



City of Prescott  
Pretreatment Program

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# Chapter 7 Enforcement Response Plan

May 2013



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## Acronyms

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A.R.S.	Arizona Revised Statutes
BMP	Best Management Practice
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
City	City of Prescott
ERP	Enforcement Response Plan
IWDP	Industrial Wastewater Discharge Permit
NOV	Notice of Violation
POTW	Public Owned Treatment Works
SMR	Self-Monitoring Report
SNC	Significant Non-Compliance
TOC	Total Organic Carbon
TRC	Technical Review Criteria
TSS	Total Suspended Solids

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## Definitions

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Administrative Orders	Enforcement documents that direct Industrial Users to undertake, or to cease, specified activities; may incorporate compliance schedules, timeframes, administrative penalties, and termination of service orders
Approval Authority	Arizona Department of Environmental Quality (ADEQ)
Best Management Practices (BMPs)	Activities, prohibitions of practices, maintenance procedures, and other management practices to implement prohibitions listed in 40 CFR 403.5 (a)(1) and (b); includes treatment requirements, operating procedures, and practices to control plant run-off, 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; orders may include penalties
Compliance Inspection	Inspection to determine compliance status and identify practices that may lead to non-compliance; inspections may be scheduled in advance
Compliance Meeting	Meeting with Industrial User to discuss the causes of non-compliance, corrective actions to achieve compliance, and time frames for implementation of corrective actions
Compliance Schedule	Timetable for the implementation of corrective actions to be performed by Industrial User to achieve consistent compliance
Consistent Compliance	No more than one parameter in violation with value of less than twice the most stringent limit; Industrial User is able to correct cause of violation and verify through testing within 30 calendar days of identification of non-compliance
Criminal Action	An order, hearing, or other action by presiding court involving charges for criminal neglect; may include fines or penalties
Fines	Monetary penalties imposed by the court or by the City for violation of discharge regulations
Good Faith Effort	Industrial User's honest intention to achieve compliance and/or remedy noncompliance coupled by actions supporting this intention
Inconsistent Compliance	More than one parameter in violation, or any one parameter in violation with value exceeding twice the most stringent limit; Industrial User is able to correct the cause of the violation and verify through testing within 30 calendar days of identification of non-compliance
Industrial User	Any nondomestic user that discharges to the sanitary sewer system
Interference	A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits/disrupts wastewater treatment facility processes and causes violation of any effluent permit requirements

## Definitions (continued)

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Notice of Violation (NOV)	Official notice of violation; a written response identifying causes of the violation and corrective actions taken to prevent violation recurrence is required within 15 calendar days from receipt date of the NOV
Show Cause Hearing	A hearing conducted by court order that requires the Industrial User to appear and provide reasons why the City should not take a proposed enforcement action
Technical Review Criteria (TRC)	Multiplier applied to parameter values to determine exceedance; value for BOD, TSS, oil and grease is 1.4, value for other parameters except pH is 1.2
Termination of Service or Permit Revocation	Notice delivered to Industrial User serving notification of the intent to revoke the discharge permit or terminate service
Verbal Warning	Informal documented warning communicated to the Industrial User; associated violation is usually slight or within range of analytical error
Warning Notice	A written notice that a violation has occurred; directs the Industrial User to take actions to correct the violation but does not require a formal response

# 7. Enforcement Response Plan

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Chapter 7 of the City of Prescott’s Pretreatment Program consists of the Enforcement Response Plan (ERP), which establishes the enforcement procedures used for wastewater discharge violations.

## 7.1 Purpose

In accordance with 40 CFR 403.8(f)(5), the City of Prescott (City) Public Works Department has developed this ERP to provide a framework for determining the appropriate response to wastewater discharge violations. The City Code Chapter 2-1 authorizes the Public Works Director to regulate and enforce Industrial User compliance with wastewater discharges to the Publicly Owned Treatment Works (POTW). The ERP describes the City’s enforcement procedures in handling Industrial User noncompliance and lists the steps necessary to assure that wastewater discharges maintain compliance with all local, state and federal limitations.

The ERP is intended to serve three main purposes:

- To provide guidance in enforcement responses that are appropriate to the nature and severity of the violation
- To establish guidelines that encourage fair and uniform application of enforcement responses to varying types of violations
- To describe the mechanism to review the appropriateness of responses

The ERP outlines the procedures followed by the City’s pretreatment program staff to identify, document, and respond to discharge violations in a manner appropriate to the nature of the violation. In addition, the ERP describes the pretreatment program responsibilities of City staff and procedures to review compliance data.

## 7.2 Enforcement Authority

Chapter 2-1 of the City Code provides the standards and legal authority for enforcement of the pretreatment program. The Public Works Department exercises this authority in the implementation of the ERP. Under the ERP, the Water Protection Specialist, or a designee, is responsible for implementing inspection and documentation activities, including assessing penalties for non-compliance, necessary for regulated entities to comply fully with the City’s sewer use ordinance.

The ERP describes a range of enforcement options available based on an assessment of the nature and severity of the violation. Along with Public Works pretreatment staff, the

City Attorney will enforce applicable City Code requirements, including court action if required. Specific enforcement tools and their anticipated uses are described in Section 7.6 Enforcement Actions of the ERP.

### **7.3 Enforcement Responsibilities**

The following sections establish general responsibilities for City personnel involved with enforcement activities.

#### **7.3.1 Water Protection Specialist**

The Water Protection Specialist, or his designee, will be responsible for conducting or overseeing compliance monitoring and facility inspections. Sampling of wastewater discharge will be primarily performed by the Industrial User. The Water Protection Specialist may collect split samples at an Industrial User's discharge or perform sampling during non-routine monitoring. Primary responsibilities of the Water Protection Specialist will include:

- Review monitoring results, identify discharge violations, and recommend appropriate enforcement actions
- Perform Compliance Inspections and prepare inspection reports
- Develop and oversee compliance monitoring schedules
- Draft Notice of Violations (NOVs) and Industrial Wastewater Discharge Permits (IWDP)
- Track Industrial User's response to NOVs, Compliance Meetings, and Compliance Schedules
- Review Industrial User's response letters to ensure the responses adequately address compliance issues and make recommendations to the Utilities Manager if responses are deemed inadequate
- Assist in the preparation and running of Compliance Meetings
- Review Industrial User compliance history reports and prepare compliance reports
- Communicate and coordinate with other agencies and municipalities
- Conduct outreach and educational activities with Industrial Users

- Draft informal notices of compliance and NOVs for review and issuance by the Utilities Manager
- Participate in Show Cause Hearings and Compliance Hearings, as deemed necessary by the Utilities Manager

### **7.3.2 Wastewater Superintendent**

The Wastewater Superintendent is responsible for oversight of the Water protection Specialist and assists in the implementation of the pretreatment program. The primary responsibilities of the Wastewater Superintendent include:

- Review compliance inspection reports
- Assist the Water Protection Specialist in development of compliance monitoring schedules
- Review violations, NOVs, and IWDPs
- Act as technical resource for the Water Protection Specialist

### **7.3.3 Utilities Manager**

The Utilities Manager is responsible for oversight of the Wastewater Superintendent and ensures fair and consistent implementation of pretreatment program. The primary responsibilities of the Utilities Manager, or his designee, include:

- Review violations and make final determination on the required level of enforcement
- Review the Water Protection Specialist's recommendations concerning Industrial User's response to NOVs
- Review and issue notices of compliance and NOVs
- Conduct Compliance Meetings and Show Cause Hearings
- Issue Compliance Schedules
- Prepare Administrative Orders for approval by Public Works Director
- Review assessed penalties for noncompliance prior to approval by Public Works Director
- Initiate termination of service or revocation of IWDP, when deemed necessary

- Recommend legal action to Public Works Director and City Attorney when required

### **7.3.4 Public Works Director**

The Public Works Director will be responsible for the appropriate application of enforcement guidelines to pretreatment violations as authorized in the City Code. The primary responsibilities of the Public Works Director include:

- Provide consistency of enforcement procedures within the pretreatment program
- Approve formal enforcement actions, as appropriate
- Attend Show Cause Hearings as necessary
- Approve assessment of administrative penalties and Administrative Orders
- Approve termination of water and wastewater services
- Implement enforcement responsibilities in City Code

### **7.3.5 City Attorney**

The City Attorney's office will provide legal support and advice to the Utilities Manager and the Public Works Director in interpretation of the pretreatment program and enforcement responses. The primary responsibilities of the City Attorney's office include:

- Provide City staff with legal and regulatory assistance
- Advise City staff during enforcement matters, as required
- Consult with the Public Works Director and the Utilities Manager on Administrative Actions
- Communicate with attorneys from other agencies or municipalities
- Review Administrative Orders issued by the Public Works Director
- Attend Show Cause Hearings as necessary
- Manage civil litigation and criminal trials on behalf of the City

## 7.4 Types of Violations

Determination of the appropriate enforcement response to noncompliance will be influenced by the type and severity of the violation. Industrial User violations of monitoring, reporting, and treatment requirements may range from “relatively” minor violations (e.g., report submitted a week late but having no effluent violations) to major violations (e.g., a recurring incident). Each instance of noncompliance is a violation and should be reviewed and appropriately addressed. The following sections describe varying types of violations.

### 7.4.1 Random Violation

A random violation is defined as any violation that exceeds a federal, state, or local discharge limitation or compliance schedule. Random violations will usually be the first or second offense and will not be severe or frequent enough to be classified as a Significant Violation or a Pattern Violation.

### 7.4.2 Pattern Violation

A pattern violation consists of any violation, or series of random violations, that are not severe or frequent enough to be classified as a Significant Violation, but which contribute to a pattern of noncompliance when viewed over a rolling 12-month period. Random violations occurring during four months in a rolling 12-month period would constitute a Pattern Violation.

### 7.4.3 Significant Violation

A significant violation is defined as any violation, which by its impact, severity, or frequency of occurrence presents a hazard or nuisance to the POTW, the collection system, general public, or the environment. In accordance with public participation requirements of 40 CFR 25, a list of Industrial Users that incur Significant Violations during the previous 12 months will be published annually in a widely circulated newspaper published in the City.

Significant Noncompliance (SNC) by an Industrial User is defined as any of the following violations:

- **Chronic Violation of Discharge Limit:** Defined as 66 percent or more of measurements taken for a pollutant during a 6-month period exceeding a numeric pretreatment standard or requirement, including instantaneous limits, per 40 CFR 403.3(l)
- **Technical Review Criteria (TRC) Violations:** Defined as 33 percent or more of measurements taken for a pollutant during a 6-month period equaling or

exceeding the numeric pretreatment standard, per 40 CFR 403.3(l), when multiplied by the applicable TRC (TRC = 1.4 for BOD, TOC, TSS, oil and grease, and 1.2 for all other parameters except pH)

- **Interference or Pass-Through Violation:** Any other violation of a pretreatment standard, as defined by 40 CFR 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 human health)
- **Imminent Endangerment Violation:** Any discharge 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 403.8(f)(1)(vi)(B) to halt or prevent such a discharge
- **Compliance Schedule Violation:** Defined as failure to meet a Compliance Schedule milestone within 90 calendar days after the schedule date contained in a local control mechanism or Administrative Order for starting construction, completing construction, or attaining final compliance
- **Reporting Violation:** Defined as failure to provide required reports such as baseline monitoring reports (BMRs), compliance reports, self-monitoring reports (SMRs), and reports on compliance with compliance schedules within 30 calendar days after the due date, or failure to accurately report noncompliance
- **Other Violations:** Any other violation, which may include a violation of Best Management Practices (BMPs), which the City determines will adversely affect the operation or implementation of the pretreatment program

## 7.5 Assessing Enforcement Response

Violations and noncompliance with wastewater discharge regulations may range from minor incidents to major events. In each case, the noncompliance must be reviewed, documented, and properly addressed. The appropriate enforcement response will depend upon the severity and duration of the violation, compliance history, good faith efforts of the Industrial User to comply, harm caused by the violation, and whether the noncompliance resulted in a violation of the City POTW effluent permits. Pursuant to the Arizona Revised Statutes (A.R.S.) Section 49-391, the following factors should be considered in determining the amount of a civil penalty:

- the severity and duration of the violation
- compliance history of the Industrial User

- good faith efforts of the Industrial User to comply with the applicable requirements
- the harm caused by the violation
- the type of discharge violation, and such other factors as justice may require

The following sections describe factors that are evaluated as part of the process to determine the appropriate level of enforcement response.

### **7.5.1 Severity and Duration of Violation**

The City will evaluate the duration of the violation to determine the possible effects that may have occurred in the collection system and POTW. The assessment of each specific violation should take into account the volume and strength or concentration of the discharge.

Depending on the severity, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the operational integrity of the POTW. Some examples influencing the assessment of the violation severity include:

- pH values of 2.0 versus 5.0
- Discharge volume of 100 versus 100,000 gallons
- Wastewater concentrations five percent over the discharge limit versus 200 percent over the limit
- Compliance reports two days late versus 30 days late

### **7.5.2 Compliance History of Industrial User**

The compliance history of the facility is reviewed prior to selecting the appropriate level of enforcement response. More aggressive enforcement actions should be taken when a facility has frequent violations. The City must also consider the effectiveness of previous enforcement actions before establishing the level of the next response.

### **7.5.3 Apparent Good Faith of Industrial User**

The City will interpret the actions of the Industrial User, before and after a noncompliance incident, on a case by case basis. If a facility challenges an IWDP, contract, or applicable pretreatment standard and delays progress towards compliance, the facility assumes the risk that the IWDP, contract, or standard will be upheld on judicial review. A facility which follows “business as usual” procedures after enforcement action has been initiated and/or comes into compliance only after a decision adverse to their interest is upheld on judicial review cannot be considered to have acted in good faith. If a

facility appears to be acting in good faith to comply, the City may choose to implement a lower level enforcement response.

#### **7.5.4 Harm Caused by Violation**

Violations that have negative impacts to the POTW are typically considered significant. For example, violations may result in significant increases in treatment costs, interfere with operations, harm POTW personnel or equipment, cause exceedances of the City POTW permit limitations that result in fines from federal or state agencies, or cause sludge contamination resulting in increased disposal costs. These violations should be met with an administrative fine or civil penalty and an Administrative Order to correct the violation, in addition to recovering costs.

#### **7.5.5 Type of Discharge Violation**

Noncompliance that causes interference or pass-through of the POTW and results in a permit violation must be addressed with formal enforcement actions and penalties. This level of response is necessary to ensure that adequate pretreatment and discharge compliance is achieved promptly. Enforcement actions may include injunctive measures in appropriate cases.

### **7.6 Enforcement Actions**

Once noncompliance is determined, the enforcement action must be taken in a timely manner to be effective and fair. By acting quickly, the instance of noncompliance is easier to address and future noncompliance may be lessened. The City will attempt to initiate all enforcement actions within 30 calendar days of the date of noncompliance notification.

Enforcement actions are described in order to achieve fair and consistent implementation of the pretreatment program. Enforcement responses are dependent on the nature and severity of the discharge violation, as well as the factors described in Section 7.5. Enforcement actions can range from a simple telephone call to assessment of fines and termination of water and/or sewer service. All enforcement actions will be documented in writing and placed in the Industrial User's pretreatment file. Written notices to Industrial Users will be sent by certified mail with a return receipt requested. The following sections describe enforcement actions from the least formal to the most stringent.

#### **7.6.1 Inspection and Monitoring**

The Compliance Schedule will set specific time periods for self-monitoring for an Industrial User's wastewater discharge. If the results of the self-monitoring indicate that a violation has occurred, the Industrial User must notify the Public Works Director within 24 hours and repeat the sampling and analysis for the parameter in violation. The

resampling will be consistent with the facility's IWDP. The analytical results of the resampling must be submitted to the City within 30 calendar days of the Industrial User becoming aware of the violation. Depending on the severity of the violation, additional resampling may be required at the Public Works Director's discretion.

When IWDP or discharge violations occur, the City may perform an inspection of the facility to assess if the violation has been corrected and if the facility is operating normally. Inspections are typically not scheduled ahead of time. The Industrial User must allow the Water Protection Specialist access to the facility for sampling and inspection purposes within a reasonable timeframe from inspection notification (typically within 24 hours).

### **7.6.2 Informal Notice**

Informal Notice may consist of a Verbal Warning for slight violations or a Warning Notice for more moderate violations. For Informal Notices, the City will specify the type of follow-up actions required by the facility and may also establish a specific time frame for the required action.

A Verbal Warning is issued for minor violations and involves the Water Protection Specialist notifying the Industrial User that a violation occurred and directing corrective actions. If additional slight violations occur, the Water Protection Specialist may schedule additional inspections and/or sampling, or may elect to implement more stringent enforcement action (e.g., a Warning Notice).

A Warning Notice is a written notice that is generally issued for slight or moderate violation depending on the criteria evaluation. A Warning Notice documents the type of violation that occurred and directs the Industrial User to identify and correct the cause of violation. The Water Protection Specialist may schedule additional inspections and/or sampling, or may elect to implement more stringent enforcement action, such as an NOV in place of a Warning notice in cases where there have been previous recent violations for the same parameter.

### **7.6.3 Notice of Violation (NOV)**

An NOV is generally issued for a severe or for recurring violations. The NOV documents the type of violation that occurred and directs the Industrial User to identify and correct the cause of the violation. The Industrial User is required to respond in writing within 15 calendar days from receipt date of the NOV, describing the cause of the violation and the corrective actions taken.

The NOV is a written notice to the Industrial User and requires corrective actions to prevent further violations and explanation of the causes of the violation. The NOV will

include a statement that additional enforcement actions may be pursued if corrective actions are not achieved as required. The NOV does not excuse prior violations nor prevent collection of penalties or damages at a later time.

The NOV will identify the specific time frame for follow-up and/or other corrective actions. Upon review of the facility's response to the NOV, the Water Protection Specialist or Utilities Manger will determine the validity or appropriateness of the response. If the response is determined to be unsatisfactory, further actions may be taken; otherwise, the NOV will be closed and recorded in the facility file as part of compliance history. Closure to the NOV will be documented in writing and provided to the facility; however, NOV closure does not preclude further action if necessary.

#### **7.6.4 Compliance Meeting**

Compliance Meetings are held when severe violations occur or when previous violations appear to remain uncorrected, as evidenced by repeated violations. Compliance Meetings between the Industrial User and City pretreatment staff are scheduled as a last step to ensure compliance before evoking a more stringent intervention, such as Cease and Desist Order. During a Compliance Meeting, a Compliance Schedule is developed and tracked by the Water Protection Specialist. Compliance Meetings are scheduled when:

- Discharge concentration exceeds five times the applicable discharge limit, or six times the applicable discharge limit for oil and grease
- Discharge has a pH of less than 5.5 or greater than 9 for duration of 30 minutes or more and/or a volume greater than 100 gallons.
- A pattern of noncompliance, defined as inconsistent compliance for two consecutive quarters for the same parameter; four or more NOVs within a 6-month period; or failure to respond to an NOV within 30 calendar days of the due date.

#### **7.6.5 Show Cause Hearing**

A Show Cause Hearing is conducted by the City to provide the Industrial User the opportunity to present reasons why a proposed enforcement action should not be taken. Notice will be served to the facility indicating the time and place of the Show Cause Hearing. The notice will identify the Industrial User, the violation, and the proposed enforcement actions. It is the Industrial User's responsibility to present an argument (or "show cause") why the proposed enforcement action should not be taken. The Industrial User may waive the right for a Show Cause Hearing. The Show Cause Hearing does not preclude, and is not a necessary prerequisite, for taking other enforcement actions.

### **7.6.6 Administrative Order**

The City may issue an Administrative Order requiring a facility to achieve compliance with pretreatment standards or other requirements of the City Code. The Administrative Order will place a facility on an enforceable compliance schedule or require immediate compliance. The City may require a facility to install treatment devices and/or to operate and maintain treatment equipment correctly.

### **7.6.7 Administrative Fines**

Administrative Fines may be assessed by the Public Works Department under the City Code Chapter 2-1. Each day that a violation continues may constitute a separate violation. When determining the amount of an Administrative Fine, factors discussed in Section 7.5 may be taken into account.

### **7.6.8 Termination or Suspension of Discharge**

The City has the authority to immediately halt any actual or threatened discharge to the POTW that may represent an endangerment to public health, the environment, or the POTW. Informal notification may be given to the facility discharging or threatening such a discharge.

Termination or suspension of discharge may be an appropriate response to facilities that have not complied with previous enforcement actions. This action is an administrative response, which may be implemented by the Public Works Department without initiating civil and/or criminal proceedings.

Circumstances warranting termination or suspension of discharges are as follows:

- Unpermitted discharge which results in violation of POTW effluent permits
- Any dangerous situation threatening human health, the environment, or the POTW
- Discharges that exceed local limits or categorical discharge limits and/or result in damage to the environment or the POTW
- Slug loads that result in interference, pass-through, or which may cause any dangerous situation threatening human health, the environment, or the POTW
- Failure of the facility to notify the City of effluent violations of slug load discharge, or recurring slug loads, that causes any dangerous situation threatening human health, the environment, or the POTW

- Failure of the facility to install monitoring equipment as required by an Administrative Order
- Major violation of IWDP conditions or administrative action accompanied by evidence of negligence or intentional violation

The process for terminating or suspending an Industrial User's wastewater discharge is described below:

- The Water Protection Specialist or Utilities Manger prepares documentation to support the action and advises the Public Works Director of the impending action.
- Upon approval by the Public Works Director, the Industrial User is provided written notification of the proposed termination. The Industrial User will be given the opportunity to challenge the termination at a Show Cause Hearing.
- If the facility appears to have an actual or threatened discharge that may cause interference with the POTW or will present an imminent endangerment to the health or welfare of any person or environment, the Public Works Director may suspend any water and/or sewer service without a Show Cause Hearing.

Service will be restored only after compliance has been achieved to the satisfaction of the Utilities Manager or the Public Works Director.

### **7.6.9 Civil Actions**

The City has the authority to file a civil suit against Industrial Users for alleged violations of applicable pretreatment standards and seek injunctive relief, compliance, civil penalties, and/or damages. Civil penalties may be assessed in an amount up to \$25,000 per violation per calendar day in accordance with A.R.S. §49-391. Filing Civil Actions is an appropriate enforcement response in the following situations:

- An emergency situation where injunctive relief is necessary to halt or prevent discharges which threaten human health, or the environment, or interfere with the POTW
- When efforts to restore compliance through cooperation with the Industrial User has failed and action is necessary to enforce pretreatment program requirements
- To seek fines for violations

In addition to any civil penalties, the City may also recover as damages an amount equal to penalties, liquidated damages, or expenses that the City incurs or is required to pay to ADEQ as a result of an Industrial User's violation.

In instances that require filing a civil suit, the Public Works Department will collect all pertinent information sufficient to support the complaint, and provide the information to the City Attorney. The Public Works Department staff will support the City Attorney in preparing and carrying out the civil case.

### **7.6.10 Criminal Actions**

Willful or negligent violations can seriously damage the POTW and the environment, and enforcement action must be decisive. As in civil actions, the Public Works Department will work closely with the City Attorney's office when pursuing enforcement actions that require criminal punishment.

The City Attorney is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes false statements in any report, application, record, or other document required by pretreatment regulations and City Code.

The Utilities Manager and Public Works Director will consider several factors when identifying violations to be referred to the City Attorney for possible criminal prosecution. These factors include:

- The willfulness or negligence of the violation
- Knowledge of the violation
- Nature and severity of the violation, including any fines received by the City from federal and state agencies
- Need for deterrence
- Compliance history of the facility

### **7.6.11 Suspension or Revocation of IWDP**

A facility's IWDP may be revoked if any provision of the permit or City Code is violated or for any of the reasons listed in City Code Chapter 2-1. An IWDP may be modified for the following reasons:

- Information obtained subsequent to IWDP issuance indicates that the permitted discharge poses a threat to the City's collection and treatment system, POTW personnel, or reuse/recharge facilities
- The IWDP was obtained by misrepresentation or failure to fully disclose all relevant facts

- Increased monitoring or reporting required as a result of enforcement activities

The IWDP may be revoked at the discretion of the Utilities Manager or Public Works Direction and may be initiated for reasons other than those listed above.

**Table 1**  
**Enforcement Response Table**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Un-Permitted Discharges</b>		
Un-Permitted Discharge	Industrial User aware of requirement; no harm to the POTW or environment	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV with IWDP application form</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>
	Industrial User aware of requirement; discharge causes harm to the POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Resample discharge</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Failure to comply; discharge continues after notice by City	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Failure to Renew IWDP	IWDP expired; no application submitted	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Discharge Limit Violations</b>		
Exceedance of Local Limit, IWDP Limit or Federal Standard	Isolated incident; no harm to POTW or environment	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>
	Isolated incident; discharge caused harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Resample discharge</li> <li>• Compliance Meeting</li> <li>• Show Cause hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Recurring incident, 2 or more violations within 90 calendar days; no harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Recurring incident, 2 or more violations within 90 calendar days; discharge caused harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Discharge Limit Violations (cont.)</b>		
Exceedance of Local Limit, IWDP Limit or Federal Standard (cont.)	Recurring incident with knowledge or intent or negligence	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Criminal Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
<b>Monitoring and Reporting Violations</b>		
Reporting Violation	Report is improperly signed or certified	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> </ul>
	Report is improperly signed or certified after notification by City	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Isolated incident, with no harm caused to POTW or environment report, reported less than 30 calendar days late	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Unannounced inspection</li> </ul>
	Report late by 30 calendar days or more	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Missing or incomplete information in report	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Monitoring and Reporting Violations (cont.)</b>		
Reporting Violation (cont.)	Failure to correct report with missing or incomplete information after notification by City	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Failure to report spill or changed discharge; no harm caused to POTW or environment	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>
	Failure to report spill or changed discharge; discharge caused harm caused to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Resample discharge</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Repeated failure to report spills or changed discharge	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Monitoring and Reporting Violations (cont.)</b>		
Reporting Violation (cont.)	Falsification of information presented in report	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Criminal Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Failure to Monitor Correctly	Failure to monitor all pollutants as required by IWDP	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> </ul>
	Recurring failure to monitor discharge	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Improper Sampling	Isolated incident	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Monitoring and Reporting Violations (cont.)</b>		
Improper Sampling (cont.)	Recurring incident or evidence of intent	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Criminal Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Failure to Install Monitoring Equipment	Delay of 30 calendar days or more after notification by City	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Compliance Schedules	Missed compliance milestone by less than 30 calendar days	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> </ul>
	Missed compliance milestone by more than 30 calendar days; Industrial User has good cause for delay	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> </ul>
	Missed compliance milestone by more than 30 calendar days; Industrial User does not have good cause for delay	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Monitoring and Reporting Violations (cont.)</b>		
Compliance Schedules (cont.)	Recurring violation or violation of schedule in Administrative Order	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
<b>Other IWDP Violations</b>		
Waste Streams are Diluted in Lieu of Treatment	Initial violation	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>
	Recurring violation	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Failure to Mitigate Noncompliance or Halt Production	Discharge causes no harm to POTW or environment	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Other IWDP Violations (cont.)</b>		
Failure to Mitigate Noncompliance or Halt Production (cont.)	Discharge causes harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Resample discharge</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
Failure to Properly Operate and Maintain Pretreatment Facility	Initial violation; no harm to POTW or environment	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>
	Initial violation; discharge caused harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Resample discharge</li> <li>• Compliance Meeting</li> <li>• Show Cause hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
	Recurring violation; 2 or more violations within 90 calendar days; no harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Other IWDP Violations (cont.)</b>		
Failure to Properly Operate and Maintain Pretreatment Facility (cont.)	Recurring violation; 2 or more violations within 90 calendar days; discharge caused harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
<b>Violations Observed During Site Visit/Inspection</b>		
Entry Denial	Entry denied or consent withdrawn; copies of records denied	<ul style="list-style-type: none"> <li>• Warning Notice</li> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> </ul>
Illegal Discharge	Discharge causes no harm to POTW or environment	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> <li>• Unannounced inspection</li> <li>• Unannounced City monitoring</li> </ul>
	Recurring violation; no harm to POTW or environment	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> </ul>

**Table 1**  
**Enforcement Response Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Enforcement Response Options</b>
<b>Violations Observed During Site Visit/Inspection (cont.)</b>		
Illegal Discharge (cont.)	Discharge causes harm to POTW or environment or there is evidence of intent or negligence	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil or Criminal Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>
Improper Sampling	Incorrect location, sample type, or collection procedures	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> <li>• Resample discharge</li> </ul>
Inadequate record keeping or documentation	Files incomplete or missing information; initial violation	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> </ul>
	Recurring violation after notice from City to correct	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> </ul>
Failure to Report Additional Monitoring	Inspector finds additional files/records; initial violation	<ul style="list-style-type: none"> <li>• Verbal Warning</li> <li>• Warning Notice</li> <li>• NOV</li> </ul>
	Recurring violation after notice from City to correct	<ul style="list-style-type: none"> <li>• NOV</li> <li>• Compliance Meeting</li> <li>• Show Cause Hearing</li> <li>• Administrative Order</li> <li>• Administrative Fines</li> <li>• Civil Action</li> <li>• Terminate sewer connection</li> <li>• Revoke IWDP</li> </ul>

**Table 2**  
**Fines and Administrative Actions Table**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Administrative Fines</b>		
Un-Permitted Discharge	Industrial User aware of requirement; discharge causes harm to POTW or environment	Up to \$1,000 per day per violation
	Failure to comply; discharge continues after notice by City	Up to \$1,000 per day per violation
Failure to Renew IWDP	IWDP expired; no application submitted	Up to \$500 per day per violation
Exceedance of Local Limit, IWDP Limit or Federal Standard	Isolated incident; discharge caused harm to POTW or environment	Up to \$1,000 per day per violation
	Recurring incident, 2 or more violations within 90 calendar days; no harm to POTW or environment	Up to \$1,000 per day per violation
	Recurring incident, 2 or more violations within 90 calendar days; discharge causes harm to POTW or environment	Up to \$5,000 per day per violation
Reporting Violations	Report is improperly signed or certified after notification by City	Up to \$100 per day per violation
	Report late by 30 calendar days or more	Up to \$100 per day per violation
	Failure to correct report with missing or incomplete information after notification by City	Up to \$100 per day per violation

**Table 2**  
**Fines and Administrative Actions Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Administrative Fines (cont.)</b>		
Reporting Violations (cont.)	Failure to report spill or changed discharge; discharge caused harm to POTW or environment	Up to \$500 per day per violation
	Repeated failure to report spills or changed discharge	Up to \$1,000 per day per violation
	Falsification of information presented in report	Up to \$500 per day per violation
Failure to Monitor Correctly	Recurring failure to monitor discharge	Up to \$500 per day per violation
Improper Sampling	Evidence of intent	Up to \$500 per day per violation
	Recurring event	Up to \$1,000 per day per violation
Failure to Install Monitoring Equipment	Delay of 30 calendar days or more after notification by City	Up to \$500 per day per violation
Compliance Schedule	Missed compliance milestone by more than 30 calendar days; Industrial User has good cause for delay	Up to \$100 per day per violation
	Missed compliance milestone by more than 30 calendar days; Industrial User does not have good cause for delay	Up to \$500 per day per violation
	Recurring violation or violation of schedule in Administrative Order	Up to \$500 per day per violation

**Table 2**  
**Fines and Administrative Actions Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Administrative Fines (cont.)</b>		
Waste Streams are Diluted in Lieu of Treatment	Recurring Violation	Up to \$500 per day per violation
Failure to Mitigate Noncompliance or Halt Production	Discharge causes harm to POTW or environment	Up to \$10,000 per day per violation
Failure to Properly Operate and Maintain Pretreatment Facility	Recurring violation	Up to \$500 per day per violation
Entry Denial	Entry Denied or consent withdrawn; copies of records denied	Up to \$100 per day per violation
Illegal Discharge	Recurring violation; no harm to POTW or environment	Up to \$1,000 per day per violation
	Discharge causes harm to POTW or environment or there is evidence of intent or negligence	Up to \$10,000 per day per violation
Inadequate Record Keeping or Documentation	Recurring violation after notice from City to correct	Up to \$100 per day per violation
Failure to report Additional Monitoring	Recurring violation after notice from City to correct	Up to \$100 per day per violation

**Table 2**  
**Fines and Administrative Actions Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Administrative Fines (cont.)</b>		
Unanticipated Bypass	Random violation; discharge caused harm to collection system/POTW or environment	Up to \$500 per day per violation
	Pattern violation; no harm to collection system/POTW or environment	Up to \$1,000 per day per violation
	Pattern violation; discharge caused harm to collection system/POTW or environment	Up to \$5,000 per day per violation
Bypassing Pretreatment Needed to Meet Discharge Limits	Random violation; discharge caused harm to collection system/POTW or environment	Up to \$500 per day per violation
	Pattern violation; no harm to collection system/POTW or environment	Up to \$1,000 per day per violation
	Pattern violation; discharge caused harm to collection system/POTW or environment	Up to \$5,000 per day per violation
	Pattern violation with knowledge, intent or negligence	Up to \$10,000 per day per violation
Bypassing Compliance Sampling	Pattern violation or evidence of intent	Up to \$1,000 per day per violation

**Table 2**  
**Fines and Administrative Actions Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Civil Penalties</b>		
Un-Permitted Discharge	Industrial User aware of requirement; discharge causes harm to the POTW or environment	Up to \$10,000 per day per violation
	Failure to comply; discharge continues after notice by City	Up to \$25,000 per day per violation
Failure to Renew IWDP	IWDP expired; no application submitted but Industrial User continues to discharge	Up to \$1,000 per day per violation
Exceedance of Local Limit, IWDP Limit or Federal Standard	Isolated incident; discharge caused harm to POTW or environment	Up to \$10,000 per day per violation
	Recurring incident, 2 or more violations within 90 calendar days; no harm to POTW or environment	Up to \$10,000 per day per violation
	Recurring incident, 2 or more violations within 90 calendar days; discharge causes harm to POTW or environment	Up to \$10,000 per day per violation
	Recurring incident with knowledge or intent or negligence	Up to \$25,000 per day per violation

**Table 2**  
**Fines and Administrative Actions Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Civil Penalties (cont.)</b>		
Reporting Violations	Report is improperly signed or certified after notification by City	Up to \$1,000 per day per violation
	Report late by 90 calendar days or more	Up to \$1,000 per day per violation
	Failure to correct report with missing or incomplete information after notification by City	Up to \$5,000 per day per violation
	Failure to report spill or changed discharge; discharge caused harm to POTW or environment	Up to \$10,000 per day per violation
	Repeated failure to report spills or changed discharge	Up to \$10,000 per day per violation
	Falsification of information presented in report	Up to \$1,000 per day per violation
Failure to Monitor Correctly	Recurring failure to monitor discharge	Up to \$5,000 per day per violation
Improper Sampling	Evidence of intent	Up to \$5,000 per day per violation
Failure to Install Monitoring Equipment	Delay of 30 calendar days or more after notification by City	Up to \$1,000 per day per violation
Compliance Schedule	Missed compliance milestone by more than 30 calendar days; Industrial User does not have good cause for delay	Up to \$1,000 per day per violation

**Table 2**  
**Fines and Administrative Actions Table (cont.)**

<b>Type of Violation</b>	<b>Nature of Violation</b>	<b>Options for Fees/Fines</b>
<b>Civil Penalties (cont.)</b>		
Compliance Schedule (cont.)	Recurring violation or violation of schedule in Administrative Order	Up to \$5,000 per day per violation
Waste Streams are Diluted in Lieu of Treatment	Recurring Violation	Up to \$5,000 per day per violation
Failure to Mitigate Noncompliance or Halt Production	Discharge causes harm to POTW or environment	Up to \$10,000 per day per violation
Failure to Properly Operate and Maintain Pretreatment Facility	Recurring violation	Up to \$5,000 per day per violation
Illegal Discharge	Discharge causes harm to POTW or environment or there is evidence of intent or negligence	Up to \$10,000 per day per violation
Inadequate Record Keeping or Documentation	Recurring violation after notice from City to correct	Up to \$5,000 per day per violation
Failure to Report Additional Monitoring	Recurring violation after notice from City to correct	Up to \$5,000 per day per violation

Notes:

In addition to the described penalties, the Public Works Director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

After 30 calendar days, unpaid fines and penalties will be assessed an additional penalty of 10% of the unpaid balance, and the interest will accrue thereafter at a rate of 1% per month. A lien against the Industrial User's property will be sought for unpaid fines and penalties.