



## ENFORCEMENT RESPONSE PLAN (ERP)

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### A. Introduction.

It is the responsibility of Brunswick County to enforce all applicable Federal, State, and local pretreatment regulations. These regulations are outlined in the local Sewer Use Ordinance (SUO). This Enforcement Response Plan, hereafter referred to as "ERP", has been established as an element of the POTW's pretreatment program. The purpose of the ERP is to provide for fair and equitable treatment of all Users for anticipated enforcement situations. In general, enforcement actions will be taken in accordance with this ERP. However, the enforcement actions available are not exclusive as discussed in **SUO Section 8 - Enforcement**. Therefore, any combination of the enforcement actions can be taken against a noncompliant User.

### B. Enforcement Actions Available to the County.

The Director/Superintendent of the POTW is empowered through *North Carolina General Statute* and the local SUO to take a wide variety of enforcement actions. The following is a list of those actions and the corresponding section of the local SUO that describes each.

<u>List of Actions</u>	<u>Local SUO Section</u>
Notice of Violation (NOV)	8.1 (a)
Consent Orders	8.1 (b)
Show Cause Hearing	8.1 (c)
Administrative Orders	8.1 (d)
Emergency Suspensions	8.1 (e)
Termination of Permit	8.1 (f)
Civil Penalties	8.2
Injunctive Relief	8.3 (b)
Water Supply Severance	8.3 (c)

In addition to the actions listed above, a User who violates the provisions may be referred by the Director/Superintendent to the District Attorney for possible criminal prosecution.

Superintendent shall consider the following factors :

1. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting for the violations;
2. The duration and gravity of the violation;
3. The effect on ground or surface water quantity or quality or on air quality;
4. The cost of rectifying the damage;
5. The amount of money saved by noncompliance;
6. Whether the violation was committed willfully or intentionally;
7. The prior record of the violator in complying or failing to comply with the pretreatment program;
8. The costs of enforcement to the County.

**C. Investigation of Noncompliance.**

The staff of the POTW will generally investigate User compliance with permits or the provisions of the SUO in three (3) ways:

1. On-site inspections of the User to include scheduled and unscheduled visits;
2. Scheduled and unscheduled sampling of the Users' effluent;
3. Review of self-monitoring data, if required, from the User.

The compliance status of Significant Industrial Users (SIU) will be evaluated at a minimum once every six (6) months.

**D. Types of Violations.**

The following is a list of different types of violations, by category. This list is not inclusive, but serves as a general list of anticipated types of noncompliance. The User's permit, local SUO, and State and Federal regulations serve as additional references for pretreatment requirements.

Unpermitted Discharges. Users are responsible for obtaining and renewing permits, if required.

Permit Limits. Users are responsible for maintaining compliance with all effluent limits. The POTW will evaluate the extent of the limits violation(s). In determining the extent of violation(s), Significant Noncompliance (SNC) as defined by State and EPA regulations will be determined.

required in the permit, including monitoring frequencies and sampling methods specified, is in violation. This includes a User who does not resample per their permit when a limit violation occurs.

Reporting Violations. A User who fails to provide information (e.g., self-monitoring reports) required in their permit or the SUO in the required time frame is in violation. Late or incomplete reports will also be considered violations. An SIU who submits a report more than thirty (30) days late is considered in SNC.

Permit Conditions. Failure to apply or reapply for a permit is considered a violation. Users who violate the general or other conditions (e.g., slug loading, dilution prohibition) outlined in their permits or the SUO shall be considered to be in violation.

Enforcement Orders. Failure to meet the requirements of an order (e.g., interim limits, milestone dates), whether the order was entered into voluntarily or mandated by the POTW, shall be considered a violation. Missing a scheduled compliance milestone by more than ninety (90) days is considered SNC.

**E. Responses: Time Frames. Responsible Officials. Escalated Actions.**

The attached chart further outlines types of violations and specifies POTW actions (initial and escalated), time frames, and the officials responsible for completing the actions. This chart shall be considered a part of the Enforcement Response Plan (ERP).

Responses to violations affecting the operation of the POTW, resulting in POTW NPDES violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

A User may be sent a Notice of Violation (NOV) or Notice of Noncompliance (NNC) for each individual violation. Alternatively, the violations may be summarized over a period of time not to exceed six (6) months. In general, NOV's in response to violations of permit limits will be taken within thirty (30) days of discovery of the violations. Users found to be in SNC for two (2) consecutive six- (6) month periods will be issued an enforceable order to return to compliance. In all cases, escalated or continuing enforcement action will be taken against Users who do not return to compliance in a timely manner.

Cases of falsifying reports, tampering with monitoring or sampling equipment, or otherwise preventing the collection of representative data may be referred to the District Attorney for possible criminal investigation. Show cause hearings may be held at the Director/ Superintendent's discretion prior to taking enforcement actions.

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**ENFORCEMENT RESPONSE PLAN  
ENFORCEMENT CHART**

<b>UNPERMITTED DISCHARGES</b>					
<b>Type of Violation</b>	<b>POTW Action</b>	<b>Time Frame</b>	<b>Responsible Official</b>	<b>Expected Action from User</b>	<b>Escalated Action If Needed</b>
Unpermitted Discharge – Unaware of Requirement	<b>Notice of Violation</b>	Within 14 Days of Discovery of Discharge	Pretreatment Coordinator	File Permit Application	Suspend Service Until Permit is Issued
Unpermitted Discharge – Unaware of Requirement	<b>Notice of Violation with Penalty Assessed</b>	Within 30 Days of Discovery of Discharge	Superintendent	File Permit Application	Suspend Service Until Permit is Issued
Unpermitted Discharge Results in NPDES Violation	Order to Cease Process Causing Violation <b>Notice of Violation</b> with Recommended Minimum of \$1,000 and Up to \$25,000/Day Per Violation <b>Penalty</b>	Order to Cease Immediately Notice of Violation within 7 Days	Superintendent	File Permit Application Steps Taken to Avoid Violation	Suspend Service Until Permit is Issued
Unpermitted Discharge Results in Endangerment	Suspend Service <b>Notice of Violation</b> with Recommended Minimum of \$1,000 and Up to \$25,000/Day Per Violation <b>Penalty</b>	Suspend Service Immediately Notice of Violation within 7 Days	Superintendent	File Permit Application Steps Taken to Avoid Future Endangerment	

Items in **BOLD** are Absolute Minimums

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**ENFORCEMENT RESPONSE PLAN  
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<b>PERMIT LIMITS VIOLATIONS</b>					
Type of Violation	POTW Action	Time Frame	Responsible Official	Expected Action from User	Escalated Action If Needed
Permit Limits Violation Minor Single Event Minor	<b>Notice of Noncompliance</b> or Notice of Violation with Up to \$25,000 Penalty	Within 14 Days of Receiving Data <b>(Once in Each 6-Month Period)</b>	Pretreatment Coordinator	Conduct Additional Monitoring and Return to Compliance	Notice of Violation with Penalty
Permit Limits Violation Technical Review Criteria (TRC)	<b>Notice of Violation</b> with Up to \$25,000 Penalty	Within 14 Days of Receiving Data <b>(Once in Each 6-Month Period)</b>	Pretreatment Coordinator	Conduct Additional Monitoring and Return to Compliance	Second Notice of Violation with Increased Penalty
Permit Limits Violation Significant Non- Compliance (SNC)	<b>Notice of Violation</b> With Up to \$25,000 Penalty	<b>Within 30 Days of Receiving All the Data</b>	Pretreatment Coordinator	Report Cause of Noncompliance and Steps Taken to Prevent Violation	<b>Enforceable Schedule (AO) If Not Received By the End of 2nd 6-Month Period</b>
Permit Limits Violation Causes NPDES Violation	Order to Cease Process Causing Violation <b>Notice of Violation</b> with Recommended Minimum \$1,000 and Up to \$25,000/Day Per Violation <b>Penalty</b>	Order to Cease Immediately Notice of Violation Within 7 Days of <b>Discovering Violation (Once in Each 6-Month Period)</b>	Superintendent	Report Cause of Noncompliance and Steps Taken to Prevent Violation	Suspend Service Until Resolved <b>Enforceable Schedule (AO) If Not Resolved By the End of 2nd 6-Month Period</b>
Permit Limits Violation Causes Endangerment	Suspend Service <b>Notice of Violation</b> with Recommended <b>Minimum \$1,000 and</b> Up to \$25,000/Day Per Violation Penalty	Suspend Service Immediately Notice of Violation within 7 Days	Superintendent	File for Reissuance of Permit	

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**ENFORCEMENT RESPONSE PLAN**

**ENFORCEMENT CHART**

<b>OTHER VIOLATIONS</b>
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Type of Violation	POTW Action	Time Frame	Responsible Official	Expected Action from User	Escalated Action If Needed
Self-Monitoring Violations	<b>Notice of Violation</b> with a Recommended Minimum Penalty Equal or Greater Than Cost of Missed Testing	Within 14 Days of Discovery <b>(Once in Each 6-Month Period)</b>	Pretreatment Coordinator	Conduct Missing Sampling	Second Notice of Violation with Penalty Equal to Twice Cost of Missed Testing
Reporting Violations Late Report	<b>Notice of Noncompliance</b>	Within 14 Days of the Report Due Date <b>(Once in Each 6-Month Period)</b>	Pretreatment Coordinator	Submit Report	Notice of Violation Penalty Assessed Possible SNC if Over 30 Days
Reporting Violations Incomplete or Inaccurate Reports	<b>Notice of Noncompliance</b>	Within 30 Days of Report Submission <b>(Once in Each 6-Month Period)</b>	Pretreatment Coordinator	Submit Revised Report	Notice of Violation Penalty Assessed
Reporting Violations Intentional Falsification	<b>Refer to District Attorney</b>	As Soon as Suspected	Superintendent		
Violation of Permit Conditions	<b>Notice of Violation</b> With Penalty Up to \$25,000/Day Per Violation	Within 30 Days of Discovery <b>(Once in Each 6-Month Period)</b>	Pretreatment Coordinator or Superintendent	Varies	Second Notice of Violation with Increase Penalty
Violation of Permit Conditions (Endangerment)	Suspend Service <b>Notice of Violation</b> with Up to \$25,000/Day Per Violation <b>Penalty</b>	Suspend Service Immediately Notice of Violation within 7 Days	Superintendent	Steps Taken to Avoid Reoccurrence	

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**APPENDIX C**

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**ENFORCEMENT RESPONSE PLAN**

**ENFORCEMENT CHART**

**DENTAL DISCHARGERS SUBJECT TO 40 CFR 441**  
**Enforcement actions taken in response to the requirements of 40 CFR Part 441 not listed below will be taken on a case-by-case basis.**

Type of Violation	POTW Action	Time Frame	Responsible Official	Expected Action from User	Escalated Action If Needed
Failure to submit one-time compliance report	<b>Reminder via phone, email, or letter.</b>	Within 60 days of deadline (10/12/2020)	Pretreatment Coordinator	Submit report within 45 days	NOV; require report within 30 days
Continued failure to submit one-time compliance report	2 <sup>nd</sup> NOV with Notice of Intent (to issue penalty-recommended certified mail)	<b>Within 30 days of most recent due date</b>	Pretreatment Coordinator	Submit report within 10 days	Issue penalty up to an amount equal to the cost of installing an amalgam separator
Continued failure to submit report or pay penalty	Turn over to POTW attorney for collection		Pretreatment Coordinator		

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