

ENFORCEMENT RESPONSE PLAN

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Abbreviations

The following abbreviations, when used in this Enforcement Response Plan, shall have the designated meanings:

AO – Administrative Order
ATT – City Attorney
BOD – Biochemical Oxygen Demand
BOD₅ – 5-Day Biochemical Oxygen Demand
BMP – Best Management Practice
BRD – Board of City Commissioners
CFR – Code of Federal Regulations
City – City of Bismarck
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
DIR – Director of Public Works Utility Operations
EPA – U.S. Environmental Protection Agency
ERG – Enforcement Response Guide
ERP – Enforcement Response Plan
FOG – fats, oils, and grease
FSE – Food Service Establishment
gpd – gallons per day
IPM – Industrial Pretreatment Manager
IPP – Industrial Pretreatment Program
IU – Industrial User
NOV – Notice of Violation
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
SIU – Significant Industrial User
SNC – Significant Noncompliance
SSO – Sanitary Sewer Overflow
TSS – Total Suspended Solids

Definitions

Unless the context specifically indicates otherwise, terms are defined as provided in Section 11.2-01-02 of the Bismarck Code of Ordinances.

Additionally, the following terms as used in this Enforcement Response Plan shall have the following meanings:

1. Administrative Order (AO) – An order from the Director of Public Works Utility Operations of the Board of City Commissioners. May be a show cause, consent, implementation compliance, cease and desist order, or order to suspend or terminate service.
2. City Attorney (ATT) – The City's attorney, who will provide support to Industrial Pretreatment Manager (IPM), Director of Public Works Utility Operations (DIR), and Board of City Commissioners (BRD) for enforcement actions.
3. Show Cause Order – Administrative order requiring the IU to appear and demonstrate why the City should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

1 INTRODUCTION

In accordance with the General Pretreatment Regulations promulgated by the U.S. Environmental Protection Agency (40 CFR 403), the City of Bismarck (City) has developed and implemented an Industrial Pretreatment Program (IPP) for its Publicly Owned Treatment Works (POTW). The objectives of this program are as follows:

- Prevent the introduction of pollutants into the City’s POTW that would interfere with the operation of the POTW;
- Prevent the introduction of pollutants into the POTW that could pass through or otherwise be incompatible with the POTW;
- Prevent the introduction of pollutants that would present a hazard to POTW personnel or the general public;
- Improve opportunities to recycle and reclaim municipal wastewater and sludges;
- Enable the City’s compliance with National Pollutant Discharge Elimination System (NPDES) permit requirements and any other applicable federal or State laws to which the POTW is subject;
- Prevent the excessive introduction of fats, oils and grease (FOG) into the POTW’s sewer system and wastewater treatment plant;
- Prevent accumulation of grease within the sewer system;
- Reduce costs of sewer system maintenance;
- Clarify grease disposal requirements for Food Service Establishments (FSEs); and
- Protect public health and safety from pollution caused by sanitary sewer overflows (SSOs).

In order to meet these objectives, the City’s IPP was developed in accordance with program requirements listed in 40 CFR 403.8 and with submission requirements listed in 40 CFR 403.9. Key requirements in developing the program are the National Pretreatment Standards for Prohibited Discharges (40 CFR 403.5) and Categorical Standards (40 CFR 403.6). The prohibited discharge standards provide specific prohibitions of non-domestic pollutants that shall not be discharged to the POTW. The Categorical Standards provided limitation for specific pollutants which may be discharge to POTW’s by industrial users (IUs) in various subcategories.

The specific requirement to develop and implement an enforcement response plan (ERP) which includes certain required items is stated in 40 CFR 403.8(f)(5):

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

- (i) Describe how the POTW will investigate instances of noncompliance;
- (ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- (iii) Identify (by title) the official(s) responsible for each type of response;
- (iv) Adequately reflect the POTW's primary responsibility to enforce all applicable

pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (f)(2).”

1.1 Program and Enforcement Response Plan Summary

The City’s IPP was approved by EPA on April 22, 1986. The IPP was modified in 1992 (approval date - November 13, 1992) and 1994 (approval date - July 5, 1994) to reflect specific regulatory requirements and program changes. Since the IPP began, the City has periodically updated the ERP to reflect the experience of the City’s IPP staff and include documentation of IPP procedures developed over the course of several years. Revisions to this current ERP also reflect updates to Title 11.2 of the Bismarck Code of Ordinances and current federal and State IPP requirements. The ERP is organized into the following sections:

Section 2 – Maintenance of Industrial User Inventory

This section describes how IUs were identified upon start of the IPP, and how the Industrial User Inventory is maintained.

Section 3 – Program Procedures

This section describes the permitting process, notifying Significant Industrial Users (SIUs) of regulatory requirements, industry self-monitoring, and City monitoring and inspection activities. This section also describes investigation of non-compliance and includes the City’s Enforcement Response Guide (ERG).

Regulations and requirements relevant to the City’s IPP include 40 CFR Part 403, North Dakota Administrative Code Chapter 33-16-01.1, and Title 11.2 of the Bismarck Code of Ordinances.

2 MAINTENANCE OF INDUSTRIAL USER INVENTORY

2.1 Introduction

The General Pretreatment Regulations require a POTW to identify and locate all possible IUs which might be subject to the POTW Pretreatment Program, to identify the character and volume of pollutants contributed to the POTW by the IUs, and to notify IUs of applicable Pretreatment Standards and other applicable regulatory requirements. This section of the City's IPP describes how these requirements will be met.

The Industrial Waste Survey is designed to identify those non-residential water users which may be subject to the Pretreatment Program requirements. The IUs may be subject to regulation for a number of reasons. They may meet the definition of a SIU (40 CFR 403.3 (t) and Section 11.2-01-02.58 of the Bismarck Code of Ordinances) based on any of the following criteria:

- a) The industry is subject to Federal Categorical Pretreatment Standards.
- b) The industry discharges an average of 25,000 gallons per day or more of process wastewater.
- c) The industry's discharge makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant.
- d) The IU is designated by the City, State or EPA as having a reasonable potential to adversely affect the City's wastewater collection or treatment system or to violate any pretreatment standard or requirement.

In addition to identifying the SIUs that are subject to the Pretreatment Program the industrial waste survey provides the City with a comprehensive list of IUs. This information is useful for identifying potential problem discharges that may occur, for characterizing the user base and in contacting IUs regarding information requests or notification of program or ordinance changes which may affect the IUs.

2.2 Identification and Characterization of Industrial Users

A comprehensive list of IUs (i.e., Industrial User Inventory) was originally compiled from multiple sources, including but not limited to City water billing records, a survey of the telephone directory yellow pages and general knowledge of program staff. Hotels and motels were not included in this listing because their waste is primarily domestic in nature. A list of FSEs and FOG-producing establishments (FPEs) was also compiled to allow for implementation of FOG control provisions.

The IUs on the Industrial User Inventory were classified according to the nature and size of the business, amount of water use, and overall potential to have significant impacts upon the City wastewater system. IUs that do not currently meet the SIU definition are kept in the Industrial User Inventory for reference. Those IUs that have dry processes or discharge only sanitary wastes and are

considered to have an insignificant potential to impact the wastewater system are not included in the Industrial User Inventory database.

The process for classifying the IUs is based upon the information obtained from the survey questionnaire and/or site visits or phone calls to follow up on the information provided. This follow-up serves several purposes:

1. Verification of the information provided.
2. Physical inspection of the industrial process to evaluate its potential for impacting the POTW.
3. Evaluate the potential for slug discharges of process waste or stored chemicals which could impact the POTW.
4. To explain the Pretreatment Program and to help the IU to understand the potential for impacting the sewer system.

With the data obtained from this process the industries are then evaluated based upon the SIU criteria (a) through (d) in Section 2.1. A list of SIUs is maintained by the City and updated annually as described in Section 2.3.

2.3 Inventory Update Procedures

The Industrial Waste Survey must be updated on a regular basis to remain useful. To keep the Industrial User Inventory current and to regularly evaluate changes to the IU base the City will implement the procedures described in this section. The Industrial User Inventory will be maintained electronically.

2.3.1 Annual Update

The master list of IUs will be reviewed annually using multiple sources, including but not limited to information from City departments (fire, collections, etc.), community development software, internet search engine, social media, drive-bys, and water billing records. The City Customer Service Department also provides a list of commercial water users and water users with average consumption of more than 25,000 gpd for comparison with the current list of users, annually. Any industries that appear on this list that have not been previously surveyed are contacted with a survey questionnaire to determine if they have significant process wastewater discharges. The purpose of the annual review is to identify name changes, industries that have ceased operation or new industries that have not been identified by the periodic, on-going update procedures described in Section 2.3.2.

2.3.2 Periodic Update

The City's primary method for keeping the Industrial User Inventory up to date throughout the year is a periodic review of building permits and new commercial water accounts. IPP staff review site plans and building permits using community development software. This information is reviewed periodically for IUs to be added to the master list of IUs. Users that appear to have some potential to be included in the Industrial Waste Inventory are sent a survey questionnaire to complete and return within 30 days. As

necessary, follow up visits or phone calls are used to obtain and/or verify the information. This same update process will also identify those existing users that are modifying or expanding their business.

In addition to the formal update process there are a number of informal methods for obtaining information on new IUs, or existing users that may be modifying their operation. Newspaper and electronic media stories on new or expanding businesses provide a source of information. Workers in the wastewater collection system are encouraged to report to the Industrial Pretreatment Manager any unusual condition they observe. Investigations can then be conducted to determine if IUs are the source and whether reclassification and/or control of IUs is required.

3 PROGRAM PROCEDURES

Bismarck has developed procedures necessary to ensure compliance with the pretreatment program. Procedures were developed to assist in implementation of the pretreatment program. Elements of this program are listed below:

- * Permitting Process
- * Notification of Appropriate Federal, State and Local Requirements
- * Industry Self-Monitoring
- * Monitoring and Inspection Activities
- * Investigation of Non-Compliance and Enforcement Response Guide
- * Public Participation
- * Acceptance of Hauled Wastewater

3.1 Permitting Process

3.1.1 Existing Industries

All SIUs, as defined in Section 11.2-01-02.58 of the Bismarck Code of Ordinances, will be required to fill out a permit application and receive a discharge permit based upon categorical pretreatment standards or the local limits developed for Bismarck's POTW, as described in Chapter 11.2-06 of the Bismarck Code of Ordinances. The permit application is available on the City's website.

If an industry changes its operation and it can be determined by information, sampling, and observation that the wastewater discharge no longer meets the definition of "SIU," the City may take the option to redefine the user and not require a discharge permit.

3.1.2 New Industries

Any new industry indicating its intention to locate in the City of Bismarck or requesting water and sewer connection outside the jurisdictional limits will be evaluated for the need to fill out a permit application. Only those industries that have the potential to be classified as an SIU will be required to apply. The Public Works Department will make the determination of who is to apply based upon the building permit data, survey questionnaire data and firsthand knowledge of the industry. Upon completion and review of the permit application, a discharge permit shall be issued specifying pollutant limitations, monitoring frequency, and other requirements described in Title 11.2-06 of the Bismarck Code of Ordinances.

3.1.3 Updating Permits

All permits shall be reviewed by the Industrial Pretreatment Manager at least once a year. The Industrial Pretreatment Manager will compare the permit conditions with self-monitoring reports, City conducted sampling analysis, and current local, State, and federal regulations.

3.2 Notification of Appropriate Federal, State and Local Requirements

Bismarck will notify all IUs included in the pretreatment program of any changes in applicable pretreatment requirements (local, State, or federal) as well as applicable requirements under Section 204 (b) and 405 of the Clean Water Act and subtitles C and D of the Resource Conservation and Recovery Act. EPA and State notifications, meetings and training, as well as the Federal Register and journals will be used as the sources for becoming aware of new regulations. As new federal and local requirements are issued, the Industrial Pretreatment Manager will notify the affected users, by mail or by other reliable means, of any applicable pretreatment standards as well as other relevant requirements under the Clean Water Act and Resource Conservation and Recovery Act. Federal Pretreatment Standards will be made a condition of industrial waste permits and as EPA, the State, or the City promulgates new standards, affected IUs will have existing permit conditions modified to incorporate explicitly the new standards.

3.3 Industry Self-Monitoring

The Industrial Pretreatment Manager will receive and analyze self-monitoring reports and other notices submitted by the IUs according to the reporting requirements of the discharge permit and 40 CFR 403.12. Collection and analysis must be by EPA approved methods and analysis must be performed by an EPA or State certified laboratory. The frequency of sampling and pollutants to be analyzed by the IU will be specified in the discharge permit.

SIUs and non-significant categorical SIUs will be subject to the reporting requirements in Section 11.2-06-11 of the Bismarck Code of Ordinances.

3.3.1 Review of Self-Monitoring and Compliance Reports

The self-monitoring reports shall be handled in the following manner:

- * Dated when received.
- * Checked for accuracy, completeness, and that the IU is in compliance with permit requirements, using self-monitoring report review checklist.
- * Recorded in the self-monitoring report log.
- * Placed in the IU's file.

A Discharge Monitoring Report Check list has been developed to assist staff in the review of reports. A copy of the completed check list is filed in the IU permit file.

3.4 City Monitoring and Inspection Activities

In conjunction with the periodic reports filed by SIUs, the City of Bismarck will randomly sample, analyze, spot check, and inspect industrial users to verify self-monitoring and compliance reports and to ensure compliance with the permit requirements. All permitted industries will be required to install and maintain a manhole or some other acceptable sampling point for use by the City of Bismarck Public Works Department to obtain representative samples, as required by Section 11.2-06-05 of the Bismarck Code of Ordinances. A wastewater meter, if necessary, shall also be installed, as required by Section 11.2-06-05 of the Bismarck Code of Ordinances. The City will create and maintain a file for each IU required to have a discharge permit.

3.4.1 Monitoring

All sampling and analysis activities will conform with EPA approved methods. The City of Bismarck wastewater treatment laboratory will run and analyze the following parameters: COD, BOD, TSS, pH, and temperature. Metals, flash point, oil and grease, and other parameters will be analyzed at a certified laboratory using EPA approved methods.

All SIUs will be sampled by the City at least once per year. The sampling frequency may be increased or decreased based upon the presence or absence of pollutants and strength of wastes, but in no case will permitted IUs be sampled less than once per year by the City.

Non-permitted IUs which have the potential to discharge any pollutants with limitations in Section 11.2-03-02 of the Bismarck Code of Ordinances will be inspected or sampled if observations and/or sampling in the collection system indicates a potential problem. If the City staff determines that the IU meets the definition of an SIU, the Industrial Pretreatment Manager will identify the user as an SIU and require a permit application to be completed.

3.4.1.1. Coordination of Monitoring Activities

The City's IPP staff will be responsible for sampling permitted industries. At the beginning of each calendar year a sampling schedule will be developed for all permitted IUs by the City's IPP staff. This schedule will establish the sampling frequency based upon permit requirements, recent compliance history and variation in wastewater strength.

Each permitted IU will be evaluated to determine the appropriate type of sampling, i.e. flow or time-based composite or grab and this determination will be placed in each permit file. Also a sampler set-up Standard Operating Procedure (SOP) document will be created for each IU. The IU's permit will specify exact sampling location, sample types and times along with any other information specific to each IU. Permits will be reviewed annually to assure that they reflect current conditions.

When an IU is sampled a sampling report form will be completed in the field by the personnel who set up and collect the sample. This form will be returned to the lab along with the sample for additional data entry. Sampling and lab personnel will also use and complete a chain of custody form.

3.4.1.2. Analysis and Reporting

Upon completion of the laboratory analysis, the analytical results will be reported to the Industrial Pretreatment Manager for review. This will occur no later than 30 days after laboratory results are received. Following review of the analytical results for quality assurance and permit compliance a laboratory report form will be sent to the IUs. In cases where a violation is identified written notification will be provided to the IU within 5 working days as a follow up to the verbal notification that will be provided to the IU within one working day of the violation being identified.

All SIU self-monitoring and City-collected monitoring data will be used for calculations to identify significant noncompliance (SNC).

3.4.2. Inspection Activities

Each SIU will be formally inspected at least once annually. These inspections will be scheduled one or two days in advance with the IU to assure that the appropriate staff will be available at the time of the inspection. The purpose of these inspections is to verify operating conditions at the IU's facility and determine if process, treatment or production changes have occurred. The inspection also allows the City IPP staff to review compliance information, evaluate IU self-monitoring and record keeping and to discuss program changes and pollution prevention activities with the IU personnel.

An inspection form is completed and filed in the IU permit file. A letter is also sent to each IU noting deficiencies found during the inspection along with required corrective actions.

3.4.2.1 Slug Control

City IPP staff evaluate the need for a slug control plan for each IU once, with the determination kept in the IU file. At the time of inspection the City IPP staff shall review existing slug plans and practices. IUs are to notify the Industrial Pretreatment Manager of any changes affecting potential for slug discharges.

If a slug control plan is required it shall contain, at a minimum, the following elements:

1. Description of discharge practices, including non-routine batch discharges.
2. Description of stored chemicals.
3. Procedures for immediately notifying the wastewater treatment plant of slug discharges, including any discharge that would violate a prohibition under Section 11.2-03-01 of the Bismarck Code of Ordinances, with procedures for follow up written notification within 5 days.
4. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or

equipment, measurers for containing toxic, organic pollutants, including solvents, and/or measurers or equipment for emergency response.

The determination of need for a Slug Control Plan will be included in the permit file for each IU. Any slug control plan submitted will also become part of the user's file.

3.5 Investigation of Non-Compliance and Enforcement Response Guide

The Bismarck Public Works Department will investigate instances of non-compliance with Title 11.2 of the Bismarck Code of Ordinances and discharge permits issued pursuant to that ordinance. It will collect and document all the technical information necessary to pursue appropriate enforcement actions. All violations will be recorded in the IU permit file on the Pretreatment Violation Log. Violations identified during review processes will cause the Industrial Pretreatment Manager to initiate appropriate enforcement activities. The enforcement response to any particular violations will depend to a large extent upon the following criteria:

- * Magnitude of the violation.
- * Duration of the violation.
- * Effect of the violation on the City facilities or the environment.
- * Compliance history of the IU.
- * Good faith of the IU.

The following Enforcement Response Guide was developed to define the appropriate levels of escalating enforcement activities necessary to bring a non-compliant user back into compliance with City, State, and EPA regulations. Where multiple options are listed for a given type of non-compliance the above factors will be considered in selecting the appropriate action. The Guide does not preclude the City from taking any, all, or any combination of actions against a non-compliant IU.

City of Bismarck Enforcement Response Guide

UNAUTHORIZED DISCHARGES (No Permit)			
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
1. Unpermitted discharge	IU unaware of requirement; no harm to POTW or environment.	- Phone Call; Send application form - NOV with application form	IPM IPM
	IU unaware of requirement; harm to POTW or environment	- AO - Recover cost of damages through user charge or civil action	IPM, DIR IPM, DIR, ATT
	Failure to apply continues after notice by the POTW	- AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
2. Non-permitted discharge (failure to renew or request transfer)	IU has not submitted application within 10 days of due date	- Phone call and warning communication	IPM
	Failure to submit after notice by the POTW	- NOV - AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal action	IPM IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
3. Unauthorized discharge through manholes, car washes, septic waste, receiving stations, etc.	No harm to POTW or environment	- NOV - AO	IPM IPM, DIR
	Harm to POTW or environment	- AO - Recover cost of damages through user charge or civil action	IPM, DIR IPM, DIR, ATT
	Recurring	- AO, show cause, administrative fine or penalty - Civil action - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, ATT
4. Any other violation or group of violations as defined in 11.2-01-02.59(h) (SNC)	Adversely affected the operation or implementation of the City's IPP	- AO, show cause, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal Action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
DISCHARGE LIMIT VIOLATION			
1. Exceedance of local or federal standard (permit limit), including but not limited to violation of BMP-based sector control program requirement	Isolated (no harm to POTW or environment)	- Phone call and warning communication, resample - NOV, require corrective action plan, resample - AO to implement corrective action plan, resample	IPM IPM, DIR IPM, DIR
	Isolated (harm to POTW or environment)	- NOV, require corrective action plan, resample - AO to implement corrective action plan, resample - Recover cost of damages through user charge or civil action	IPM, DIR IPM, DIR IPM, DIR, ATT
	Recurring (no harm to POTW or environment)	- AO to return to compliance, resample - AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service	IPM, DIR IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD
	Recurring (harm to POTW or environment)	- AO, show cause, resample, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
2. Chronic violations of wastewater discharge	66 percent or more of all measurements taken for the same pollutant parameter during	- AO, show cause, administrative fine or penalty - Civil action	IPM, DIR, BRD, ATT IPM, DIR, ATT

limits as defined in 11.2-01-02.59(a) (SNC)	a 6-month period exceed a numeric Pretreatment Standard or Requirement	- Suspend or terminate service - Criminal action	IPM, DIR, BRD IPM, DIR, ATT
3. Technical Review Criteria (TRC) violations as defined in 11.2-01-02.59(b) (SNC)	33 percent 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 multiplied by the applicable TRC	- AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
4. Any other violation of a Pretreatment Standard or Requirement as defined in 11.2-01-02.59(c) (SNC)	Alone or in combination with other discharges caused interference or pass through	- AO, show cause, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
5. Any discharge of a pollutant as defined in 11.2-01-02.59(d) (SNC)	Caused imminent endangerment to human health, welfare, or to the environment or resulted in POTW's exercise of emergency authority to halt or prevent the discharge	- AO, show cause, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
6. Any other violation or group of violations as defined in 11.2-01-02.59(h) (SNC)	Adversely affected the operation or implementation of the City's IPP	- AO, show cause, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT

MONITORING AND REPORTING VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Reporting violation	Report is improperly signed or certified	- Phone call and warning communication	IPM
	Report is improperly signed or certified after notice by POTW	- NOV - AO, show cause, administrative fine or penalty	IPM, DIR IPM, DIR, BRD, ATT
	Isolated, non significant (i.e., <45 days late)	- Phone call and warning communication	IPM
	Failure to provide required reports within 45 days as defined in 11.2-01-02.59(f) (SNC)	- NOV - AO, show cause, administrative fine or penalty	IPM IPM, DIR, BRD, ATT
	Reports are consistently late or no reports at all	- AO, show cause, administrative fine or penalty - Civil action - Permit revocation - Suspend or terminate service	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, BRD
	Failure to report violation within 24 hours, slug discharge, potential problems, hazardous waste, upset, bypass, or changed discharge (no harm)	- Phone call and warning communication - NOV	IPM IPM
	Failure to report violation within 24 hours, slug discharge, potential problems, hazardous waste, upset, bypass, or changed discharge (results in harm)	- AO, Develop spill control plan - Recover cost of damages through user charge or civil action - Criminal action	IPM, DIR IPM, DIR, ATT IPM, DIR, ATT
	Repeated failure to report violation within 24 hours, slug discharge, potential problems, hazardous waste, upset, bypass, or changed discharge	- AO, show cause, administrative fine or penalty - Permit revocation - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
	Falsification of report	- AO, show cause, administrative fine or penalty - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT
Failure to accurately report noncompliance as defined in 11.2-01-02.59(g) (SNC)	- AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT	

2. Failure to monitor correctly	Failure to monitor all pollutants as required by permit	Phone call and warning communication, resample	IPM
	Recurring failure to monitor	- NOV, resample - AO, show cause, administrative fine or penalty - Suspend or terminate service - Permit revocation	IPM, DIR IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, BRD
3. Improper sampling	Unintentional or isolated	- Phone call and warning communication, resample	IPM
	Recurring or evidence of intent	- AO, show cause, administrative fine or penalty - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT
4. Analytical deficiencies, including but not limited to hold time exceeded, not reportable data, failing QA/QC	Unintentional or isolated	- Phone call and warning communication, resample	IPM
	Recurring or evidence of intent	- NOV, resample - AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal action	IPM IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
5. Failure to install monitoring equipment	Delay of less than 30 days	- Phone call and warning communication	IPM
	Delay of 30 days or more	- AO to install	IPM, DIR
	Recurring failure to install after AO to install	- AO, show cause, administrative fine or penalty - Permit revocation - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
6. Tampering with monitoring equipment or sample	Any incident	- AO, show cause, administrative fine or penalty - Permit revocation - Civil action - Suspend or terminate service - Criminal Action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
7. Any other violation or group of violations as defined in 11.2-01-02.59(h) (SNC)	Adversely affected the operation or implementation of the City's IPP	- AO, show cause, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal Action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT

COMPLIANCE SCHEDULE VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Compliance Schedule	Missed milestone by less than 30 days or will not affect final milestone	- Phone call and warning communication	IPM
	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	- NOV	IPM
	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	- AO, show cause, administrative fine or penalty - Permit revocation - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
	Recurring violation or violation of AO	- AO, show cause, administrative fine or penalty - Permit revocation - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
2. Failure to meet a compliance schedule milestone within 90 days as defined in 11.2-01-02.59(e) (SNC)	Missed milestone by more than 90 days	- AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal Action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT

3. Any other violation or group of violations as defined in 11.2-01-02.59(h) (SNC)	Adversely affected the operation or implementation of the City's IPP	- AO, show cause, administrative fine or penalty - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal Action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
VIOLATIONS DETECTED DURING SITE VISITS			
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
1. Entry Denial	Entry denied or consent withdrawn Copies of records denied	- NOV and AO to allow entry or records access - AO to suspend or terminate service	IPM, DIR IPM, DIR
2. Illegal Discharge, including discharge of unauthorized waste.	No harm to POTW or environment	- NOV, require corrective action	IPM, DIR
	Discharge caused harm or evidence of intent/negligence	- AO, cease and desist - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal action	IPM, DIR IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
3. Improper Sampling	Recurring illegal discharge	- AO, show cause, administrative fine or penalty - Civil action - Suspend or terminate service - Criminal action	IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
	Unintentional sampling at incorrect location	- Warning communication, resample	IPM
	Unintentionally using incorrect sample type	- Warning communication, resample	IPM
	Unintentionally using incorrect sample collection techniques	- Warning communication, resample	IPM
4. Inadequate record keeping	Recurring improper sampling	- NOV - AO, show cause, administrative fine or penalty, resample	IPM, DIR IPM, DIR, BRD, ATT
	Inspector finds files incomplete or missing (no evidence of intent)	- Warning communication	IPM
5. Failure to report additional monitoring	Recurring	- NOV - AO, show cause, administrative fine or penalty	IPM, DIR IPM, DIR, BRD, ATT
	Inspection finds additional files	- Warning communication - NOV	IPM IPM, DIR
Recurring		- AO, show cause, administrative fine or penalty - Suspend or terminate service - Permit revocation	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, BRD
	OTHER PERMIT VIOLATIONS		
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
1. Wastestreams are diluted in lieu of treatment	Initial violation	- NOV - AO, show cause, fine	IPM IPM, DIR, BRD, ATT
	Recurring	- AO, show cause, fine - Permit revocation - Civil action - Suspend or terminate service	IPM, DIR, BRD, ATT IPM, DIR, BRD IPM, DIR, ATT IPM, DIR, BRD
2. Failure to mitigate non-compliance or halt discharge	Does not result in harm	- NOV	IPM
	Does result in harm	- NOV - AO, show cause, fine - Recover cost of damages through user charge or civil action - Suspend or terminate service - Criminal action	IPM, DIR IPM, DIR, BRD, ATT IPM, DIR, ATT IPM, DIR, BRD IPM, DIR, ATT
3. Failure to properly operate and maintain pretreatment facility	Does not result in harm	- Phone call and warning communication - NOV	IPM IPM
	Does result in harm	- NOV - AO, show cause, fine	IPM, DIR IPM, DIR, BRD, ATT

		<ul style="list-style-type: none">- Recover cost of damages through user charge or civil action- Criminal action	IPM, DIR, ATT IPM, DIR, ATT
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TIME FRAMES FOR RESPONSES	
A.	All violations will be identified and documented within five working days of receiving compliance information.
B.	Initial enforcement responses (involving contact with the industrial user and requesting information on corrective or preventative action(s)) will occur within 15 days of violation detection.
C.	Follow up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
D.	Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.
E.	All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance, unless the IU has returned to compliance by that time. Significant noncompliance determinations will be made at the end of each calendar quarter.

3.6 Public Participation

Bismarck will comply with the public participation requirements of 40 CFR 25 in the enforcement of the National Pretreatment Standards. A list of IUs which in the past 12 months were in SNC with applicable pretreatment requirements will be published annually in the Bismarck Tribune.

3.7 Acceptance of Hauled Wastewater

The City accepts hauled waste and has developed policies and procedures to regulate these discharges under the IPP. Waste haulers must be permitted in accordance with Section 11.2-06-10 of the Bismarck Code of Ordinances. The section prohibits the discharge of hauled or trucked pollutants except at the discharge point designated by the Industrial Pretreatment Manager. A hauled waste manifest and sample collection is required for each load discharged at the POTW, in accordance with Section 11.2-06-10 of the Bismarck Code of Ordinances. Random grab sampling is used to monitor routine hauled wastes.