

Industrial User Enforcement

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U.S. EPA, Region 5

2024 IWEA/IWWSG Joint Pretreatment Dinner

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Topics

- ▶ Legal Authority
- ▶ Information Sources
- ▶ Inspections/Sampling
- ▶ Types of Violations
- ▶ Enforcement Response Plans
- ▶ Significant Noncompliance

Legal Authority

- ▶ **Federal regulations (40 CFR 403.8) authorize and require the permitting authority to enforce against any non-compliance by any non-domestic source with all pretreatment requirements and standards...**
 - ▶ **General and specific prohibitions 403.5(a) & (b)**
 - ▶ **Categorical standards—40 CFR Parts 405 to 471**
 - ▶ **Local limits—40 CFR § 403.5(c)**

Legal Authority

- ▶ Pretreatment authority should be enforceable in Federal, State, or local courts.
- ▶ An approved POTW shall be able to seek injunctive relief for noncompliance by Industrial Users with Pretreatment Standards and Requirements.
- ▶ An approved POTW shall have the authority to seek penalties of at least \$1,000 per day for each violation, civil or criminal.
- ▶ An interjurisdictional agreement may be needed, if IUs are located beyond the POTW's boundaries.

Information Sources

- ▶ POTW inspections/sampling
- ▶ IU reports
- ▶ Tracing WWTP problems through the collection system to the source
- ▶ Fats, Oils, and Grease program
- ▶ WWTP & collection system personnel
- ▶ Other IU permit holders
- ▶ State inspections
- ▶ Industrial Waste Survey
- ▶ Waste Haulers

Inspection Requirements

- ▶ Conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards.
- ▶ Inspect and sample the effluent from each Significant Industrial User at least once a year.

Inspection Procedure

- ▶ **Pre-Inspection Preparation/Review**
- ▶ **Entry**
- ▶ **Opening Conference**
- ▶ **Facility Inspection**
- ▶ **Closing Conference**
- ▶ **Inspection Report**

Sampling/Analysis Questions

- ▶ Was the correct sample type used?
 - ▶ Grab for pH, oil and grease, cyanide, total phenols, sulfide, and volatile organic compounds
 - ▶ 24-hour flow-composite samples for everything else
- ▶ If the POTW authorizes alternative sampling:
 - ▶ Are the samples representative of the discharge?
 - ▶ Did the POTW document its decision to allow the alternative sampling in the IU file?

Sampling/Analysis Questions

- ▶ Was the analytical method used a Part 136 method?
- ▶ Are there any QA/QC issues?
 - ▶ For TTOs under Metal Finishing: Is the reporting limit higher than 0.01 mg/L (the threshold that defines a TTO)?
 - ▶ Did the sampler collect enough to conduct a matrix spike and matrix spike duplicate analysis?
- ▶ EPA Webpage:
 - ▶ [Training Courses on Quality Assurance and Quality Control Activities](#)

Types of Violations

- ▶ **Unauthorized discharges/connections**
- ▶ **Prohibited discharges**
- ▶ **Effluent limit exceedances**
- ▶ **Failure to monitor**
- ▶ **Reporting violations**
- ▶ **Failure to follow Best Management Plans**
- ▶ **Failure to comply with dates/activities required in an enforcement action**

Reports

40 C.F.R. § 403.12

- ▶ **Baseline Monitoring Report**
- ▶ **90-day Compliance Report**
- ▶ **Periodic Compliance Report**
- ▶ **24-Hour Notice and 30-Day Resampling Report**
- ▶ **Notification of Changed Discharge**
- ▶ **Hazardous Waste Notice**

Standard Enforcement Procedures

The ERP Should...

- ▶ Describe how non-compliance events will be investigated.
- ▶ Describe the types of escalating responses and the timeframe for taking them for all anticipated types of IU violations.
- ▶ Identify personnel responsible for each type of enforcement response.
- ▶ Reflect the POTW's responsibility to enforce all applicable pretreatment standards and requirements.

Types of Enforcement Actions

- ▶ **Notice of Violation**
- ▶ **Administrative Fines**
- ▶ **Administrative Orders**
- ▶ **Civil Litigation**
- ▶ **Criminal Prosecution**
- ▶ **Termination of Service**
- ▶ **Supplemental Enforcement Responses**

Standard Enforcement Procedures

ERP Escalation

- ▶ ERP entry with GOOD escalation:

IU Permit Limit Exceeded (No interference/pass-through)

Annual Frequency	Response Options	Responder
1-2	Phone Call, NOV	Inspector
2-3	Compliance Order, \$1,000 Fine	PT Manager
3-4	\$5,000+ Fine	PT Manager
5+	\$10,000+ Fine, Court, Disconnect	Director, Attorney

Standard Enforcement Procedures

ERP Escalation

► ERP entry with poor escalation:

IU Permit Limit Exceeded (No interference/pass-through)

Type	Response Options	Responder
Acute	Phone Call, NOV, Compliance Order	PT Manager, Director
Chronic	NOV, Compliance Order, Fine, Disconnect	Director

Significant Non-Compliance

- Regulatory requirement: 403.8(f)(2)(viii)
- Evaluate SNC quarterly (evaluate the past two consecutive quarters).
- Evaluate daily maximums AND long-term averages separately.
- Publish SNC IUs at least annually, and document/report to EPA.
- At a minimum, EPA expects POTWs to address SNC with an enforceable order that requires a return to compliance by a specific deadline.

SNC Calc for a Monthly Average

Metal Finishing PSES

Started Jan 2006

Cadmium: Mo Avg Std = 0.07 **TRC** $1.2(0.07) = 0.084$

Month Self Monitoring

Jan 0.05

Feb 0.06

Mar 0.09

Apr 0.1

May 0.04

Jun 0.04

Jul 0.08

Aug 0.04

Sep 0.03

Oct 0.08

Nov 0.08

Dec 0.08

Jan 0.02

Feb 0.02

Mar 0.02

Apr 0.12

May 0.11

Jun 0.02

Jul 0.09

Aug 0.03

Sep 0.03

1st & 2nd
Calendar
Quarter
Jan-Jun

**SNC
(TRC)**
(>33% exceed TRC)

2nd & 3rd
Calendar
Quarter
Apr-Sep

Not SNC

3rd & 4th
Calendar
Quarter
Jul-Dec

**SNC
(Chronic)**
(>66% exceed Limit)

Significant Non-Compliance

- ▶ Additional types of SNC under 403.8(f)(2)(viii)...
 - ▶ (C) Any violation causing interference or pass-through
 - ▶ (D) Any violation that caused endangerment or resulted in a cease discharge order
 - ▶ (E) 90 days overdue in meeting a compliance schedule milestone
 - ▶ (F) 45 days overdue in submitting a required report
 - ▶ (G) Failure to accurately report noncompliance
 - ▶ (H) Any other violation(s) which you deem adversely effects the operation or implementation of the pretreatment program

EPA may verify—does the POTW

- ▶ Inspect and sample IUs as required by its Pretreatment Program?
- ▶ Receive IU self-monitoring reports accordingly?
- ▶ Identify IU noncompliance?
- ▶ Follow its ERP for IU enforcement?
- ▶ Escalate enforcement for IUs with repeating violations?
- ▶ Publish IUs in SNC?



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