

CWA AUTHORITY, INC.
INDUSTRIAL PRETREATMENT PROGRAM
ENFORCEMENT RESPONSE PLAN
MAY 31, 2017

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INTRODUCTION

On August 26, 2011, the wastewater collection system and assets were purchased by CWA Authority, Inc. (“Authority”) from the City of Indianapolis, including the obligations of the Industrial Pretreatment Program. On March 29, 2016, the Authority received approval from the United States Environmental Protection Agency (“EPA”) to directly implement the Industrial Pretreatment Program under the legal authority of the CWA Resolutions and the Terms and Conditions of Service (“Sewage Disposal Service Tariff Rates, Terms, and Conditions for Sewage Disposal Service within Marion County, Indiana, and Contiguous Areas as Approved by the Indiana Utility Regulatory Commission”).

This document provides guidance to the Authority personnel and/or its representatives in identifying, addressing, and correcting violations of the Authority’s Industrial Pretreatment Program (“IPP”). The Enforcement Response Plan (“ERP”), detailed herein, outlines in a step-by-step manner the procedures used by the Authority in responding to violations. The plan provides equitable treatment to all industrial users affected by the Authority’s enforcement process. The plan further specifies staff responsibilities and approximate response times for specific enforcement activities. The application of enforcement procedures will apply to: (i) all industrial users regulated under the IPP; (ii) dischargers of wastewater regulated by the Authority’s Wastewater Haulers Program; (iii) dischargers operating under the Special Discharge Program; and (iv) other dischargers regulated by Resolution No. CWA 2-2011: A Resolution Establishing Uniform Requirements for Discharges Into, the Construction of, and Additions to Wastewater Collection and Treatment System Owned and Operated by CWA Authority, Inc. (“Resolution No. CWA 02-2011”).

On July 24, 1990, EPA promulgated final revisions to 40 CFR 403 - General Pretreatment Regulations. One revision to the standards requires the development and implementation of an enforcement response plan by a publicly owned pretreatment works (“POTW”). Specifically, 40 CFR 403.8(f)(5) states:

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).

In order to aid POTWs in the development of an effective enforcement response plan, the EPA issued a guidance document in September, 1989, titled "Guidance for Developing Control Authority Enforcement Response Plans" ("Guidance Document"). The Guidance Document was used extensively by the City of Indianapolis ("City") when drafting its enforcement response plan, the plan upon which the Authority's ERP is based. The Guidance Document suggests a review and evaluation of existing program conditions, such as:

- Industrial user inventory;
- Compliance monitoring procedures;
- Procedures used to screen compliance monitoring data;
- Sewer use ordinance provisions.

In addition to the requirements specified in 40 CFR 403.8(f)(5), the Guidance Document states the plan should also contain:

- Criteria for scheduling periodic inspections and/or sampling visits to industrial users;
- Forms and guidelines for documenting compliance data for use as evidence in enforcement proceedings;
- A system to track due dates of required reports, schedule milestones, and pending enforcement actions;
- Criteria and procedures to select and initiate an enforcement response from approved options.

On October 15, 2005, the EPA finalized final changes to its General Pretreatment Regulations ("Streamlining Rule") to improve the effectiveness of industrial pretreatment programs. On April 3, 2009, the Indiana Department of Environmental Management ("IDEM") finalized the incorporation of the Streamlining Rule into 327 IAC 5 §§16 through 21 ("IDEM Streamlining Rule"). The Authority has incorporated the requirements of both the federal and state Streamlining Rules into Resolution No. CWA 2-2011 and this ERP.

The ERP attempts to address each of the requirements set forth above. Although specific responses to pretreatment violations are explained, the Authority retains the ability to exercise enforcement discretion in any given enforcement action. This flexibility is necessary to allow an appropriate response to noncompliance situations involving extraordinary or mitigating circumstances.

DEVELOPING THE ERP

A discussion of the activities undertaken on a regular basis by the Authority to maintain current information for implementation of the compliance and enforcement program is presented in the following sections. The Industrial User Inventory, Compliance Monitoring Procedures,

Data Screening, and Evaluation of the Resolution No. CWA 2-2011 are included. An evaluation of this information was necessary to establish the background for development of the ERP.

INDUSTRIAL USER INVENTORY

The General Pretreatment Regulations, 40 CFR 403.8(f)(2), require all POTWs to identify potential industrial users subject to the requirements of the IPP and to identify the volume and character of pollutants discharged by the industrial users. According to Resolution No. CWA 2-2011, Sec.1.2, POTW means “all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants. ...”

In order to implement an effective ERP, all industries subject to pretreatment regulations (regulated users) must be identified and controlled. Therefore, Authority has adopted the same systematic approach to identifying new users the City developed and began implementing in 1989. The process requires the completion of ongoing activities to remain current with the industrial community, rather than being conducted on an annual basis.

Due to the size of the Authority’s industrial base and the added responsibility for oversight of pretreatment responsibilities in satellite communities (City of Lawrence, Ben Davis Conservancy District, City of Beech Grove, Boone County Utilities, Tri-County Conservancy District, Hamilton Southeastern Utilities, and City of Greenwood), there is no single reliable source for identification of new industrial facilities. Therefore, discovery of new industries occurs as a result of varied activities and from diverse sources. The following list includes a number of resources used by the Authority for identifying new facilities:

- Observations by sampling/surveillance/inspection/field personnel;
- Referrals from other agencies (Marion County Public Health Department, IDEM, etc.);
- Internet listings;
- Notification directly from potentially regulated industries
- Sewer connection permits;
- Previous survey results;
- Industrial directories;
- Site visits;
- Reports from other regulated industries;
- Reports from citizens;
- Information supplied by satellite communities;
- Newspaper articles/trade journals/business magazines;
- Greater Indianapolis Chamber of Commerce;
- Industrial park tenant lists; and
- Citizens Energy Group water customer accounts.

After a completed industrial discharge survey identifies a new regulated industry subject to pretreatment requirements, an Industrial Discharge Permit is issued and the new industry is

added to the master list of regulated users. This list is provided to the Approval Authority (IDEM) on a quarterly basis as an attachment to the Quarterly Noncompliance Report (QNCR). The master list contains the significant and non-significant regulated industries divided into categorical and non-categorical groups. All permitted facilities currently under the Indianapolis pretreatment program are potentially subject to all pretreatment program requirements.

An additional requirement associated with the Industrial User Inventory is the maintenance of an accurate characterization of the type, volume, and quality of the discharges from the regulated users. This is accomplished by the completion of ongoing activities including:

- Scheduled annual inspections at each significant industry;
- Unscheduled inspections conducted at selected industries (as needed);
- Industry's requirement to report changed discharges;
- Observations from field personnel;
- Information submitted on Industrial Discharge Permit Applications; and
- Review of self-monitoring and/or surveillance sampling data.

Updated information collected as part of the Authority's Industrial User Inventory activities is entered into the information management system database as it is received.

The responsibilities are assumed by the Authority's Environmental Stewardship Department pretreatment staff.

COMPLIANCE MONITORING PROCEDURES

Compliance monitoring activities conducted by the Authority are necessary to identify and document violations that can be presented as admissible and irrefutable evidence in legal proceedings. Industrial compliance with applicable regulations is determined and evaluated through:

- Self-monitoring data from industrial users;
- Inspections conducted by the Authority and/or its representatives;
- Surveillance sampling and analysis conducted by the Authority and/or its representatives; and
- Evaluation of application information by the Authority.

Self-monitoring activities are required by a select number of industrial users on a monthly basis. The forms used are prescribed by the Authority to ensure all necessary information is submitted. Each report must also be signed by an authorized representative of the industry. These data are prima facie evidence if violations are identified.

Inspections by the Authority's Environmental Stewardship pretreatment staff or authorized representatives are conducted to verify compliance and to identify any potential problems or violations. A standard inspection form is used to ensure all areas are evaluated. The form is signed and dated by the inspector. Any noncompliance situations are noted, either on the

inspection form or by separate report, and follow-up is then conducted with the industry. Surveillance sampling conducted by the Authority and/or its representatives and analysis by the laboratory is the cornerstone of compliance monitoring. Therefore, it requires strict adherence to standard procedures. Trained sampling personnel collect industrial samples and complete a field chain-of-custody (“C-O-C”) form which accompanies each sample. This field C-O-C form follows the sample through the analytical process to maintain its identity and to assign to it the proper results. Each person receiving custody of the sample is required to sign the chain-of-custody form.

Information submitted by industrial users on the Industrial Discharge Permit application must also be evaluated for compliance with the applicable regulations. The Authority’s Environmental Stewardship pretreatment staff or authorized representatives must also determine whether the industrial user has sufficiently documented information necessary to complete the application. Failure to disclose vital information is a violation of the permit program. The application contains a statement attesting to the accuracy and completeness of the information submitted which must be signed by an authorized representative of the industrial user.

DATA SCREENING

The majority of data to be screened and evaluated is generated through industrial self-monitoring and surveillance sampling. Data are entered into a data management program on an as-received basis by Authority personnel. The computer program identifies all daily maximum and monthly average (if applicable) violations. Each violation is noted and appropriate enforcement action is initiated. The specific responses and time frames are detailed in the Enforcement Response Section.

Screening and tracking of reports submitted as part of compliance schedule activities are accomplished by the Authority’s staff and/or representatives of the Authority. Each facility operating under a compliance schedule is tracked by a separate file which is reviewed at least monthly. Action is taken if required reports are not received or if milestones are missed. Compliance schedule files for each industrial user remain open for review pending completion of all activities and demonstration of final compliance.

EVALUATION OF THE SEWER USE ORDINANCE (aka Resolutions)

The ability for the Authority to take effective enforcement action is provided by Resolutions Nos. CWA 2-2011 and CWA 3-2011.

The Board of Directors for the Authority has adopted Resolution No. CWA 3-2011: A Resolution Authorizing Enforcement of Violations and Establishing an Administrative Adjudication Process for Violations (“Resolution No. CWA 3-2011”). In accordance with Section 2 of Resolution No. CWA 3-2011, the daily maximum penalty amount is \$2,500.00 for the first violation and \$7,500 for a second or subsequent violation. Each day’s violation constitutes a separate violation of Resolution No. CWA 2-2011.

Resolution No. CWA 2-2011 also incorporates various federal requirements. The objective of any revision to the Resolution is to strengthen the Authority's legal authority to (1) impose pretreatment standards and requirements on discharges of non-domestic waste; (2) use a sufficient range of enforcement responses; and (3) eliminate obstacles to effective enforcement of pretreatment standards and regulations.

All resolution revisions or implementation of new procedures allowed under Resolution No. CWA 2-2011 are reviewed and approved by Board of Directors of the Authority in accordance with the provisions in Resolution No. CWA 1-2011: A Resolution Establishing Procedures of the Promulgation of Regulations. Proposed revisions will be promulgated pursuant to the procedures in Resolution No. CWA 1-2011. These procedures satisfy public participation requirements and provide a forum for input from the public, regulated industrial users, and other interested parties. The final draft of revisions is also submitted to IDEM and EPA for approval, when applicable, as a modification to the Authority's pretreatment program.

The major provisions associated with enforcement authority set forth in Resolution No. CWA 2-2011 are paraphrased below:

Section 1.4 Regulation of Discharges to Public Sewer

- Regulates prohibited discharges
- Contains numerical effluent limitations

Section 1.9 Accidental Discharge

- Outlines requirements for accidental discharge plan
- Outlines procedures for responding and reporting

Section 1.10 Plan to control Slug discharges

- Outlines requirements and elements to control slug discharges for a significant user.

Section 1.11 Liability for Damage

- Allows recovery of costs for work required to clean or repair the POTW or fines imposed against the Authority as a result of a user's discharge.

Section 1.16 Notification of Violation

- Outlines requirement for written notification of a violation.

Section 1.17 Penalties

- \$2,500.00 maximum for each first violation;
- \$7,500 maximum for each second or subsequent violation;
- Each day's violation constitutes a separate violation.

Section 1.18 Response to Notification of Violation

- The Director may serve written notice for a violation of a provision or condition of a permit. User must submit, within thirty (30) days of the notice, a plan for the satisfactory correction of the violation.

Section 1.19 Compliance Agreement

- The Director may enter into a Compliance Agreement

Section 1.20 Show Cause Hearing

- The Director may issue a written notice to a user to show cause at an administrative hearing why an enforcement action should not be taken.

The notice must:

- specify the time and place of the hearing;
- discuss the reason why the action is taken;
- describe the proposed action;
- direct the user to show cause why the action should not be taken; and
- be delivered personally or by registered/certified mail at least ten (10) days before the hearing.

Section 1.21 Appeals

- Allows the user to file with the Director a written request for reconsideration within fifteen (15) days of any action, decision, or determination taken as part of the Authority's Administrative Enforcement Program. A decision by the Director is required within ten (10) days.

Sections 2.4 Conditions

- Outlines requirements that may be in an industrial discharge permit

Sections 3.4 Reporting and sampling requirement

- Outlines procedures for sampling protocols and periodic reporting.

Section 3.6 Emergency Suspension of Service and Industrial Discharge Permit

- Authorizes the Director, without notice or hearing, to suspend service or a discharge permit in order to stop an actual or threatened discharge presenting or which in any way presents an imminent or substantial endangerment to the health or welfare of persons or the environment, causes interference to the POTW, or causes a violation of the Authority's NPDES Permit.
- Allows immediate elimination of the contribution and severance of the sewer connection. The user pays all costs and a written report to the Director is required within five (5) days.

Section 3.7 Revocation

- A permit may be revoked for violations, failure to timely file reports, factually report wastewater characteristics, refusal of reasonable access for review of records, inspection or monitoring, or violation of permit conditions.

Section 3.8 Notice of Revocation

- The Director, except in cases of willful violations or where public health or safety requires otherwise, must give written notice to the industrial user of facts or conduct warranting the action and an opportunity for the user to demonstrate or achieve compliance with all lawful requirements.

Section 3.9 Publication of Signification Noncompliance

- At least annually, by April 30, the Authority shall publish, in the newspaper with the largest published in the Central Indiana, a list of industrial users which at any time during a calendar year were in significant noncompliance with applicable pretreatment requirements as set forth in 40 CFR 403.8(f)(2)(vii). An industrial user is considered in significant noncompliance if its violation meets at least one of the following criteria:
 1. Chronic violations of discharge limitations in which sixty-six (66%) per cent or more of all measurements taken during a six (6) month period exceed by any magnitude a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);
 2. Technical Review Criteria (TRC) violations in which thirty-three (33%) per cent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC;
 3. Any other violation of an effluent limit or a pretreatment standard or requirement as defined in 40 CFR 403.3(1) that the Director determines has caused, alone or in combination with other discharges, interference or pass-through at the POTW or endangerment to the health of POTW personnel or the public;

4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment;
5. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a schedule or order;
6. Failure to provide a required report within forty-five (45) days after the due date;
7. Failure to accurately report noncompliance; or
8. Any other violation or group of violations, that may include best management practices, that the Director determines will adversely affect the operation or implementation of the Authority's pretreatment program.

ENFORCEMENT RESPONSE

IDENTIFICATION OF VIOLATIONS

The identification of a violation of pretreatment requirements, regardless of the severity, will initiate the enforcement process. Discovery of a violation may occur as a result of any number of activities. The list below represents the most common sources of identifying violations:

- Review of surveillance sampling results;
- Review of industrial user self-monitoring results;
- Spill/accidental discharge reports from industrial users;
- Site visits/inspections by Authority personnel and/or representatives of CWA Authority;
- Information provided by industrial user employees;
- Observations by field personnel;
- Information provided by the public or private citizens;
- Review of compliance schedule requirements;
- Review of compliance agreement or agreed judgment requirements; and
- Information provided by other agencies (EPA, IDEM, Marion County Public Health Department, etc.).

Once a violation is identified, it is the responsibility of the Authority to implement the appropriate enforcement response required in the plan. When determining an appropriate response, particularly one which includes the imposition of penalties, the specific procedures outlined in the Enforcement Procedures Section must be followed. However, additional criteria may be used in determination of the response including:

- Magnitude of the violation;
- Duration of the violation;
- Effect of the violation on the POTW's receiving stream;
- Effect of the violation on POTW processes and equipment;
- Effect on the Authority's or its representatives' equipment;
- Compliance history of the industrial user;
- Good faith of the industrial user; or
- Pollutants of particular importance to the POTW.

ENFORCEMENT RESPONSES AVAILABLE

The Authority has available to it a number of enforcement responses allowed under local and state law. The responses described below include both administrative as well as civil responses. All actions taken by the Authority requiring a response by the industrial user are accomplished in writing and sent by certified mail to ensure receipt by the industrial user.

Administrative Responses

Enforcement/Compliance Status Meeting - A meeting/inspection of the industrial user to address situations involving violations of procedural requirements, improper completion of reports, or follow-up to noncompliance events may be used to correct errors, identify possible problems, or propose potential solutions before noncompliance becomes significant. Any recommendations or required actions are documented in writing to the industrial user.

Notification of Violation - Written notice of potential violation(s), which may also be referred to as a Warning Letter, of a noncompliance situation may be used for a violation which is minor in nature.

Notice of Violation (“NOV”) – Formal written notice of a potential violation(s) of noncompliance situation.

Compliance Agreement – A Compliance Agreement is mutually agreed upon mechanism (by the Authority and the industry) as resolution of a Notice of Violation which may contain a penalty and/or compliance activities. Certain instances of noncompliance in which it has been determined the noncompliance may continue for a period of time can be addressed by issuance of an administrative compliance agreement. Violations that occur during completion of the schedule period may or may not necessarily be assessed penalties (at the discretion of the Authority). However, their occurrence will be documented and recorded on the user’s compliance record. If the industrial user fails to achieve compliance by the end of the schedule or to demonstrate a good faith effort, penalties may be assessed for all violations occurring during that interim period.

Show Cause Hearing - Under certain circumstances, the Authority may issue an order to an industrial user to appear and show cause at a hearing why a proposed administrative action should not be taken. This action is usually reserved for recalcitrant industries or to further investigate a noncompliance situation. This action is often followed by issuance of a compliance schedule or a referral for civil action.

Recovery of Costs - Any discharger of waste to a sewer system regulated by the Authority can be held liable for causing interference, obstruction, damage, or impairment to the POTW, the work required to clean or repair the POTW, or any fine imposed against the Authority as a result of the discharge. The Authority may determine the costs incurred as a result of the non-complying discharge and assess the charges on the user’s regular sewer bill.

Emergency Suspension of Service/Industrial Discharge Permit - The Authority may suspend the wastewater treatment service or the industrial discharge permit without notice or hearing to the user in order to stop an actual or threatened discharge which presents an imminent or substantial danger to the health or welfare of persons, the environment, the POTW, or causes the POTW to violate any condition of its NPDES permit. This suspension is issued by the Director and requires the user to immediately stop or eliminate the non-complying discharge. Failure to comply with the order can result in severance of the sewer connection to prevent further damage.

Revocation of Permit - The Authority may revoke the industrial discharge permit and the legal rights to discharge of any user for the following reasons:

- Violation of any provision of Resolution No. CWA 2-2011, state, or federal law;
- Repeated failure to timely submit any required reports;
- Failure to factually report wastewater characteristics;
- Refusal to allow reasonable access to the user's premises for inspection, monitoring, or review of records; or
- Violation of any condition of the user's discharge permit.

The permittee must be given written notice by the Authority of the conditions that warrant revocation of the permit and be allowed an opportunity to achieve compliance with applicable requirements.

Publication of Violators - The Authority will annually publish in the Indianapolis Star (the newspaper of largest circulation in Indianapolis) a list of all users found in significant noncompliance ("SNC") of pretreatment requirements. This action serves to deter industrial users from noncompliance by avoiding public scrutiny. The publication of SNC is required by EPA and 40 CFR 403.8(f)(2)(vii).

Accelerated Monitoring - In response to industrial noncompliance, the Authority may require an industrial user to perform additional sampling and analysis of the discharge to demonstrate consistent compliance. The Authority may also conduct increased surveillance activities to verify compliance independent of self-monitoring results. This action is normally short-term in nature, but the increased expense to the industrial user provides the motivation to achieve compliance as quickly as possible.

Termination of Water Service - The water service to an industrial user may be terminated for cause at the Authority's request per the Terms and Conditions of Service. The cost of resuming service is borne by the industrial user and provides an incentive to comply with the necessary requirements. Adequate written notice is given to the industrial user of such action.

Civil Responses pursuant to Resolutions

Notice of Violation ("NOV") with Referral to Authority's Administrative Hearing Officer ("AHO") - Any violation or set of violations requiring assessment of monetary penalties, adherence to a formal compliance schedule, or completion of ordered activities is addressed by an NOV issued by the Authority with a request to the Authority's counsel or AHO to file a complaint of violation.

Compliance Agreement - This document is an agreement between the industrial user and the Authority resolving a matter prior to a full hearing on the violations. The compliance agreement is used when the industrial user agrees to correct an alleged noncompliance situation. The requirements of the agreement are negotiated by the industrial user and the Authority representative and the parties then execute the agreement, resolving the matter.

If a hearing is held, the AHO may assess a penalty through rendering of a judgment. The judgment of an AHO may be appealed by the user to the Marion County Superior Court.

The judgment may contain any combination of the following:

- Description of the noncompliance;
- Civil penalty;
- Recovery of costs incurred by the Authority;
- Formal and enforceable compliance schedule;
- Other corrective action.

Penalties proposed by the Authority can be assessed through the compliance agreement process. A penalty in the amount of up to \$2,500.00 can be assessed for each first violation, while a penalty of up to \$7,500.00 may be assessed for each second or subsequent violation. Each day constitutes a new violation. The actual amount, based on specific factors explained in the Penalties Section, will be calculated by the Authority and recommended to the Authority's AHO.

Penalty Hearing - In some cases, the industrial user acknowledges a noncompliance event and agrees to corrective action, but an agreement on an appropriate penalty cannot be reached. These situations require evaluation of the case by the AHO and a decision as to the amount of the appropriate penalty.

Hearing or Trial - Enforcement cases involving a dispute as to whether a violation occurred or a failure to reach a negotiated settlement are set for hearing or trial. These cases require full disclosure of all facts related to the noncompliance and testimony may be provided by the industrial user, Authority staff, witnesses, or other parties with relevant information may be provided.

Injunctive Relief - This action results in a court-ordered cessation of violations that may include termination of discharges, installation of treatment equipment, etc. Because Resolution No. CWA 2-2011 provides the Authority with cease and desist power; it is unlikely this option would be used. However, if a discharger disregards agreed judgment, a compliance agreement, or the administrative order, court-ordered relief may be necessary.

Criminal Violations

Willful or negligent violations, including false statements or tampering with the Authority's equipment, may be punishable by criminal prosecution. Although the Authority's representatives are trained to recognize possible criminal violations, any criminal enforcement action will proceed only with the assistance of other enforcement agencies.

Depending on the nature of the violations, a criminal enforcement action may involve any of the following entities:

- Counsel representing the Authority

- IDEM Office of Criminal Investigations
- United States Department of Justice
- Federal Bureau of Investigations
- EPA Criminal Investigation Division
- Marion County Prosecutor's Office
- Marion County Sheriff's Department
- Indianapolis Metropolitan Police Department

The Authority will consult with the appropriate agency or agencies whenever evidence of a noncompliance situation shows possible criminal intent.

Other Enforcement Responses

Noncompliance by an industrial user will always bring some type of enforcement response by the Authority. Depending on the circumstances of the violations, the Authority can choose to exercise a number of options as detailed previously. However, the initiation of enforcement action by the Authority does not prevent additional enforcement action through other sources. These actions are outside the realm of the Authority's responsibilities and are usually brought by other regulatory agencies or private parties. Although these actions are not part of the Authority's enforcement response procedures plan, they are discussed here to educate industrial users of their existence.

Third Party Intervention/Citizen Suits

Industrial users should be aware of the ability of citizens to bring lawsuits for noncompliance with pretreatment requirements. The Clean Water Act ("Act") (allows intervention by private parties to seek enforcement of any effluent standard or limitation. A citizen suit under Section 505 of the Act can be brought in any instance of a violation of pretreatment standards where it may be reasonably assumed that violations could recur in the future. A citizen is defined in the Act as any person having an interest that is or may be adversely affected.

1. A citizen suit must give sixty (60) days' notice to the alleged violator, the Administrator of the EPA, and the Commissioner of IDEM of the commencement of a civil action (intent to sue).
2. The Act provides limited protection to industrial users from additional enforcement action on identical violations initiated by separate parties. If an enforcement action is taken for specific violations, it must be shown the action was comparable or capable of being comparable to actions afforded by state or federal enforcement. If proven otherwise, an additional action could be brought for the same violations with additional penalties and corrective measures, if deemed appropriate.

Therefore, any enforcement action taken by the Authority, either prior or subsequent to the initiation of a citizen suit, will not necessarily protect the industrial user from redundant

enforcement action. Absolute protection from citizen suits is possible only when IDEM or EPA diligently pursue an enforcement action for the same specified violations.

IDEM or EPA Action

Any violations of pretreatment standards and regulations are potentially subject to an enforcement action by IDEM or EPA in addition to the enforcement responses by the Authority. This will usually occur for one of two reasons;

1. If IDEM or EPA believe that the Authority has not properly enforced the requirements of its approved pretreatment program, including assessment of inappropriate penalties or failure to bring enforcement action when necessary; or
2. If the Authority requests the help of the agencies to prosecute a specific enforcement case.

ENFORCEMENT PROCEDURES

Generally, all violations identified by Authority personnel are reviewed, evaluated, and addressed by the appropriate enforcement response. The responses fall within the guidelines of this Enforcement Response Plan.

The majority of enforcement actions begin with issuance of a Notification of Violation or a Notice of Violation. The Notification of Violation will describe the nature of the violation and inform the industrial user that any additional violations may result in issuance of an NOV and subsequent referral to the Authority's AHO for appropriate enforcement action.

Once the industrial user has been notified of a violation or has knowledge of a condition which is a violation, the industrial user may be allowed up to fifteen (15) calendar days to correct the noncompliance before escalation of the enforcement process occurs. This 15 day period applies only to an initial violation. Any violations occurring after this period will be evaluated according to the plan procedures. (NOTE: a repeat occurrence does not necessarily indicate the same parameters, condition, or procedural requirement were found in violation.) Thereafter, each violation is evaluated for enforcement action. In addition, if a violation occurred during the 15 day correction period, the industry must demonstrate good faith was exercised to prevent or mitigate further violations during that period.

For each violation, point values will be assigned as described in the VIOLATIONS MATRIX. These values will accumulate until a specific tier level is reached (see TIER LEVEL PENALTIES TABLE). Each new level will trigger additional penalties or a separate enforcement action with assessment of the appropriate penalty for each violation. If an action is pending for prior violations, the new violations may be included, if possible, in the existing action with assessment of additional penalties, at the Authority's discretion.

The matrix assigns point values to those violations most easily identified and evaluated. These are violations of effluent standards, late reporting, and missing major compliance schedule

milestones. Other violations of procedural requirements, deadlines, Enforcement Response Guide noncompliance, or other violations not specifically identified below will be reviewed and evaluated by the Authority on a case-by-case basis.

Multiple violations occurring on a single day and attributable to a single noncompliance event will normally be considered one occurrence. Each parameter in a violation may be evaluated separately and the single maximum point value will be assigned. However, under special circumstances, point values of each parameter in violation can be additive, resulting in a higher tier level and increased penalties. Violations of monthly averages (categorical industries) constitute a violation for each day the industrial user operated during the given month unless actual daily analyses are demonstrated to be less than the applicable monthly average limitation.

VIOLATIONS MATRIX

The following point values will be assigned to each day's violation when calculating the tier level status and calculation of the appropriate penalty:

Table 1: Metals, Toxics, and Other Regulated Nonconventional Pollutants

Value greater than the limitation and < TRC (1.2 x limitation)	= 0
Value > TRC and <2 x limitation or <1.0 mg/l	= 0.50
Value > 2 x and < 3 x limitation	= 0.75
Value > 3 x and <5 x limitation	= 1.00
Value greater than 5 x limitation	= 2.00
33% or more of all measurements taken during a six month period exceed the TRC, if not addressed above	= 1.00
66% or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit for the same pollutant parameter, if not addressed above	= 1.00

Table 2: Total Petroleum Hydrocarbons

Value greater than the limitation and < TRC (1.4 x limitation)	= 0
Value > TRC and < 2.5 x limitation	= 0.25
Value > 2.5 x and < 5.0 x limitation	= 0.50
Value > 5.0 x and < 7.5 x limitation	= 0.75
Value greater than 7.5 x limitation	= 1.00
66% or more of all oil and grease results taken during a six-month period exceed, by any magnitude, the daily maximum or monthly average limit	= 1.00

Table 3: pH - Grab Method Results

Value less than 2.0 S.U.	= 0.50
Value > 2.0 and < 4.5 S.U.	= 0.25
Value > 4.5 and < 12.5 S.U.	= 0.00
Value > 12.5 and < 13.5 S.U.	= 0.25
Value > 13.5 S.U.	= 0.50

33% of all measurements outside the range 5.0 - 12.0 S.U. during any given six month period	= 0.50
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Table 4: pH - Continuous Monitoring Results

During a given calendar month, the total time during which the pH values are outside the required range exceeds 7 hours and 26 minutes	= 1.00
An individual continuous excursion exceeds the upper pH range for more than 60 minutes	= 0.50
An individual continuous excursion remains below the lower pH limit for more than 60 minutes	= 1.00

Table 5: Ammonia

33% or more of all of the measurements taken during a six month period exceed the TRC for the daily maximum or monthly average limit	= 1.00
66% or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit	= 1.00

Table 6: Other

Submission of reports later than five days past deadline (per occurrence)	= 0.20
Invalid sample (per occurrence)	= 0.25
Improper sampling documentation (per occurrence)	= 0.25
Missing documentation (per occurrence)	= 0.25
Missed major compliance schedule milestone without reasonable justification	= 0.50
Unpermitted discharge	To be determined based upon circumstance

ASSESSMENT OF PENALTIES

The table of recommended penalties ranges from the minimum assessed at each level up to the maximum allowed under Indiana law of up to \$2,500.00 for the first violation, and up to \$7,500.00 for each subsequent violation. Although the minimum penalty is normally applied in routine enforcement actions, the Authority may assess any initial violation up to \$2,500.00, and up to \$7,500.00 for each subsequent violation depending on circumstances of the noncompliance. The initiation of enforcement action and assessment of penalties is triggered at each tier level. This includes each violation or set of new violations remaining uncorrected or occurring fifteen days after receipt of an initial NOV or of knowledge of any violation and are assessed escalating penalties according to the schedule below, up to \$7,500.00 per day per violation.

Table 7: Tier Level Penalties Table

	Tier Level (Sum of Matrix Values) (Must be ≥)	Minimum Penalty Amount (Per Violation)
No Enforceable Violation on Record	0	N/A
Repeat Violations (Cumulative)	2	\$250.00
Repeat Violations (Cumulative)	3	\$500.00
Repeat Violations (Cumulative)	4	\$1,000.00
Repeat Violations (Cumulative)	5	\$1,500.00
Repeat Violations (Cumulative)	6	\$2,000.00
Repeat Violations (Cumulative)	7	\$2,500.00
Repeat Violations (Cumulative)	8	\$3,500.00
Repeat Violations (Cumulative)	9	\$4,500.00
Repeat Violations (Cumulative)	10	\$5,500.00
Repeat Violations (Cumulative)	11	\$6,500.00
Repeat Violations (Cumulative)	12	\$7,500.00

Violations remain on the industrial user's compliance record for a rolling twenty-four (24) month period. Any violations more than two (2) years old are removed from the compliance history except for violations for which enforcement actions have been initiated but remain unresolved. When violations are removed from the industrial user's compliance history, the tier level status decreases.

Certain incidents or noncompliance events automatically result in formal enforcement action including assessment of penalties. These include, but are not limited to:

- Violations involving environmental harm:
 - Passes through the POTW without proper treatment;
 - Causes a violation of the Authority's NPDES permit; or
 - Results in a fish kill in the receiving stream.
- Violations which cause interference of the POTW or its processes;
- Violations which result in physical damage to the sewer system or wastewater treatment plant;
- Fraudulent activities; or
- Tampering with the Authority's sampling/monitoring equipment or sampling procedures.

The amount of the civil penalty assessed for the above violations depends on several factors including:

- Actual impact on the treatment plant and its processes.
- The number and magnitude of violations incurred by the Authority of its NPDES permit.

- Evaluation of the knowing or negligent nature of the violation.

Violations that result in damage to the POTW and/or result in a violation of the Authority's NPDES permit shall be evaluated for the maximum allowable penalty, regardless of the intent of the discharger. Any incident involving NPDES violations must result in strict enforcement proceedings against the discharger as EPA or IDEM will consider the actions of the Authority when determining federal or state enforcement options against the municipality.

REFERRAL OF VIOLATIONS TO THE AUTHORITY'S ADMINISTRATIVE HEARING OFFICER

Repeat violations that trigger the enforcement/penalty procedures must be processed through the Authority's counsel or the AHO. Through issuance of a Notice of Violation with a referral to the Authority's AHO, the Authority will be requesting a penalty as a part of the resolution of the action. The procedures for referral of a Notice of Violation case are outlined below.

- Industrial user is sent a notice of violation by the Authority with a request to the Authority's counsel to file a complaint of ordinance violation or a request for resolution of the ordinance violation through the administrative hearing officer.
- In the notice of violation, the Authority requests that the industrial user discuss the violation and the resolution of the action with the Authority.
- If the industrial user chooses, the industrial user and the Authority's staff discuss terms of the enforcement action, corrective measures taken to prevent the problem from recurring, compliance measures that may be included in the resolution, the amount of the penalty, and any supplemental environmental projects (SEP) to be undertaken to mitigate a portion of the penalty.
- To resolve the enforcement action, the Authority's staff drafts a proposed agreed judgment or compliance agreement and sends it to the industrial user for approval and signature. Simultaneously, the Authority schedules the matter for a hearing.
- If an agreement is reached between both parties prior to the hearing, no hearing will be necessary. Upon return of the signed document from the industrial user to the Authority, the Authority's counsel signs the agreement. The approved document is forwarded to the Authority's counsel through an Agreed Judgment or the AHO through a Compliance Agreement for approval and finalization.
- If an agreement cannot be reached between both parties (the industrial user does not agree to the terms of the proposed resolution), a hearing is held before a superior court judge or an AHO who will render a judgment as the resolution of the action.

The normal time frame for completion (expressed in workdays) of the compliance agreement or agreed judgment process is outlined below:

Table 8: Time Frame for Completion of Compliance Agreement or Agreed Judgment Process

Action	Action Within
Authority issues notice of violation to industry user to address noncompliance	60 days of identification of violation
Industry user responds in writing to notification of violation or notice of violation	30 days of receipt of notice of violation
Authority representative and industrial user reach agreement on resolution of enforcement action through an Agreed Judgment or Compliance Agreement	45 days of issuance of notice of violation
After Authority provides Agreed Judgment or Compliance Agreement, industrial user signs and returns to Authority for finalization	30 days of receiving notice of agreement from Authority representative signed by industrial user (unless mutually agreed upon extension); after receipt, Authority forwards to Authority's attorney for signature; forwarded to Administrative Hearing Officer for finalization
Authority refers case to judge or AHO with hearing date	Simultaneously sent with proposed resolution; if resolved, no hearing will take place; if not resolved, hearing will occur and judgment will be rendered

EVALUATION OF MITIGATING CIRCUMSTANCES

Each enforcement action initiated by the Authority is unique as far as the condition leading to the violation or noncompliance. There are certain circumstances to be considered in each enforcement case. However, the general premise is that each violation is subject to enforcement action by the Authority. The following discusses areas pertaining to evaluation of minor noncompliance, upset and bypass defenses, and good faith efforts by the industrial user.

Minor Noncompliance

Any violation, regardless of magnitude, is eligible for enforcement action. However, implementation of normal enforcement response procedures takes into account the seriousness of specific violations with respect to the parameter involved and the degree of the violation. This procedure is addressed in the section that details the calculation of penalties and initiation of enforcement proceedings.

Upset/Accidental Discharge

As defined in Resolution No. CWA 2-2011, Section 1.9, an upset defense can only apply in those cases where violations of technology-based categorical pretreatment standards have occurred. It does not apply to violations of the general prohibitive standards to prevent interference and/or pass-through or to limits in Resolution No. CWA 2-2011 developed for protection of water quality standards and/or POTW processes. An upset is narrowly defined in

Resolution No. CWA 2-2011 as “an exceptional incident in the user’s industrial facility, in which there is an unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation”.

The burden of proof in Resolution No. CWA 2-2011: Section 1.9(f) is with the industrial user and must be satisfied for an upset defense to be considered. If an alleged upset has occurred, the industrial user must take any extraordinary measures to limit production or control or prevent all discharges until the treatment process is restored.

A successful defense shall not relieve the industrial user of any liability for expense, loss, or damage incurred by the Authority as a result of the upset including fines or penalties levied against the Authority for noncompliance with NPDES requirements.

Bypass of Treatment Facilities

As defined in Resolution No. CWA 2-2011, Section 3.14, relief from liability as the result of bypass of treatment facilities will be allowed under extremely limited circumstances.

A bypass may only occur if it does not result in noncompliance with pretreatment standards and if it is essential to periodic maintenance activities for assuring efficient and consistent operation of the treatment facilities.

Advance notice shall consist of written notice at least ten (10) days prior to scheduled bypasses. In the case of unscheduled bypasses, oral notice must be given immediately,

Good Faith Efforts

The pretreatment standards, requirements, and regulations are the product of strict liability statutes. Assertion of good faith is neither an excuse nor a defense for violations of applicable requirements. However, the demonstration of good faith efforts to return to compliance following a noncompliance event is taken into account when determining the amount of a monetary penalty.

Any knowing or negligent violations are considered outside the arena of good faith and will be addressed by accelerated penalties and the potential for criminal proceedings.

Compliance Schedules

Any industry which identifies a potential noncompliance situation where violations are likely to occur or recur may submit a plan for corrective action to the Authority for review. The plan must include detailed activities to be accomplished, as well as specific time frames for completion.

Upon approval by the Authority, a compliance schedule is issued with requirements to submit periodic progress reports. Enforcement of violations occurring during the schedule period may be stayed pending completion of the required activities at the Authority's discretion. However, if in the opinion of the Authority, an excessive amount of time passes without significant progress or if violations continue after completion of the compliance schedule, all violations which occurred during the schedule period may be subject to appropriate penalties.

In cases where compliance schedules extend to periods greater than two (2) years, violations on the industrial user's record will not necessarily be deleted within the rolling twenty-four (24) month review period.

Compliance schedules may be issued by the Authority as an administrative order approved by the court through the agreed judgment process or approved by the AHO through the compliance agreement process.

Supplemental Environmental Projects

An industry may choose to propose a supplemental environmental project ("SEP") to offset a portion of the penalty to undertake an environmental project that is not legally required for environmental compliance. The Authority will utilize the IDEM Non-Rule Policy (ENF-003) as a guideline for undertaking and implementing a Supplemental Environmental Policy. A project to be considered as a SEP must be approved by the Authority prior to commencement and cannot be considered if the project has already started.

ENFORCEMENT OF CATEGORICAL STANDARDS

As defined in Resolution No. CWA 2-2011, Section 1.6, industries regulated by Resolution No. CWA 2-2011 as well as categorical standards, face additional requirements promulgated in the federal regulations. Because the Authority operates an industrial pretreatment program approved by the EPA and IDEM, it is required to enforce categorical pretreatment standards as an agent of the EPA.

Failure to submit timely reports or submission of inadequate reports is subject to enforcement action under the Authority's procedures.

If the categorical industry fails to meet a federally mandated compliance date, the following procedures can be implemented:

1. If the industry has failed to demonstrate a good faith effort through prompt and conscientious efforts to meet the compliance date, a formal enforcement action with referral to the Authority's AHO will be initiated. The penalty may be calculated separately from the normal procedures to reflect the seriousness and magnitude of the violations, the relative lack of diligence by the industry, and be sufficient

to negate any competitive advantage enjoyed by delaying compliance.

2. If the industry has made what is determined to be a good faith effort but cannot comply within ninety (90) days subsequent to the deadline, an enforcement action may be initiated to include additional corrective measures, as well as assessment of an appropriate penalty.
3. If the industry has made a good faith effort but exceeds the deadline by less than ninety (90) days, a determination can be made on a case-by-case basis as to whether enforcement action should be taken. It shall be at the discretion of the Authority if increased monitoring and scrutiny of progress is sufficient to guarantee compliance.

In Examples #2 and #3 above, it should be noted that “good faith” has been narrowly construed by Congress and should be judged based on the following:

“The Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and, in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this Act, that administrative and judicial review is sought on a discharger’s own time.”

Therefore, any good faith effort must prove the industry has gone “above and beyond” and that due to factors out of its control could not achieve compliance. Also, any delay experienced during the compliance period as a result of legal action brought by a facility with respect to applicability of a standard to the given facility is to be counted against the deadline. Awaiting a decision on a legal action, removal credits applications, or other similar procedure shall not be used as a reasonable excuse in failing to achieve compliance.

REPORTING NONCOMPLIANCE - INDUSTRY’S OBLIGATIONS

As defined in Resolution No. CWA 2-2011, Section 3.12, industrial users are required to report noncompliance events to the Authority within certain time frames. This applies to violation of ordinance provisions, industrial discharge permit standards, categorical pretreatment requirements, spills, accidental discharges, and slug discharges.

Self-Monitoring

Violations identified by an industrial user as a result of its own sampling must be reported to the Authority within 24 hours of knowledge of the violation. The industrial user must also resample for the parameter in violation within thirty (30) days of knowledge of the violation unless the Authority samples within the same period. This notification is usually done verbally by telephone or electronic mail. However, notification within 24 hours by FAX transmission, personal delivery or notice, express mail, or e-mail satisfies the requirement. The initial notification must include:

- Name of the company;
- Location of the discharge;
- Limitation, standard, or requirement in violation; and
- Corrective action taken or anticipated.

In addition, a written report describing the circumstances of the violation must be submitted within five (5) working days of knowledge of the violation. The written notification must include:

- Description and cause of the violation;
- Parameters in violations; and
- Period of noncompliance and steps taken to prevent recurrence.

Spills, Accidental, and Slug Discharges

Industrial users must report within one (1) hour of knowledge by telephone any spills, accidental or slug discharges, or any release that may cause problems at the POTW. Emergency vents occurring after business hours or on weekends must be reported to the Environmental Stewardship Environmental Emergency Incident phone at 317-402-8636.

1. Name of the company;
2. Location of the discharge;
3. Type of waste discharged;
4. Concentration and volume of waste discharged; and
5. Corrective action taken to minimize the impact of the discharge to the POTW and to prevent a recurrence.

A written report must be submitted within five (5) working days of the incident.

STAFF RESPONSIBILITIES

Described below are the responsibilities of various Authority personnel involved in the collection and screening of data, organization of enforcement actions, review of actions taken, and general management of the enforcement response procedures. An attempt has been made to identify all positions involved in the enforcement scheme, albeit some on the list are involved peripherally.

Table 9: Staff Responsibilities

Position(s)	Primary Responsibilities
Authority Personnel including Environmental Stewardship Department-Environmental Coordinator, Environmental Specialist (or its contractor)	Collects industrial samples, completes chain-of custody information, deliver samples to lab, coordinate with IPP Coordinator special enforcement sampling events. Collect interceptor samples from established designated sites within the Indianapolis sewer system when necessary. Sampling for backtracking and determining source of toxic or problem discharges. Reviews permit applications, develops and issues discharge permits and control mechanisms, conducts onsite inspections. Track and input self-monitoring report data. Investigation of complaints or issues observed in the wastewater collection system.
Environmental Coordinator, , Environmental Compliance Manager, or , Environmental Stewardship Department	Reviews noncompliance reports to determine industries eligible for enforcement action, issues notices of violation, refers cases to Authority enforcement staff, conducts annual inspections, generates QNCR and annual report, and manages overall operation of the IPP. Drafts and routes correspondence for enforcement proceedings.
Director of Environmental Stewardship Department	Signatory Authority for permitting and enforcement for CWA Authority, Inc.
Authority Counsel (or its outside counsel)	Conferences, advises staff on content of judgments, general legal guidance. Represents the Authority at prehearings or hearings. Litigates enforcement cases in court or administrative hearings, issues complaints, drafts final agreed judgments, coordinates with Authority representatives on amount of penalty, content of judgment.
Administrative Hearing Officer	Rules on industrial enforcement actions.
Superior or Circuit Judge	Approves agreed judgments, decides cases where terms cannot be agreed upon by the Authority and industry.
Indianapolis Metropolitan Police Department	If needed, can provide assistance with access to industrial premises, provide surveillance expertise.
IDEM - Investigations Group	Coordinate with Authority personnel on cases where FBI potential criminal activities are involved, County Prosecutor's Office provide expertise in gathering of data, collection of witness information, initiate criminal proceedings.
Laboratory Services (or its contractor)	Receives, handles and analyzes some surveillance samples
Authority personnel (or its Contractor)	Samples, process control samples, interceptor samples, perform inhibition testing of wastewater samples, issues initial noncompliance results to Environmental Coordinator or Environmental Specialist.
Wastewater Collection or	Responds to wastewater collection system or wastewater treatment

Wastewater Operations	problems, takes photographs of sewer problems for coordination with Environmental Stewardship and may include collection of evidence in enforcement proceedings.
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TRACKING SYSTEM - DUE DATES

Industrial users are required to submit various reports and information as a result of a number of compliance activities. It is important the Authority has reliable procedures to ensure industrial users submit whatever information is requested by the required dates. Reports or information required by industry on a regular basis are logged in a computer tracking system. Other reports submitted periodically or at the request of the Authority are normally handled by manual tracking procedures.

The following are among the items that may be required from an industrial user by a specific date as required by permit issued by the Authority or notification from the Authority:

- Self-monitoring reports;
- Industrial discharge permit application;
- Compliance schedule progress reports;
- Follow-up information subsequent to industrial inspections;
- Written reports following spills, accidental or slug discharges;
- Written reports describing self-monitoring violations;
- Special discharge permit applications;
- Written response to notices of violation;
- Statement of Industrial Waste forms (surcharge reports);
- Wastewater hauler permit applications;
- Scheduled inspection dates;
- Baseline Monitoring Reports (as applicable);
- Certification Statements.

Computer Tracking System

Each month, self-monitoring reports are submitted to the Authority by a specific group of permitted industrial users. Each report is date stamped on the day it was received and routed to the Authority. Self-monitoring reports must be postmarked by the 28th of the month following the monitoring period. If postmarked after that date, the report will be considered to be late. These industries are contacted by phone or certified mail. Submission of surcharge reports are tracked and processed by the Authority or its billing contractor.

Reports are also generated indicating permit expiration dates and the most recent inspection dates. These reports are used to schedule the issuance of industrial discharge permit applications and inspection visits.

INDUSTRIAL INSPECTIONS

Each significant industrial user permitted under the Authority's jurisdiction must be inspected at least annually in accordance with EPA requirements. However, some facilities may receive more frequent inspections/visits during a given year to track compliance schedule activities, verify changes in discharge or processes, maintain a regulatory presence, or scrutinize facilities with discharges most likely to impact the POTW.

Scheduling regular annual inspections is done on a random basis by reviewing the current industry list and noting a day and time in a monthly planning log for the facilities to be inspected. Depending on the industry, advance notice by letter, electronic mail, or telephone may be given of the impending inspection. As an industry is inspected, the date is noted in the computer tracking system to ensure each facility is inspected at least once during each calendar year as dictated by program requirements. The above procedure has proven to account for all industries.

Other inspections or site visits are conducted according to need. Facilities operating under a compliance schedule are given priority for follow-up visits to verify progress and to document that required activities are being accomplished. Inspections of these facilities may take place at regular intervals by noting inspection dates in a planning log in advance.

Some inspections will not be scheduled in advance, but are conducted as a result of a spill, accidental discharge, complaint, or other warranted event. These are often referred to as demand inspections and are accomplished as the situation dictates.

ENFORCEMENT OF NONINDUSTRIAL DISCHARGES

The Authority also enforces requirements for dischargers of nonindustrial wastewater. These facilities are mainly comprised of wastewater haulers, illegal discharges into the sewer, and commercial restaurant/food preparation establishments. Although the enforcement process used with industrial users can be utilized, there are additional procedures used for these dischargers.

Wastewater Haulers Program

Facilities permitted under the Wastewater Haulers Program are required to furnish specific information on waste hauled to the Belmont AWT plant on forms prescribed by the Authority and to maintain records of all sources of wastewater.

Enforcement action may be initiated against a wastewater hauler for activities including, but not limited to, the following:

- Furnishing false information on applications, manifests, or other documents;
- Furnishing incomplete information on applications, manifests, or other documents;
- Discharging tank contents prior to approval by AWT headworks personnel;

- Failure to disclose the sources of all wastewater in a discharge;
- Tampering of sample prior to discharge at AWT headworks;
- Discharging at a point other than a designated approved site;
- Failure to maintain current insurance coverage;
- Failure to remain current on payment of disposal charges;
- Failure to maintain accurate business records/transactions;
- Activities resulting in revocation of Indiana State Department of Health (ISDH) or IDEM certification;
- Failure to allow prompt access to premises for inspection, monitoring, or sampling including buildings, equipment, office files, or other relevant areas; or,

Discharging tank contents in violation of any other applicable requirements or limitations contained in Resolution No. CWA 2-2011. The Authority can exercise any of the enforcement responses detailed previously in this plan including:

- Verbal warning;
- Written notice of violation;
- Referral to the Authority's AHO;
- Completion of corrective measures; and
- Revocation of permit and dumping privileges.

GREASE BLOCKAGE ENFORCEMENT RESPONSE

Resolution No. CWA 2-2011 provides the Authority with the authority to require a food preparation facility to install and maintain a grease trap or grease interceptor. Resolution No. CWA 2-2011 also provides the authority to hold a party responsible for the removal of a blockage in the sewer regulated by the Authority in addition to a penalty for creation of the blockage.

The following sections of Resolution No. CWA 2-2011 outline the CWA Authority's legal authority to regulate grease blockage problems and take appropriate enforcement actions.

Prohibition of Obstruction

Resolution No. CWA 2-2011 Section.1.4(d) states, in pertinent part, that

“No person shall discharge or cause to be discharged to any city sewer wastewater or pollutants which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances: ...(3) Obstruction to the flow in city sewers or other interference with the proper operation of the POTW;”

(“POTW” refers to the Publicly Owned Treatment Works including sewer collection system where the Authority processes and treats wastewater.)

Prohibition of Solid or Viscous Substances

Resolution No. CWA 2-2011 Section 1.4(e) states, in pertinent part, that

“No person shall discharge or cause to be discharged to any city sewer: ... (6) Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, improperly shredded garbage,”

Requirement for Grease Interceptor

Resolution No. CWA 2-2011 Section 1.4(h) states, in pertinent part, that:

“A grease interceptor shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in restaurants, cafes, lunch counters, cafeterias, bars, and clubs; hotel, hospital, sanitarium, factory or school kitchens; or other establishments where grease may be introduced into the drainage system in quantities that can affect line stoppage or hinder sewage treatment...”

Authority for Cost Recovery

Resolution No. CWA 2-2011 Section 1.11 states, in pertinent part, that:

“If any person discharges or causes to be discharged a waste which causes interference, pass through, obstruction, damage or any other impairment to the POTW, the Director may assess a charge against such person for:

- The work required to clean or repair the POTW;
- Any civil penalty, fine or cost of compliance with injunctions or other orders of a court or governmental authority imposed against the Authority as a result of such interference, obstruction, damage or impairment; and
- All other costs incurred by the Authority as a result of such interference, pass through, obstruction, damage or impairment including but not limited to expert, consultant and attorneys’ fees; and add such charges to such person’s regular charge.”

Authority for Right to Inspect

Resolution No. CWA 2-2011 Section 1.14 states, in pertinent part, that

“Whenever required to carry out the objectives of this resolution, an authorized representative of the Authority, upon presentation of proper credentials, shall have a right of entry to, upon or through any premises for purposes of reviewing relevant records or inspecting, measuring and sampling of the discharges , and collecting all pertinent information (including photographic documentation) to assess compliance. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the person to provide all necessary clearance before entry and not to unnecessarily delay or hinder the authorized representative in carrying out the review of relevant records, inspection, measuring and sampling. The right of entry shall exist at any time.”

Authority for Assessment of Penalty

Resolution No. CWA 2-2011 Section 1.17(a) states, in pertinent part, that

“A violation of any condition or requirement of any permit issued under this resolution and ordinance or special agreement entered into under the authority of this resolution and ordinance shall constitute a violation of this resolution and ordinance. Each day’s violation shall constitute a separate offense.”

Termination of Service

The water service to an industrial user may be terminated for cause at the Authority’s request per the Terms and Conditions of Service. The cost of resuming service is borne by the industrial user and provides an incentive to comply with the necessary requirements. Adequate written notice is given to the industrial user of such action.

Enforcement Progression

Resolution Nos. CWA 2-2011 and CWA 3-2011 outline the enforcement responses, procedures and potential penalties. Enforcement may progress from a notification of violation to the issuance of a Notice of Violation and/or Injunctive Relief.

The enforcement progression may be accelerated at the discretion of the Authority if the violation is a habitual problem.