

ATTACHMENT B

Anderson County Wastewater Department

ENFORCEMENT RESPONSE GUIDE MATRIX

Noncompliance	Circumstances	Range of Response	Personnel
(a) Sampling, monitoring, and reporting			
Failure to sample, monitor, report, and/or notify	Isolated or infrequent failure to monitor, sample, or report all parameters in permit.	NOV with response required within 10 days.	PC
	IU does not respond to NOV and/or AO.	AO; civil action; adjudicatory hearing including penalty.	PC, M
	Frequent violations or SNC.	NOSN, AO and/or penalty; adjudicatory hearing including penalty; civil action; terminate sewer.	PC, M
	No response received.	Adjudicatory hearing; criminal investigation.	M
	Report is improperly signed or certified, first offense.	NOV	PC
	Report is improperly signed or certified after notice by POTW.	AO and/or penalty; adjudicatory hearing; civil action.	PC, M
	Isolated not significant; Report less than 45 days late.	NOV	PC
	Significant-Report 45 days or more late – SNC.	AO to submit with penalty per additional day; civil action.	PC, M
	Reports are always late or no report at all.	AO and/or penalty; adjudicatory hearing; civil action; cost recovery; terminate sewer.	PC, M
	Failure to report slug, spill, or changed discharge-No harm to POTW and/or environment.	NOV; AO; civil action/cost recovery	PC, M
	Failure to report slug, spill, or changed discharge-Results in harm to POTW and/or environment – SNC.	AO and/or penalty, civil action/cost recovery; adjudicatory hearing; terminate sewer.	PC, M
	Repeated failure to report slugs, spills, or changed discharge.	AO and/or penalty; civil action/cost recovery; adjudicatory hearing; terminate sewer.	PC, M
Failure to notify of effluent limit violation, slug discharge, or bypass.	Isolated or infrequent – No known effects.	NOV – Response required within 10 days; AO.	PC
	No response received	NOV; AO	PC
	Frequent or continued violation.	NOV; AO and/or penalty; adjudicatory hearing and/or penalty; civil action.	PC, M

Noncompliance	Circumstances	Range of Response	Personnel
	Known environmental or POTW damage-SNC.	NOSN; AO and/or penalty; adjudicatory hearing and penalty; sewer ban; civil and/or criminal investigation.	PC, M
Minor sampling, monitoring, or reporting deficiencies (computational or typographical errors).	Isolated or infrequent.	NOV: request corrected form.	PC
	Recurring deficiencies.	AO and/or penalty.	PC, M
Major or gross sampling, monitoring, or reporting deficiencies (missing information).	Isolated or infrequent.	NOV and/or AO; request corrected form.	PC
	Continued-Remains uncorrected 45 days or more – SNC.	AO and/or penalty; adjudicatory hearing; penalty.	PC, M
	Failure to monitor all pollutants as required by permit.	NOV and/or AO	PC
	Recurring failure to monitor, recurring missing information.	NOV; AO and/or penalty; civil action; criminal investigation.	PC, M
	Improper sampling, no evidence of intent.	NOV; AO	PC
	Improper sampling -Evidence of negligence or intent.	NOV; AO and/or penalty; civil action; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
Report false information.	Reporting false information-Any instance – SNC.	AO; adjudicatory hearing; civil action; penalty; criminal investigation; terminate service.	PC, M

(b) Compliance schedules (construction phases or planning)

Missed interim date.	Will not cause late final date or other interim dates (less than 90 days).	NOV	PC
	Missed milestone by 90 days or less, negatively affects final date, good cause for delay.	NOV; AO; civil action/cost recovery.	PC, M
	Missed milestone by 90 days or less, negatively affects final date, no good cause for delay.	NOV; AO with fine; civil action/cost recovery; adjudicatory hearing; criminal investigation.	PC, M
	Missed milestone by more than 90 days whether or not affects final date, good cause for delay – SNC.	NOSN; AO; civil penalty/cost recovery; judicial action.	PC, M

Noncompliance	Circumstances	Range of Response	Personnel
	Missed milestone by more than 90 days, will result in other missed interim dates or missed final date (no good or valid cause) – SNC.	NOSN; AO; adjudicatory hearing; penalty; civil action; terminate sewer.	PC, M
	Recurring violation or violation of schedule in AO	NOV; AO; civil penalty/cost recovery; judicial action; request criminal investigation; terminate sewer.	PC, M
Missed final date.	Violation due to force majeure (strike, act of God, etc.).	Require documentation of good or valid cause; adjudicatory hearing.	PC, M
	90 days or more outstanding-Failure or refusal to comply-Without good or valid cause-SNC.	AO; adjudicatory hearing; penalty; civil action.	PC, M
Failure to install monitoring equipment.	Delay of less than 45 days.	NOV; AO	PC
	Delay of 45 days or more – SNC.	AO to begin monitoring (using outside contracts, if necessary) and install equipment within minimal time; civil action; penalty for each additional day; temporary sewer ban.	PC, M
	Recurring failure to install monitoring equipment or violation of AO.	AO and/or penalty; adjudicatory hearing; civil action; criminal investigation; terminate sewer	PC, M

c) Effluent limits

Exceeding final limits or permit limits (categorical, local, or prohibited)	Infrequent or isolated – Not significant; no damage to POTW and/or environment.	NOV	PC
	Infrequent or isolated major violations; no damage to POTW and/or environment	NOV;AO	PC, M
	Infrequent or isolated major violations; damage to POTW and/or environment-SNC	AO; civil action/cost recovery; adjudicatory hearing.	PC, M
	Violations that are recurring and/or SNC (meet chronic definition); no damage to POTW and/or environment.	If violation has already been corrected – NOV; AO; civil penalty/cost recovery; adjudicatory hearing; criminal investigation.	PC, M
	Recurring violations that are SNC; harm to POTW and/or environment.	AO with penalty; civil action/cost recovery; criminal investigation; terminate sewer.	PC. M
Exceeding interim limits (categorical or local)	Without know damages.	NOV and/or AO.	PC

Noncompliance	Circumstances	Range of Response	Personnel
	Results in known environmental or POTW damage – SNC.	AO; adjudicatory hearing; civil action/cost recovery.	PC, M
Reported slug load/accidental discharge.	Isolated without known damage.	AO to develop or modify slug plan; civil penalty/cost recovery.	PC, M
	Isolated with known interference, pass-through, or damage – SNC.	AO; adjudicatory hearing; civil action/cost recovery.	PC, M
	Recurring – SNC.	AO; civil action/cost recovery; adjudicatory hearing including penalty; terminate sewer.	PC, M
Discharge of untreated wastewater-spill, bypass, or improper operation of pretreatment facility.	Isolated; no harm to POTW and/or environment.	NOV	PC
	Isolated with harm to POTW and/or environment – SNC.	AO; civil action/cost recovery; adjudicatory hearing; criminal investigation.	PC, M
	Recurring; no harm to POTW and/or environment.	AO to correct problems; civil action/cost recovery; adjudicatory hearing; criminal investigation.	PC, M
	Recurring; harm to POTW and/or environment – SNC.	AO to correct problems; civil action / cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
Discharge without a permit or approval.	One time without known environmental or POTW damage; user unaware of requirement.	NOV; include application for permit.	PC
	Continuing violation without known environmental or POTW damage; user fails to apply for permit after notice – SNC	AO; adjudicatory hearing including penalty; civil action/cost recovery; criminal investigation; terminate sewer.	PC, M
	One time that results in environmental and/or POTW damage; user unaware of requirement – SNC.	AO to include application for discharge; adjudicatory hearing; civil action; cost recovery.	PC, M
	Continuing violation with known environmental or POTW damage – SNC.	Adjudicatory hearing, civil action/cost recovery; criminal investigation; terminate sewer.	PC, M
	First Offense – user aware of requirement.	AO to include application for discharge; adjudicatory hearing; civil action; cost recovery.	PC, M

Noncompliance	Circumstances	Range of Response	Personnel
	Failure to submit required documentation for permitting or renewal.	AO; civil penalty/cost recovery; criminal investigation; terminate sewer.	PC, M
Non-permitted discharge (failure to renew permit).	IU has not submitted questionnaire within 10 days of due date.	NOV – Response required within 10 days.	PC

(d) Noncompliance detected through inspections, site visits, review of records or field investigations.

Violation of analytical procedures.	Minor noncompliance with approved analytical procedure, any instance – no evidence of intent.	NOV and/or AO.	PC
	Major noncompliance with approved analytical procedure, no evidence of negligence or intent.	NOV; AO; civil action/cost recovery.	PC, M
	Major noncompliance with approved analytical procedure. Evidence of negligence or intent – SNC.	NOSN; AO; civil action/cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
Violation of permit condition.	No evidence of negligence or intent.	NOV – Immediate correction required.	PC
	Evidence of negligence or intent – SNC.	Adjudicatory hearing; criminal investigation; sewer ban.	PC, M
Improper sampling.	Unintentional sampling at incorrect location.	NOV	PC
	Unintentional use of incorrect sample collection techniques.	NOV	PC
	Unintentional use of incorrect sample type.	NOV	PC
Entry denial or consent withdrawn; copies of records denied; permission to photograph, videotape or electronically record image denied.	Entry denied or consent withdrawn; copies of records denied; electronic recordings denied	Obtain warrant and return to IU; NOV; AO; civil action/cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
Illegal discharge.	No harm to POTW and/or environment	NOV; AO; civil action/cost recovery; penalty; criminal investigation.	PC, M
	Discharge causes harm to POTW and/or environment and/or evidence of intent/negligence – SNC.	NOSN; AO; civil action/cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
	Recurring Violation.	NOV; AO; civil action/cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M

Noncompliance	Circumstances	Range of Response	Personnel
(e) Other permit violations			
Waste streams are diluted in lieu of treatment.	Initial violation.	NOV; AO; civil action and/or penalty.	PC, M
	Recurring violation.	AO, adjudicatory hearing; civil action/cost recovery; criminal investigation; terminate sewer.	PC, M
Failure to properly operate and maintain pretreatment facility.	Does not result in harm. No damage to POTW and/or environment.	NOV – Response required with 10 days; AO; civil action/ cost recovery.	PC, M
	Does result in harm. Damage to POTW and/or environment – SNC.	AO and/or penalty; civil action; adjudicatory hearing; terminate sewer.	PC, M
Inadequate record-keeping	Inspection finds files incomplete or missing (no evidence of intent).	NOV and repeat inspection; AO.	PC
	Recurring.	NOV; AO; civil action/ cost recovery; penalty.	PC, M
Violation of any permit condition.	Minor, no evidence of negligence or intent.	NOV	PC
	Minor, evidence of negligence or intent.	NOV; AO, civil action / cost recovery.	PC, M
	Major violation of any permit condition, no evidence of negligence or intent.	NOV; AO; civil action/ cost recovery.	PC, M
	Major violation of any permit condition, evidence of negligence or intent – SNC.	NOSN; AO; civil action/ cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
Failure to mitigate non-compliance or curtail production.	No damage to POTW and/or environment.	NOV; AO; civil action / cost recovery.	PC, M
	Damage to POTW and/or environment – SNC.	NOSN; AO; civil action / cost recovery; adjudicatory hearing; criminal investigation; terminate sewer.	PC, M
Failure to report additional files and/or monitoring.	Inspection finds additional files or data.	NOV; response required within 10 days.	PC
	Recurring.	AO; civil action/cost recovery; penalty.	PC, M

Anderson County

Enforcement Response Guide (ERG) Details

The enforcement response matrix suggests a range of appropriate enforcement responses to various types of noncompliance, and appropriate County personnel to implement those responses. The suggested responses are guidelines, and do not limit the County in its response to any given instance of noncompliance. Personnel listed are suggested. The Department Manager may delegate his/her role and authority in any enforcement action as deemed appropriate.

The legal basis for the ERG is in the Anderson County Code of Ordinances, Chapter 66 – Utilities, Article II Sewers, state pretreatment regulations and federal pretreatment regulations. The terms and types of enforcement actions used in the EFG are defined in the SUO.

The County may use initial enforcement actions such as a notice of violation when the violation is no significant noncompliance or when the user is cooperative in quickly resolving the problems. Users in significant noncompliance or users that fail to promptly correct any problems will incur more severe enforcement actions including up to termination of sewer service. Enforcement actions will escalate when a user fails to return to compliance following the initial enforcement actions or recurring noncompliance is noted. The criteria below will be used to determine the enforcement actions that are taken against a noncompliant user.

The enforcement actions chosen for a particular violation or group of violations will be appropriate and representative of the magnitude and nature of the violation. Enforcement actions for ongoing violations will be progressive and more severe as the violations continue. When violations are initially found, an enforcement action will be taken at that time. At the end of each calendar quarter, each user will be evaluated for SNC. If a user is found to be in SNC for the violation(s), then additional enforcement actions will be taken as delineated in this ERG. The enforcement actions taken will be adequate to promote a timely solution to the violations.

Ranges of Enforcement Response

The County will choose the response appropriate to the violation and in the context of the user's prior violations.

The County will consider the following criteria when determining a proper response:

1. Magnitude of the violation;
2. Duration of the violation;
3. Effect of the violation on the receiving water;
4. Effect of the violation on the POTW;
5. Compliance history of the industrial user;
6. Good faith of the industrial user in reporting, and responding to violation.

Magnitude of the Violation

It is typical to respond to an isolated violation with a notice of violation. It is possible for isolated violations to threaten the public health, environment, damage public and/or private property. Unless a violation is significant noncompliance (SNC) as defined in the County Sewer Use Ordinance, then the County will usually start with the minimum enforcement action. Once a violation triggers SNC, then the

County is mandated by the regulations to increase enforcement. This order may include a schedule to come into compliance by a specific date if the user is not already back into compliance. The magnitude of the violation or severity is determined by whether the violation meets the definition of SNC. The magnitude of the violation will influence the type of enforcement action taken by the County based on this evaluation.

Duration of the Violation

Duration of the violation is defined as the length that the violation continues. Prolonged periods of violation should subject the industrial user to escalating enforcement actions. Enforcement escalation does not depend on the severity of the violation. Violations which result in SNC being met will be treated more severe due to the guidelines set forth by the state and the Environmental Protection Agency (EPA). Extended periods of noncompliance are not tolerated and enforcement actions will be taken to prevent this from happening. Chronic noncompliance will be addressed with escalating enforcement actions up to and including termination of sewer service to stop the noncompliance. Prolonged violations that result in harm to the POTW will be addressed by enforcement actions which include recovery of the costs to repair any damage.

Effect of the Violation on the Receiving Water

Protection of the receiving waters where the POTW discharges is one of the primary goals of the Pretreatment Program. Prevention of "pass through" of pollutants to the water body is a major component of the development of acceptable limits for the industrial user. Each water body has established limits for pollutants to protect the organisms that live in the water. Pollutants that do not degrade or breakdown in the POTW will exit the wastewater treatment and potentially harm the aquatic life. Environmental harm is defined as whenever an industry discharges a pollutant in their effluent which:

1. Causes a "pass through"
2. Causes a violation of the POTW's NPDES permit (including water quality standards)
3. Has a toxic effect on the receiving waters. (example - fish kill, failing toxicity test)

The minimum enforcement action will include an administrative order to include a penalty. The penalty will also include any penalties or fines paid by the POTW and may include damages for the destruction of natural resources or the POTW. Termination of sewer service may be an option if noncompliance continues uncorrected.

Effect of the Violation on the POTW

Any industry which has a violation that impacts the POTW in any way will be assessed charges for correcting the impact. The negative impacts are not limited to the following; significant increases in treatment costs, interference with POTW treatment processes, harm to the general public or POTW personnel, equipment damage, negative operational changes, damage to the collection system piping through pipe corrosion or blockage, explosion in collection system, or POTW, and/or sludge contamination resulting in increased disposal cost. Any labor costs or repair costs will be passed onto the user that caused the problem to occur. Minimum enforcement actions will include an administrative order with associated penalties including cost recovery for the damage.

Compliance History of the User

The compliance history of a user will be evaluated when assessing the severity of the violation. A user who has a pattern of recurring violations (same or different parameters or regulatory requirements) can be an indication that the user does not take wastewater issues seriously or their system is inadequately designed for the specific wastewater conditions. A user that has recurring violations has an increased likelihood of causing future significant violations. A user who has recurring violations may be dealt with more severely to ensure that compliance is achieved. A recurring violation history will result in more advanced enforcement actions being assessed against a user.

Good Faith of the User in Reporting and Responding to Violation

A user who takes measures to correct the violation and take care of any issues as quickly as possible will have shown good faith efforts. This effort will be taken into account when deciding what enforcement actions will be taken. Good faith does not eliminate the need to take an enforcement action. Good Faith is not defined as compliance with previous enforcement actions. Recovery of costs from and upset will take place regardless of good faith actions that may have been taken. Good faith is demonstrated by cooperation and completion of corrective measures in a timely manner.

Timeframes for Responses

The County will respond to violations in accordance with the following. The County reserves the right to make exceptions to these timeframes:

- (a) All violations shall normally be identified and documented within ten (10) working days of receiving compliance information.
- (b) Initial enforcement responses involving contact with the industrial user and requesting information on corrective or preventative actions(s) will occur within thirty (30) working days of violation detection.
- (c) Follow up actions for continuing or reoccurring violations will be taken within sixty (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 responses such as halting the discharge or terminating service.
- (e) All violations meeting the criteria for significant noncompliance shall normally be addressed with an enforceable order within thirty (30) to sixty (60) working days of the identification of significant noncompliance.

Industrial User Response to Noncompliance

1. Any instance of noncompliance must be reported within 24 hours of becoming aware of the violation to Anderson County. The violation reporting form should be used to report the violation. The initial report should be followed by a written report when required, within five (5) working days. The report of noncompliance shall include:
 - (a) A description of the characteristics of the noncompliance.
 - (b) A statement of the cause of noncompliance; an account of the time and duration of noncompliance including dates and times; or if not corrected, the anticipated time the noncompliance is expected to continue, and activities being taken to reduce, eliminate, and prevent recurrence of the violation.

- (c) For noncompliance of permit limitations, repeat sampling for the parameter violation and submit the repeat results to Anderson County within thirty (30) days.
- (d) Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person, or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this plan, the SUO, or other applicable law.

Assignment of Responsibilities

The PC is designated by the M to implement the industrial pretreatment program and to enforce compliance with permits and regulations. It is the responsibility of the PC or person designated by the PC to coordinate the collection of evidence for use in enforcement actions, possible civil litigation, or criminal investigations. The PC may employ the services of any County employee or consultant in the collection of evidence. Due to the nature of the situation, it is conceivable that an illegal activity could be observed sampled, or documented by any City employee, either through purposeful investigation or in the normal course of duties performed.

In the case of spills, slugs, bypasses, or other discharges of a short or non-continuous nature, whichever County employee or consultant is in position to do so may be used to collect evidence of the violation. The PC may employ the services of outside laboratories or consultants in the collection of evidence. County personnel, outside laboratories or consultants may be called upon to collect wastewater samples for analysis, perform laboratory analyses, prepare visual evidence, compile and copy records, provide statements, or in any way assist the PC and the County's attorney(s) in preparing and executing enforcement actions.

Abbreviations

AO	Administration Order
PC	Pretreatment Coordinator/Inspector
IU	Industrial User
M	Manager, Wastewater Treatment
NOSN	Notice of Significant Noncompliance
NOV	Notice of Violation
POTW	Publicly Owned Treatment Works
SNC	Significant Noncompliance
SUO	Sewer Use Ordinance