Cause Order** – directs the User to appear before the City to explain its noncompliance and show cause why more severe enforcement actions against the User should not go forward.
- **Compliance Order** – directs the User to achieve or restore compliance by a date specified in the order. A Compliance Order is often a stipulated agreement that may include a compliance schedule, the payment of monetary penalties, or cost recovery for and the imposition of fines when milestones are not met.
- **Cease and Desist Order** – directs a User to cease illegal or unauthorized discharges immediately or to terminate discharge altogether.
- **Termination of Service or Permit Revocation** – a notice delivered to a User serving notification of the intent to revoke the User's Wastewater Discharge Permit or the termination of service.

Approved Laboratory: A laboratory whose analytical procedures are approved and certified by ELAP (State of California); NELAC (National) or equivalent organization for the methods and matrix being reviewed.

Best Management Practices (BMP): The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR Part 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Civil Action: An order, hearing, or other action by the presiding court. Such orders may include penalties.

Commercial Users: Any source of wastewater discharge originating from a commercial business. This excludes users classified as domestic or industrial users.

Compliance Inspection: An inspection to determine compliance status and to identify practices, which may lead to noncompliance. Compliance inspections are normally not scheduled.

Compliance Meeting: A meeting with the User to discuss the causes of noncompliance, corrective actions to achieve compliance, and a schedule for implementation of corrective actions.

Compliance Schedule: A timeline for implementation of corrective actions by a User in order to achieve consistent compliance.

Consistent Compliance: No more than one parameter in violation and that value was less than twice the most stringent limit. Additionally, within thirty (30) days of the City becoming aware of an incident or having been notified of the violation, the City performs repeat sampling and analysis of the parameter, and the User has identified and corrected the cause of the violation and verified this through testing for that parameter.

Conventional Pollutant: Any pollutant listed in 40 CFR Part 401.16 “Conventional Pollutants”. This section lists the five conventional pollutants as: Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), pH, fecal coliform, and oil and grease.

Criminal Action: Similar to civil action, but the charges are for criminal neglect that may include fines and or penalties.

Fines: Monetary penalties imposed by the court or by the City for violation of discharge regulations.

Inconsistent Compliance: More than one parameter in violation, or any one parameter in violation, that exceeded twice the most stringent limit and within thirty (30) days of the date the City becomes aware of the violation, the City has been re-sampled, found to be in compliance and does not fall within the significant noncompliance classification.

When any action by the User meets one or more of the criteria for SNC, the User will be designated as SNC, and reported in the Semiannual and Annual Pretreatment Program reports, and published in the newspaper annually.

Industrial User (IU): Any source of industrial wastewater discharge.

Interference: A discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

- Inhibits or disrupts the Community Sewer and/or POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- Therefore is a cause of a violation of any requirement of the City’s NPDES Permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following

statutory provisions and regulations or permits issued there under (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxics Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Notice of Violation (NOV): An official notice that a violation of discharge regulations has occurred. A written response to the NOV identifying causes of the violation and corrective actions taken to prevent recurring violations is required within fourteen (14) days of the mailing date.

- Violations which cause damage to the Community Sewer and/or the POTW, threaten health or safety, upset, or pass through the POTW are not addressed by this ERP. Violations of this magnitude must be dealt with immediately and individually. The nature of the violation will play a significant role in determining the appropriate actions to be taken. The Pretreatment Program Coordinator will determine the appropriate response for these types of violations. All violations of federal or local limits, other than those of the magnitude discussed above, will be addressed as outlined in this ERP.
- All NOVs are issued by the Pretreatment Program Coordinator. All NOVs are sent by mail or are hand-delivered. As a courtesy, Users may also be verbally notified of the violation. All NOVs require a response by the User. Users may respond with a compliance schedule detailing the steps which are required to achieve compliance and the schedule for completion of these steps. Alternatively, the User may determine the source of the violation, correct it, and send notice of what steps were taken to correct the condition which was causing the violation. The User has fourteen (14) days to respond to the NOV.
- A second sample must be collected, analyzed and reported within thirty (30) days upon receiving notice that an initial sample result exceeded applicable discharge limits. A resample fee is charged to the User. If second sample collected is in compliance, the normal sampling schedule will resume.
- If the second sample collected is in violation, a second NOV with a resample fee, is sent to the User with a warning that a third violation will result in a \$1,000 administrative fine.

Other Users of Concern (OUs): OUs are those which discharge compatible pollutants, but which have the capability to cause problems in the Community Sewer or at the POTW. Also included in this class are industries which perform manufacturing operations regulated under the federal categorical standards but do not discharge process water from these operations. These Users are inspected on a random basis. There is no minimum frequency for inspections, but ideally these Users will be inspected every one to three years.

Sample Handling and Analysis: Samples are collected and analyzed in accordance with the requirements of 40 CFR Part 136. Samples taken for routine compliance checks are sent to an approved laboratory. Normal turnaround time for routine samples is thirty (30) days. Samples collected in response to a complaint or where a violation is suspected may require a faster turnaround time. This is available from all laboratories used for analysis. Chain-of-custody forms and procedures are used for all samples.

Significant Industrial User (SIU): An SIU includes all dischargers of wastewater or process waters into the sewer system with any one of the following characteristics:

- Has waste discharge subject to Categorical Pretreatment Standards; or
- Minimum or average flows of 10,000 gallons per day; or
- The potential to contribute process wastestream that makes up to five percent (5%) or more of the average dry weather hydraulic or organic load (TSS; TOC/COD/BOD) of the POTW; or
- Is designated by the City on the basis that the User:
 - Has reasonable potential, either individually or in combination with other contributing industries, for adversely affecting the Community Sewer and/or POTW operation or the effluent quality from the POTW; or
 - May cause or threaten to cause the City to violate its NPDES permit; or
 - Has reasonable potential to violate any Pretreatment Standard; or
 - Has in its waste discharge a toxic pollutant.

The City classifies SIUs as Tier I dischargers that are required to obtain Wastewater Discharge Permits. SIUs are sampled quarterly to determine compliance with local limits and any applicable federal categorical limits and inspected at least twice per year. Typical businesses in this tier include industrial laundries, hospitals, electroplaters, and printed circuit board manufacturers.

Significant Noncompliance (SNC): SNC, as defined in 40 CFR 403.8(f)(2)(viii), is a compliance status in which one or more of the following is found:

- Chronic violations of wastewater discharge limits, defined here as those in which 66 percent (66%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR Part 403.3(l);
- Technical Review Criteria (TRC) violations, defined here as those in which 33 percent (33%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined

by 40 CFR Part 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TOC, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

- Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW and Community Sewer, personnel, or the general public);
- Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the City's exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
- Failure to meet, within ninety (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;
- Failure to provide, within 45 days after the due date, required reports such as Baseline Monitoring Reports (BMR), 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- Failure to accurately report noncompliance;
- Any other violation or group of violations, which may include a violation of BMPs, which the City determines will adversely affect the operation or implementation of the Pretreatment Program.

Toxic Pollutant: Any pollutant listed in 40 CFR Part 401.15 "Toxic Pollutants". This section lists sixty-five pollutants and their compounds as toxic pollutants.

ERP ACTIVATION

Pretreatment Program staff shall perform random sampling and inspection of Users. Inspections and sampling of SIUs (as defined previously) shall be conducted, at a minimum, twice per year. For all other Users, inspection and sampling requirements will be defined in their Wastewater Discharge Permits. Additionally, the Pretreatment Program Coordinator shall review User self-monitoring reports and other required monitoring reports to ensure that Users are in compliance with all permit requirements, including BMPs and reporting deadlines, and compliance schedules and deadlines are met.

An enforcement response will be initiated when any of the following events occurs:

- Any violation of the requirements of Title 16 of the City of Santa Barbara Municipal Code (Sewer System).
- Any violation of Wastewater Discharge Permit requirements issued by the City.
- Failure of a User to meet a compliance schedule/deadline.
- Failure of a User to report a violation of its Wastewater Discharge Permit.
- Failures of a User to keep required records and conduct self-monitoring and/or reporting activities.
- Violation of any Federal, State or Local requirements pertaining to wastewater discharge that the City has the duty to enforce.

Additionally, Chapter 16.14 of the City of Santa Barbara Municipal Code sets the legal authority for the City to assess administrative fines when any User has violated or continues to violate any provision of the Municipal Code, Wastewater Discharge Permit or order issued hereunder, or any other Pretreatment Standard or Requirement. Offense(s) deemed a violation of a Wastewater Discharge Permit or Chapter 16.14 of the City of Santa Barbara Municipal Code shall include without limitation:

- Denied right-of-entry or access to applicable records or conduct inspections or sampling. (Sections 16.08.130(B), 16.08.130(C), 16.08.140, 16.08.150)
- Discharge of prohibited wastes. (Chapter 16.04)
- Discharge of drainage water or groundwater, except as approved by the Public Works Director. (Section 16.04.040)
- Unreported/unauthorized bypass of pretreatment. (Sections 16.12.070(C))
- Failure to install and maintain a sample port and/or a control manhole. (Section 16.08.130)
- Violation of Categorical Pretreatment Standards/Local Limits. (Sections 16.04.120(A), 16.04.120(D), 16.04.120(E))

- Discharging to the Community Sewer without first securing a Wastewater Discharge Permit. (Section 16.08.120)
- Failure to submit required reports or notifications (Chapter 16.08)
- Falsifying information. (Section 16.14.080)
- Failure to install or maintain a grease removal device. (Section 16.04.080)

FILE REVIEW AND ENFORCEMENT ANALYSIS

Upon discovery of any violation, the affected User's Environmental Compliance file will be immediately reviewed.

Evaluating the Degree of Noncompliance

When considering the type of enforcement action to be taken, the ERG summarizes the range of enforcement actions that may be taken for a violation. Chapter 4.1 of the ERP Guidance discusses six criteria that the City should consider when determining a proper enforcement response. Enforcement action may be escalated when considering the six criteria for evaluating the degree of noncompliance.

When an enforcement action is increased over the minimum, written documentation will detail the reasons for the increased enforcement action. The six criteria for evaluating the degree of noncompliance are:

1. **Magnitude of the Violation.** Generally, an isolated instance of noncompliance can be met with an enforcement response listed in the ERG. However, since even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the integrity of the Pretreatment Program, the enforcement response to this type of violation must be escalated to: 1) mitigate the violation quickly; 2) prevent a reoccurrence of the violation(s); 3) provide an appropriate level of response; and 4) provide for cost recovery as appropriate.
2. **Duration of the Violation.** Violations (regardless of severity) which continue over prolonged periods of time should subject the User to escalated enforcement actions. The City response to these situations must prevent extended periods of noncompliance from occurring.
3. **Effect of the Violation on the Receiving Water.** One of the primary objectives of the Pretreatment Program is to prevent pollutants from "passing through" the POTW and entering the receiving waters. Consequently, any violation which results in environmental harm warrants an escalated enforcement response. Environmental harm will be presumed whenever a User discharges a pollutant into the Community Sewer which:
 - a. Passes through the POTW and causes a violation of the City's NPDES permit effluent limitations.
 - b. Has a toxic effect on the receiving waters and causes a violation of the City's NPDES permit. The response should ensure recovery from the User of any NPDES permit-related fines and penalties paid by the City. Termination of service may also be considered for repeat violations.
4. **Effect of the Violation on the Community Sewer and/or POTW.** Some violations may have negative impacts on the Community Sewer and/or POTW operations or personnel. These violations can result in increased treatment cost,

upsets to treatment processes, interference, or harm City personnel or equipment. The response should ensure recovery from the User of any costs incurred by the City resulting from the violation, directly or indirectly.

5. **Compliance History of the User.** When evaluating the level of enforcement action to be taken for a violation, the compliance history of the User shall be reviewed. If a pattern of recurring violations for the same parameter is noted, then an escalated enforcement action may be warranted.
6. **Good Faith of the User.** The User's "good faith" effort in correcting its noncompliance is a factor in determining which enforcement action to take. "Good faith" maybe defined as the User's honest intention to remedy its noncompliance, coupled with actions which give support to this intention. However, "good faith" does not eliminate the necessity of an enforcement action.

Violation Classification

Based on the history of violations and efforts to maintain compliance, the violation will be classified as a Random Violation, a Pattern Violation or a Major Violation.

Random Violation: any violation that exceeds a Federal, State, or City wastewater discharge limitation, reporting deadline, or compliance schedule deadline. Random violations are usually the first or second offense, and will not be severe or frequent enough to be classified as a Major Violation or a Pattern Violation.

Pattern Violation: any violation, or set or series of random violations that is not severe or frequent enough to be classified as a Major Violation, but which contributes to a pattern of noncompliance when viewed over a moving one (1) year period. Four (4) months, whether consecutive or not, of noncompliance due to Random Violations over a moving twelve (12) month period, shall automatically constitute a Pattern Violation.

Major Violation: any occurrence of SNC, as defined previously, as well as any violation, which by its impact, severity, or frequency of occurrence presents a hazard or nuisance to the POTW, the Community Sewer, general public or the receiving environment. In accordance with the public participation requirements of 40 CFR Part 25, a list of the names of all Users incurring Major Violations during the previous twelve (12) months shall be published annually in a widely circulated newspaper published in the City of Santa Barbara.

ENFORCEMENT PROCEDURES

The City uses a progressive enforcement policy designed to maintain a fair and equitable system for enforcement of environmental laws, to ensure that fines and penalties are proportionate to the violations, to provide maximum flexibility and effectiveness in enforcement actions, and to provide a system of escalating fines and penalties to encourage prompt compliance. Enforcement options follow either informal or formal enforcement procedures.

Other enforcement options may be pursued using the formal enforcement procedures below. Formal enforcement procedures are available in Title 4 of the City of Santa Barbara Municipal Code. The formal enforcement procedures allow for a large degree of enforcement flexibility and a wide range of enforcement options to most efficiently gain compliance. Therefore, as deemed necessary, an enforcement action may be upgraded or escalated depending on the circumstances of the case.

Verbal Warning: A verbal warning, typically a telephone call, is usually the first step in the enforcement procedures. The City may verbally notify the User in the event the User is late in submitting required reports or applications, fails to install or properly maintain equipment, or discharges without a Wastewater Discharge Permit. If the User fails to correct the problem, further enforcement actions will be initiated. All verbal warnings are noted in the User's Environmental Compliance file.

First Notice of Violation: The purpose of the First NOV is to inform the User of the nature of the violation and establish a "self-imposed" compliance schedule which lists the events and dates on which various steps of progress shall take place. "Self-imposed" compliance schedules shall be limited so as to achieve compliance no later than thirty (30) days from date of issuance of the First NOV. The First NOV is sent to the User, either by mail or hand-delivered, within seven (7) days of the City becoming aware of a violation.

The First NOV requires the User to file a written report with the City within fourteen (14) days. The written report shall include an explanation of the cause of the violation and a discussion of corrective actions taken to mitigate the violation and actions taken to prevent future similar violations. The Pretreatment Program Coordinator may extend the deadline up to a maximum of thirty (30) days for a total time period of sixty (60) days from the issuance date, due to extenuating circumstances or hardship.

Also, within thirty (30) days of becoming aware of a violation, the City will resample the User's discharge.

Second Notice of Violation and Resample Fee: A Second NOV will be sent to the User, either by mail or hand-delivered, for the following reasons:

- (1) User did not respond within fourteen (14) days from the date the First NOV was sent.

- (2) If the sample results from the resampling event is in violation of any of the parameters listed in the User's Wastewater Discharge Permit. The City will require resample fees, as set by the City's Budget Resolution, from the User.
- (3) For not meeting the deadlines on a compliance schedule.

All costs related to any violation status inspection, surveillance, sampling, laboratory analysis, and administration may be assessed directly to the User. In addition this NOV may include civil penalties up to, but no greater than, twenty-five dollars per day (\$25,000 per day) for each violation of Title 16 of the City of Santa Barbara Municipal Code.

Third Notice of Violation and Resample Fee: The purpose of the Third NOV is to remind the User of the violation and expected action. The Third NOV reiterates the information in the First and Second NOVs or will include a copy of the previous NOVs and demand compliance within fourteen (14) days of the date of the Third NOV. The Third NOV contains information as to the various enforcement options available to the City should compliance not be achieved within the deadline.

All City costs related to any violation status inspection, surveillance, sampling, laboratory analysis, and administration may be assessed directly to the User. In addition this NOV may include civil penalties up to, but no greater than, twenty-five thousand dollars per day (\$25,000 per day) for each violation of Title 16 of the City of Santa Barbara Municipal Code.

An NOV assessing civil penalties or imposing any other monetary assessment may be appealed to the City Council in accordance with the provisions of Title 16 of the City of Santa Barbara Municipal Code. The City Council decision shall be final.

Users in Significant Noncompliance

In accordance with public participation requirements of 40 CFR Part 25 and Section 16.14.040 of the City of Santa Barbara Municipal Code, the City will publish annually a list of Users which, at any time during the previous twelve (12) months, were in SNC. Further, in the event of SNC, the Pretreatment Program Coordinator will consult with the Public Works Director or his designee to initiate a formal method of enforcement. The User may also be evaluated for legal enforcement and have the case referred to the City Attorney. Formal methods of enforcement include, but are not limited to:

- Fine;
- Cease and Desist Order;
- Revocation of Permit;
- Termination of Water and/or Sewer services; and/or
- Civil or Criminal prosecution.

ENFORCEMENT DUTIES

This section discusses the City staff that will be responsible for conducting enforcement actions for the Pretreatment Program. Responsibilities will be divided between the following persons:

- Pretreatment Program Coordinator;
- Public Works Director, or his designee; and
- City attorney.

Pretreatment Program Coordinator

The Pretreatment Program Coordinator is the primary City staff person implementing the Pretreatment Program on a day-to-day basis and conducting enforcement activities. The Pretreatment Program Coordinator conducts the following duties:

- Approves, denies, or conditions new or increased contributions of pollutants, or changes in the nature of pollutants, into the Community Sewer and POTW by Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the City to violate its NPDES permit.
- Controls through a Wastewater Discharge Permit, order, or similar means, the contribution to the POTW by each User to ensure compliance with applicable Pretreatment Standards and Requirements.
- Conducts inspections and sampling of Users.
- Tracks timely receipt of User self-monitoring reports (SMRs).
- Reviews monitoring (SMR and POTW) results and identifies discharge violations.
- Reviews User compliance history reports.
- Prepares and signs off on routine enforcement actions (up to the First NOV).
- Coordinates and moderates compliance meetings and the preparation of compliance schedules.
- Tracks User's response to NOVs, Compliance Meetings, and Compliance Schedules. This includes reviewing User's response letters to NOVs to ensure the response adequately addresses compliance issues. Reviews compliance meeting schedules and ensures that deadlines are met.
- Tracks all enforcement actions in a database.
- Ensures that compliance actions are consistent and timely.
- Compiles compliance reports for the semi-annual and annual pretreatment program compliance reports.

- Provides recommendations for increased enforcement to the Public Works Director or his designee and/or the City Attorney. Prepared non-routine compliance letters, Administrative Orders and Citations.

Public Works Director

The primary duties of the Public Works Director, or his designee, with respect to the Pretreatment Program enforcement are to approve increased enforcement actions. The Public Works Director, or his designee, conducts the following duties:

- Signs off on enforcement actions beyond the First NOV.
- Communicates and coordinates with associated regulatory agencies.
- Prepares referrals with the City Attorney for legal action.

Duties of the City Attorney

The primary duties of the City Attorney with respect to the Pretreatment Program are to provide legal consultation as requested by the Pretreatment Coordinator or Public Works Director, or his designee, and process enforcement actions in a timely manner. To achieve this, the City Attorney conducts the following duties:

- Provides legal consultation as requested by the Pretreatment Program Coordinator or Public Works Director, or his designee.
- Assists with obtaining an administrative warrant to inspect or sample a facility, if consent for access was denied.
- Oversees all referrals for civil litigation and City-initiated criminal investigations.

ENFORCEMENT RESPONSE GUIDE

The ERG lists the routine types of noncompliance and the range of enforcement actions taken. These routine actions include Verbal Warnings, Warning Notices, NOVs, Administrative Citations, and Compliance Meetings. This guide is a matrix, which describes violations and indicates the range of enforcement actions that the City may take.

Prior to taking **any** enforcement action, beyond the First NOV, the Pretreatment Program Coordinator must consult with the Public Works Director, or his designee, to ensure that the type of enforcement action proposed is consistent with the ERG and appropriate for the level of violation.

If multiple violations for one or more parameters occur during a calendar day, the User will only be issued one enforcement action, and all violations will be listed. If during an inspection multiple violations are discovered, over a number of days, those violations will be grouped by day and each group of violations will be issued an enforcement action.

Type of Violation	Circumstances	Range of Response	Primary Personnel
UNAUTHORIZED DISCHARGES			
Discharges without Wastewater Discharge Permit	User unaware of permit requirement – No harm to POTW/environment	Verbal warning NOV with User Wastewater Discharge Permit form	PPC
	User unaware of permit requirement – harm to POTW/environment	SNC Administrative order Administrative fine Civil action	PWD, CA
	Failure to Submit Application continues after notification	SNC Administrative order Administrative fine Civil action Criminal investigation Termination of service	PWD, CA
Failure to submit renewal application	User is less than 30 days late	Verbal warning NOV	PPC
	User is more than 30 days late	NOV SNC	PWD
	User fails to reapply after notification	SNC Administrative order Administrative fine Civil action Criminal investigation Termination of service	PWD, CA

Type of Violation	Circumstances	Range of Response	Primary Personnel
DISCHARGE LIMIT VIOLATIONS			
Exceedance of local or Federal Standard (permit limit)	Random violation, not significant	Verbal warning NOV City resample Resample fee	PPC
	Random, major violation; no harm to POTW/ environment	City resample Resample fee SNC Administrative order Administrative fine	PWD
	Random, major violation; harm to POTW/ environment	City resample Resample fee SNC Civil action Criminal investigation Termination of service	PWD, CA
	Pattern violation; no harm to POTW/environment	City resample Resample fee SNC Administrative order Administrative fine	PWD
	Pattern, major violation; harm to POTW/ environment	City resample Resample fee SNC Administrative order Civil action Criminal investigation Termination of service	PWD, CA

Type of Violation	Circumstances	Range of Response	Primary Personnel
MONITORING AND REPORTING VIOLATIONS			
Reporting Violation (Baseline Monitoring Report, 90-day compliance reports, periodic self-monitoring reports, and progress reports for compliance schedules)	Report is improperly signed or certified	Verbal warning NOV	PPC
	Report is improperly signed or certified after notice by City	Administrative order	PWD
	Report is up to five (5) days late	Note, but no action	PPC
	Report is more than five (5) days late	Verbal warning	PPC
	Report is more than fifteen (15) days late	NOV	PPC
	Report is more than forty-five (45) days late	SNC	PPC
	Recurring late reports greater than forty-five (45) days or no reports at all	Administrative order Administrative fine Civil action Termination of service	PWD, CA
Reporting Violation (failure to report discharge limit violation, spill, upset, bypass, or change in discharge)	No harm to POTW	NOV	PPC
	Harm to POTW	SNC Administrative order Administrative fine Civil action	PWD, CA
	Repeated incidents	SNC Termination of service	PWD, CA
Reporting Violation (falsification)	Filing false reports	SNC Criminal investigation Termination of service	PWD, CA
Failure to sample correctly	User did not collect all samples required by the Wastewater Discharge Permit	NOV	PPC
	Recurring incidents	Administrative order Administrative fine Civil action	PWD, CA

Type of Violation	Circumstances	Range of Response	Primary Personnel
	Improper sampling with evidence of intent	Criminal investigation Termination of service	PWD, CA
Failure to install monitoring equipment	Delay less than thirty (30) days	Verbal warning NOV	PPC
	Delay greater than thirty (30) days	Administrative order Administrative fine Civil action Criminal investigation Termination of service	PWD, CA
	Recurring or violation of administrative order	Civil action Criminal investigation Termination of service	PWD, CA

Type of Violation	Circumstances	Range of Response	Primary Personnel
COMPLIANCE RESPONSE VIOLATION			
Failure to meet compliance schedules	Missed milestone by less than thirty (30) days or will not affect final compliance schedule	NOV Administrative order Administrative fine	PPC, PWD, CA
	Missed milestone by more than thirty (30) days or will affect final compliance schedule (good cause for delay)	SNC Administrative order Administrative fine	PWD, CA
	Missed milestone by more than thirty (30) days or will affect final compliance schedule (no good cause for delay)	SNC Civil action Termination of service	PWD, CA
	Recurring violation or violation of administrative order schedule	SNC Civil action Criminal investigation Termination of service	PWD, CA
Failure to respond to NOVs	User did not respond to 1 st NOV within fourteen (14) days	2 nd NOV	PWD, CA
	User did not respond to 2 nd NOV within fourteen (14) days	3 rd NOV	PWD, CA
	User did not respond to 2 nd NOV within fourteen (14) days	Administrative order Administrative fine Civil action Criminal investigation Termination of service	PWD, CA

Type of Violation	Circumstances	Range of Response	Primary Personnel
<i>OTHER PERMIT VIOLATION</i>			
Failure to properly operate and maintain pretreatment equipment	Results in no harm	Verbal warning NOV	PPC
	Results in harm	Administrative order Administrative fine Civil action Termination of service	PWD, CA
Wastestream diluted in lieu of treatment	Initial violation	Administrative order Administrative fine	PWD, CA
	Recurring incidents	Termination of service	PWD, CA
Failure to mitigate noncompliance or halt production	Results in no harm	Verbal warning NOV	PPC
	Results in harm	Administrative order Administrative fine Civil action Termination of service	PWD, CA
<i>VIOLATIONS DETECTED DURING SITE VISITS</i>			
Entry denial	Entry denied, consent withdrawn, or copies of records denied	Obtain warrant and return to User facility	PWD, CA
Illicit discharge	No harm to POTW or environment	Administrative order Administrative fine	PWD, CA
	Harm to POTW or environment	Civil action Criminal investigation	PWD, CA
	Recurring or violation of administrative order	Termination of service	PWD, CA

Notes to Enforcement Response Guide:

PPC = Pretreatment Program Coordinator; PWD = Public Works Director; CA = City Attorney