

**WINSTON-SALEM/FORSYTH COUNTY UTILITY COMMISSION  
INDUSTRIAL WASTE CONTROL SECTION  
ENFORCEMENT RESPONSE PLAN**

**1. Introduction**

It is the responsibility of the Winston-Salem/Forsyth County Utility Commission for the City of Winston-Salem, hereafter referred to as Utility Commission to enforce all applicable Federal, State, and local pretreatment regulations. These regulations are outlined in Federal regulation 40 CFR 403 and State regulation 15A NCAC 2H .0900, and the Utility Commission's Water and Sewerage System Policy Resolution (SUR). This Enforcement Response Plan (ERP) has been established as an element of the POTW's pretreatment program. The purpose of the ERP is to provide for fair and equitable treatment of all users for anticipated enforcement situations. In general, enforcement actions will be taken in accordance with this Enforcement Response Plan. However, the enforcement actions available are not exclusive as discussed in the Sewer Use Resolution Article IX. Therefore, any combination of the enforcement actions can be taken against a non-compliant user. **Enforcement actions taken in response to the requirements of 40 CFR Part 441 will be taken/decided on a case-by-case basis.**

**2. Enforcement Actions Available to the Commission**

The Director of Public Utilities is empowered through North Carolina General Statute (NCGS) 143-215.6A and the Utility Commission's Sewer Use Resolution (SUR) to take a wide variety of enforcement actions. The following is a list of those actions and the corresponding section of the SUR that describes each.

Notice of Violation	Part B Section 102 A
Consent Orders	Part B Section 102 B
Show Cause Hearing	Part B Section 102 C
Administrative Orders	Part B Section 102 D
Emergency Suspensions	Part B Section 102 E
Termination of Discharge/Permit	Part B Section 102 F
Civil Penalties	Part B Section 103
Criminal Violations	Part B Section 104 A
Injunctive Relief	Part B Section 104 B
Water Supply Severance	Part B Section 104 C
Public Nuisances	Part B Section 104 D
Publication of Noncompliance	Part B Section 105

In addition to the actions listed above, a user who violates the provisions of NCGS 143-215.6B may be referred by the Director to the District Attorney for possible criminal prosecution.

In determining the amount of civil penalties for a particular violation the Director shall consider the following:

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

Adjudicatory hearing procedures regarding permit decisions, and civil penalties may be found in the Sewer Use Resolution Section 84 (A) (B) (C) (D).

### **3. Investigation of Noncompliance**

The Industrial Waste Control Section will generally investigate user compliance with permits or the provisions of the SUR in three ways:

1. On-site inspections of the user to include scheduled and unscheduled visits;
2. Scheduled and/or unscheduled sampling of the users effluent wastewater discharge;
3. Review of self-monitoring data.

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

#### **4. Types of Violations**

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

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

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

Self-Monitoring Violations. A user who fails to adequately conduct all the monitoring required in the permit, including monitoring frequencies and sampling methods specified, is in violation. This includes a user who does not resample per its permit when a limit violation occurs.

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

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

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

## **5. Responses: Timeframes, Responsible Officials, Escalated Actions.**

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

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

A user may be sent a Notice of Violation (NOV) or Notice of Noncompliance (NNC) for each individual violation if monthly monitoring is required, or the violations may be cumulated over a period of time not to exceed 6 months if a different monitoring frequency is required. In general, NOV's in response to violations of permit limits will be issued monthly. Users found to be in SNC for two (2) consecutive 6-month periods will be issued an enforceable order to return to compliance. In all cases, escalated or continuing enforcement action will be taken against users who do not return to compliance in a timely manner.

Cases of falsifying reports, tampering with monitoring or sampling equipment or otherwise preventing the collection of representative data may be referred to the District Attorney for possible criminal investigation.

Show cause hearings may be held at the Director's discretion prior to taking enforcement actions.

**6. Chart**

**UTILITY COMMISSION**  
ENFORCEMENT RESPONSE PLAN  
INDUSTRIAL WASTE CONTROL SECTION

**UNPERMITTED DISCHARGES**

<b><u>Type of Violation</u></b>	<b><u>Initial Action</u></b>	<b><u>Timeframe</u></b>	<b><u>Official</u></b>	<b><u>User Response</u></b>	<b><u>Escalated Action if Needed</u></b>	<b><u>Official</u></b>
Unaware of Permit Requirement	Notice of Violation (NOV)	Within 30 Days of Discovering the Discharge	Utility Plant Supervisor / IWC	File Permit Application	Suspend Service Until Permit is Issued	Director of Utilities
Aware of Permit Requirement	Notice of Violation (NOV) with Penalty Of \$1,000	Within 30 Days of Discovering the Discharge	Utility Plant Supervisor / IWC	File Permit Application	Suspend Service Until Permit is Issued	Director of Utilities
Results in NPDES Violation OR Endangerment OR other State issued permit or State General Statute violations	Suspend Service Notice of Violation (NOV) with Penalty of \$1,000 to \$25,000 per Day per Violation	Immediately  Notice of Violation (NOV) within (7) seven days	Director of Utilities	File Permit Application  Steps to avoid violation and future endangerment		

**6. Chart**

**PERMIT LIMITS VIOLATION**

<b>Type of Violation</b>	<b>Initial Action</b>	<b>Timeframe</b>	<b>Official</b>	<b>User Response</b>	<b>Escalated Action if Needed</b>	<b>Official</b>
Permit Limits Violation Single Event	Notice of non-compliance or Notice of Violation (NOV) with \$0 to \$25,000 penalty	Within 30 days of receiving data	Utility Plant Supervisor / IWC	Return to Compliance OR Conduct Additional Monitoring OR Report Cause	2nd NOV with Penalty of 0 to \$1,000	Utility Plant Supervisor/ IWC
Permit Limits Violation Technical Review Criteria (TRC) OR Chronic Violations	Notice of Violation (NOV) with \$0 to \$25,000 penalty	Within 30 days of receiving data	Utility Plant Supervisor / IWC	Return to Compliance OR Conduct Additional Monitoring OR Report Cause	2nd NOV with Penalty of 0 to \$1,000	Utility Plant Supervisor/ IWC
Permit Limits Violation Results in Significant Noncompliance	Notice of SNC with Penalty of \$0 to \$25,000 Per Day Per Violation	Within 30 days of receiving data	Utility Plant Supervisor / IWC	Report Cause of Violation and Steps Taken to Prevent Violations	Enforceable Schedule (AO) if not Resolved by the End of the 2nd Six Month Period	Director of Utilities
Permit Limits Violation Causes NPDES Violation OR other State issued permit or State General Statute violations	Notice of Violation (NOV) to Cease Process and Penalty of \$1,000 to \$25,000 Per Day Per Violation	Immediately  Notice of violation (NOV) within (7) seven days of discovering violation	Director of Utilities	Report Cause of Non-compliance and Steps Taken to Prevent Violation	Suspend Service Until Resolved by the end of the 2 <sup>nd</sup> six month period	Director of Utilities

**6. Chart**

**PERMIT LIMITS VIOLATION CONTINUED**

<b>Type of Violation</b>	<b>Initial Action</b>	<b>Timeframe</b>	<b>Official</b>	<b>User Response</b>	<b>Escalated Action if Needed</b>	<b>Official</b>
Permit Limits Violation Causes Endangerment	Suspend Service With Penalty of \$1,000 to \$25,000 Per Day Per Violation	Immediately Notice of violation (NOV) within (7) seven days of discovering violation	Director of Utilities	File of Reissuance of Permit		

**6. Chart**

**OTHER VIOLATIONS**

<b>Type of Violation</b>	<b>Initial Action</b>	<b>Timeframe</b>	<b>Official</b>	<b>User Response</b>	<b>Escalated Action if Needed</b>	<b>Official</b>
Failure to Provide Information By Due Date	Notice of Violation (NOV)	Within 14 Days of Due Date	Utility Plant Supervisor / IWC	Submit Requested Information	2nd NOV with Penalty of 0 to \$1,000	Utility Plant Supervisor / IWC
Failure to Collect and Analyze Self-Monitoring Samples	Notice of Violation (NOV)	Within 30 days of discovery	Utility Plant Supervisor / IWC	Conduct Missed Sampling/ Testing	2nd NOV with Penalty of 0 to \$1,000 Possible SNC if over 30 days	Utility Plant Supervisor / IWC
Reporting Violation Late Reports	Notice of Violation (NOV)	Within 30 days of discovery	Utility Plant Supervisor / IWC	Submit Report	2nd NOV with Penalty of 0 to \$1,000 Possible SNC if Over 30 Days	Utility Plant Supervisor / IWC
Reporting Violations Incomplete OR Inaccurate Reports	Notice of Violation (NOV)	Within 30 days of report submission	Utility Plant Supervisor / IWC	Submit Revised Report	2nd NOV with Penalty of 0 to \$1,000	Utility Plant Supervisor / IWC
Reporting Violations Intentional Falsification	Referred to District Attorney	As Soon As Reasonable Suspicion	Director of Utilities			



6. Chart

**OTHER VIOLATIONS CONTINUED**

<b>Type of Violation</b>	<b>Initial Action</b>	<b>Timeframe</b>	<b>Official</b>	<b>User Response</b>	<b>Escalated Action if Needed</b>	<b>Official</b>
Violation of Permit Conditions	NOV with Penalty of \$0 to \$25,000 Per Day Per Violation	Within 30 days of discovery	Utility Plant Supervisor / IWC	Varies 2nd NOV with Increased Penalty	2nd NOV with Penalty of 0 to \$1,000	
Violation of Permit Conditions results in NPDES or other State issued permit or State General Statute violations or Endangerment	Suspend Service NOV With Penalty Up to \$25,000 Per Day Per Violation	Suspend Service Immediately NOV Within 7 Days	Director of Utilities	Steps Taken to Avoid Reoccurrence		
Violation of Enforcement Order Conditions OR Limits	NOV With Penalty Stipulated in Order OR Same Type in ERP	Within Timeframe Listed in Order OR Same Type in ERP	Director of Public Works	Additional Monitoring and Steps to Avoid Reoccurrence	Same as Escalated Action in ERP or Possible Revocation of Order	Director of Utilities
Failure to Meet a Milestone Date in an Enforcement Order (Does not Affect Other Dates)	NOV With Penalty Stipulated in Order	Within 14 Days of Discovery	Director of Utilities	Submit a Schedule to Complete the Requirement	Show Cause Hearing	

**6. Chart**

**OTHER VIOLATIONS CONTINUED**

Failure to Meet a Milestone Date in an Enforcement Order (Affects Other Dates)	Show Cause Hearing With Penalty Stipulated in Order	Within 30 Days of Discovery	Director of Utilities	Negotiate New Order and Abide by New Conditions	Possible Termination of Service	Director of Utilities
Failure to Meet Final Compliance Date	NOV With Penalty Stipulated in Order	Within 14 Days of Discovery	Director of Utilities	Document Compliance	Possible Termination of Service	Director of Utilities

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