

COLLIERVILLE ENFORCEMENT RESPONSE PLAN

I. INTRODUCTION

A. PURPOSE

The purpose of the enforcement response plan is to outline the procedures, which will be used by the Collierville Public Utilities Department to investigate and respond to instances of industrial user noncompliance.

The plan has been prepared in accordance with the Federal pretreatment regulations 40 CFR 403 and Tennessee regulations 69-3-101 through 148.

B. AVAILABLE PERSONNEL

The Collierville Public Utilities Department is responsible for implementing and enforcing the industrial pretreatment program. The Pretreatment Coordinator is responsible for the day-to-day operation of the pretreatment program and preparation of the required reports. The Public Utilities Director supervises the Pretreatment Coordinator and reports to the Director of Public Services and the Board of Mayor and Aldermen, which is ultimately responsible for the pretreatment program. As needed, the Town's Engineering Department provides technical assistance and the Town Attorney provides legal assistance.

II. SEWER USE ORDINANCE ENFORCEMENT PROVISIONS

The Enforcement and Abatement section of the Sewer Uses Ordinance (SUO) is presented in the Appendix.

III. ENFORCEMENT RESPONSE GUIDE

The Collierville Public Utilities Department will use the Enforcement Response Guide shown in Table 1 to select an appropriate enforcement procedure for

noncompliance with the sewer use ordinance. In selecting the enforcement action, the following factors will be considered:

1. Good faith of the user;
2. Compliance history of the user;
3. Previous success of enforcement actions against the user;
4. Effect of the violation on the receiving waters; and
5. Effect of the violation of the POTW.

The response times for enforcement actions will be:

1. All violations will be identified and documented within one week of receipt of compliance information.
2. Initial enforcement responses which involve contact with the user and requesting information on corrective or preventive actions will occur within 15 days of violation detection.
3. Follow-up actions for continuing or recurring violations will be taken within 30 days of initial enforcement response. For continuing violations, the response may include a compliance schedule.
4. Violations threatening health, property, or the environment are considered emergencies and immediate enforcement responses such as halting discharge or terminating service will be implemented.
5. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance.

For the purpose of this Guide, the following terms and abbreviations are used

AO	Administrative Order
IU	Industrial User
NOV	Notice of Violation
PC	Pretreatment Coordinator
SV	Significant Violation
Show Cause	Formal meeting requiring IU to appear before Town to explain why formal enforcement action should not be taken.
Director	Director, Division of Public Utilities
Attorney	Town Attorney for the Town of Collierville

PROPOSED

TABLE 1

ENFORCEMENT RESPONSE GUIDE

UNAUTHORIZED DISCHARGES (NO PERMIT)

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Unpermitted discharge	IU unaware of requirement; no significant harm to POTW/ environment	-Phone call -NOV with application form	PC PC
	IU unaware of requirement; harm to POTW	-AO w/\$100 Civil Penalty -Civil Action	Director Attorney
	Failure to apply continues after notice by the POTW	-AO w/\$1,000 Civil Penalty -Civil Action -Criminal Investigation -Terminate Service	Director Attorney Attorney Director
2. Nonpermitted discharge	IU has not submitted application within 10 days of due date	-Phone call -NOV -AO w/\$500 Civil Penalty	PC PC Director

DISCHARGE LIMIT VIOLATION

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Exceedance of local or Federal Standard (permit limit)	Isolated, no significant harm	-Phone call; NOV	PC
	Isolated, significant harm	-AO	Director
	Isolated, significant harm to POTW or environment	-Show cause order -Civil action	PC, Director, Administrator Attorney
	Recurring, no harm to POTW/environment	-AO w/\$500 Civil Penalty	Director
	Recurring; significant harm and/or significant non-compliance	-AO w/\$1,000 Civil Penalty -Show cause order -Civil action -Terminate service	Director Director Attorney Director

MONITORING AND REPORTING VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Reporting Violation	Report is improperly signed or certified	-Phone call or NOV	PC
	Report is improperly signed or certified after notice by POTW	- AO w/\$100 Civil Penalty -Show cause order	PC, Director PC, Director
	Isolated, not significant (e.g., 5 days late)	-Phone call; NOV	PC
	Significant (e.g., report 30 days or more late)	- AO w/\$200 Civil Penalty	PC, Director
	Reports are always late or no reports at all	- AO w/\$500 Civil Penalty -Show cause order -Civil action	PC, Director Attorney PC

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
	Failure to report spill or changed discharge (no significant harm)	-NOV	PC, Director
	Failure to report spill or changed discharge (significant)	- AO w/\$1,000 Civil Penalty -Civil action	PC, Director Director
	Repeated failure to report spills	-Show cause order -Terminate service	Attorney Director
	Falsification	-Criminal investigation -Terminate service	Attorney Director
2. Failure to monitor correctly	Failure to monitor all pollutants as required by permit	-NOV -AO w/\$100 Civil Penalty	PC Director
	Recurring failure to monitor	-AO w/\$500 Civil Penalty -Civil Action	PC, Director Attorney
3. Improper sampling	Evidence of Intent	-Civil Action -Terminate Service	Attorney Director
4. Failure to install monitoring equipment	Delay of less than 30 days	-NOV	PC
	Delay of 30 days or more	-AO to install w/\$500 Civil Penalty	Director
	Recurring, violation of AO	-Civil action -Criminal investigation -Terminate service	Attorney Attorney Director

OTHER PERMIT VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Wastestreams are diluted in lieu of treatment	Initial violation	-NOV	PC
	Recurring	-Show cause order -Terminate service	Director Director
2. Failure to mitigate noncompliance or halt reduction	Does not result in significant harm	-NOV <u>- Civil Action</u>	PC Attorney
	Does result in significant harm	-AO w/\$1,000 Civil Penalty -Civil action	PC, Director Attorney
3. Failure to properly operate and maintain pretreatment facility	Does not result in significant harm	-NOV <u>- Civil Action</u>	PC Attorney
	Does result in significant harm	-AO w/\$1,000 Civil Penalty -Show cause order -Civil Action	Director Attorney Attorney

VIOLATIONS DETECTED DURING SITE VISITS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Entry Denial	Entry denied or consent withdrawn Copies of record denied	-Obtain warrant and return to IU -Civil action	PC, Director Attorney
2. Illegal Discharge	No significant harm to POTW or environment Discharges significant, causes harm or evidence of intent/negligence Recurring, violation of AO	-AO w/\$500 Civil Penalty -AO w/\$1,000 Civil Penalty -Criminal investigation -Terminate service	Director Director Attorney Director
3. Improper Sampling	Unintentional sampling at incorrect location Unintentionally using incorrect sample type Unintentionally using incorrect sample collection techniques	- <u>Phone Call or</u> NOV - <u>Phone Call or</u> NOV - <u>Phone Call or</u> NOV	PC PC PC
4. Inadequate Record keeping	Inspector finds files incomplete to missing (no evidence of intent) Recurring	-NOV -AO w/\$500 Civil Penalty	PC Director
5. Failure to report	Inspection finds additional files Recurring	-NOV -AO w/\$500 Civil Penalty	PC Director

IV. ENFORCEMENT RESPONSES

The Collierville Public Utilities Department will conduct the following activities and use the following enforcement actions to administer and enforce the industrial pretreatment program.

A. INDUSTRIAL USER INVENTORY

The Collierville Public Utilities Department shall inventory the industrial users. The inventory will include a review of water service records and building permits in the POTW service area. Industrial user surveys will be updated at least every five years.

B. COMPLIANCE MONITORING

The Collierville Public Utilities Department shall monitor all permitted industrial users at least twice per year. Compliance monitoring activities shall be conducted in accordance with the Sewer Use Ordinance and the procedures outlined in the Phase II Municipal Pretreatment Program report, dated January 1985, approved by the Tennessee Division of Water [Pollution Control Resources](#). The monitoring program shall consist of at least two monitoring visits per year at each permitted industry. The Pretreatment Coordinator shall be responsible for conducting compliance monitoring. Written reports of the compliance monitoring activities shall be kept on file.

Demand monitoring and self-monitoring shall be performed as required. Demand monitoring will be conducted in the event interference or upset of the treatment operations occurs. Self-monitoring by industries may be required upon review of compliance monitoring data obtained by the Public Utilities Department.

C. DATA SCREENING PROCEDURES

Collierville Public Utilities Department Pretreatment Coordinator shall compile and review monitoring data. Collierville Public Utilities Department will review and respond to new permit applications, requests for permit revisions, and self-monitoring data submitted by industrial users within one week of receipt. Discrepancies or violations shall be reported to the Public Utilities Director who will initiate the appropriate enforcement action.

D. NOTICE OF VIOLATION

The Collierville Pretreatment Coordinator will have the authority to issue notices of violation (NOV) for infrequent or minor noncompliance actions. The NOV will be the first written level of enforcement action taken by the Public Utilities Department. The purpose of an NOV is to inform an industrial user of a violation and require the user to return to compliance. The NOV will be issued on Town of Collierville letterhead and will be sent to the user within fifteen days of detection of the violation. The NOV will be either personally delivered or sent by certified mail. The violations to be addressed with NOV's are listed in Table 1.

E. ADMINISTRATIVE ORDERS

The Collierville Public Utilities Department will issue administrative orders (AO's) to industrial users with significant violations of the pretreatment program. The four possible types of AO's which Collierville may use are: 1) cease and desist orders, 2) consent orders, 3) show cause orders; and, 4) compliance orders. The Public Utilities Director will have the authority to issue administrative orders. The violations to be addressed with AO's are shown in Table 1.

Cease and desist orders generally will be used in cases where a discharge could result in interference or pass through at the POTW or cause an emergency situation. This type of order will direct the violator to cease the noncompliance action or terminate its discharge.

A consent order will be an agreement between the Public Utilities Department and the industrial user. The consent order will include a compliance schedule with civil penalties and remedial actions and will be signed by the Public Utilities Director and a representative of the industry. The terms of the consent order will be negotiated by the Public Utilities Department and industrial user. A consent order will be used when the industrial user acknowledges its noncompliance and will make a good faith effort to correct the problem(s). The order will identify the problems and specify actions with a schedule for compliance.

The Public Utilities Director will issue a show cause order to direct the industrial user to present evidence or reasons why further enforcement actions should not be taken. The hearing will be conducted by the Public Utilities Director with assistance from the Pretreatment Coordinator or Town Attorney, as needed. Typically, the Public Utilities Department will present its evidence of noncompliance and the industrial user will explain the circumstances of its actions and discuss measures taken or being taken to correct the problems. Any further action required as a result of the hearing will be administered through a consent order. If the two parties cannot reach an agreement on the terms of the consent order, the Public Utilities Director may issue a compliance order, impose a civil penalty, or refer the case to the Town Attorney.

The Public Utilities Director will have the authority to issue compliance orders. A compliance order will document the violation and state actions, with a schedule, required to achieve compliance. The Public Utilities Director is not obligated to discuss the requirements and conditions of the compliance order with the industrial user. A compliance order generally will be used when an industrial user is not making good faith efforts to achieve compliance and other methods of enforcement have failed.

F. ADMINISTRATIVE CIVIL PENALTIES

The Public Utilities Department will have the authority to impose administrative civil penalties for violations of the pretreatment program. The purpose of an administrative civil penalty is to deter future violations. The amount ~~of an administrative civil penalties~~of an administrative civil penalty will range from a minimum of \$100 to a maximum of \$1,000 for each violation. The minimum administrative civil penalty for each violation is listed in Table 1. The Public Utilities Department will have the authority to impose higher civil penalties up to a maximum of \$1,000 when deemed appropriate. In setting a higher penalty, the Public Utilities Director will consider the following: 1) type and severity of violation, 2) number of violations cited, 3) duration of noncompliance, 4) effect of violation on the POTW and/or the environment, 5) threat to human health, 6) economic benefit or savings derived by industry from the violation, 7) compliance history of the user, 8) good faith efforts exhibited by user; and, 9) any other policy considerations. Administrative penalties are designed to penalize the violator and are assessed in addition to reimbursement costs for equipment repair or replacement, additional monitoring required, and/or penalties assessed to the POTW due to the subject violation.

G. CIVIL ACTION

Civil action, the formal process of filing a lawsuit, will be undertaken when significant violations occur and/or other methods of enforcement have failed. Civil action will be used to correct significant violations and secure penalties for violations including recovery of costs incurred by the Public Utilities Department. Civil action will be appropriate when an industrial user is unwilling to cooperate with other enforcement measures. Civil penalties up to \$10,000 per violation per day can be imposed through civil action. If an industrial user refuses to comply with a cease and desist order, an injunction may be obtained through civil action. The Town Attorney will be responsible for initiating and conducting the civil action process.

H. CRIMINAL PROSECUTION

Serious noncompliance actions, which violate the laws regulating the pretreatment program and have criminal ~~intent~~intent, are subject to criminal investigation and prosecution. The Public Utilities Department, through the Town Attorney, will pursue criminal prosecution only after all other means of enforcement have failed or there is evidence of criminal action and intent.

I. TERMINATION OF SERVICE

The Public Utilities Director has the authority to terminate service to an industrial user. The Public Utilities Director will exercise this authority when all other reasonable enforcement measures have failed or under emergency conditions. Typical emergency conditions are those under which the public health, the POTW personnel, the POTW operations, or the environment are seriously endangered. The Public Utilities Department will implement termination of service by issuing a cease and desist order,

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plugging the industrial user's service line or revoking the user's permit. Prior to terminating a user's service, the Public Utilities Department will notify the user by delivering the notice personally or by certified mail.

APPENDIX

**SEWER USE ORDINANCE
PRETREATMENT ENFORCEMENT SECTION
APPEALS
PENALTY**

If you have comments or questions concerning this document, send them to:
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