



**Industrial Pretreatment Program
ENFORCEMENT RESPONSE PLAN**

I. GENERAL

An Enforcement Response Plan (ERP) has been developed which specifies the minimum enforcement response which will be taken by BSB Public Works following noncompliance with an ordinance or permit requirement by an industrial user (IU). The ERP has also been developed to ensure that enforcement actions are conducted in an equitable and consistent manner for all nondomestic dischargers to the BSB municipal collection system. This ERP includes the time frame within which the response must be taken and the BSB Staff responsible for carrying out the response.

The enforcement responses were selected from those which merely convey information (phone call, or letter of noncompliance) to the administrative and judicial enforcement remedies detailed in Chapter 13 of the Municipal Code. The minimum responses are intended for use when the IU's history of compliance indicates that a return to compliance is to be expected. In cases when compliance history suggests that chronic noncompliance is to be expected, an escalated enforcement response will be selected. In cases where the IU does not return to compliance within 90 days of the violation or initiate an approved compliance plan within 90 days of approval, an escalated response will be issued.

II. INVESTIGATING NONCOMPLIANCE (AND DATA STORAGE)

BSB uses several methods to investigate noncompliance. Upon notification of a noncompliance (either by industry self reporting or BSB investigation), BSB will proceed to enforcement response to bring the business back into compliance. The following methods are used as tools for investigation and for data management. The Pretreatment Coordinator roles and responsibilities are largely shared by the WWTP Superintendent and the Operations Manager – Metro as further defined below.

a. Industrial Wastewater Classification Survey

BSB requires nondomestic users to submit a completed wastewater classification survey periodically or whenever there is a significant change to the operation, waste stream or treatment. All survey results will be kept by the Operations Manager-Metro. The Operations Manager – Metro with assistance from the Civil

Engineering Technician is responsible for compiling and review of the survey results. The Operations Manager – Metro is responsible for inspections, and further correspondence with potential classification of Industrial Users.

b. Phone Contact Logs

The phone contact log in Attachment B will be used to document the content, date, time, and persons contacted. Each log will be kept in a filing system with the WWTP Superintendent.

c. Self-Monitoring Reports

The Self-Monitoring reports with the original signature will be reviewed and kept on file with the WWTP Superintendent. In accordance with 40 CFR 403.8(f)(5)(i), BSB will investigate instances of noncompliance upon receipt of reports or quarterly, whichever occurs first. The Superintendent is responsible to verify that the calculations are accurate, the sampling method is appropriate, and the data is transcribed correctly.

d. Compliance Monitoring

The Compliance Monitoring reports with the original signature will be reviewed and kept on file with the WWTP Superintendent.

e. Routine and Random Sampling/Inspections by BSB of the IUs.

BSB Annual Inspection, Results, and Communication letter from BSB to the IU after inspection will be kept on file with the WWTP Superintendent. Typically the WWTP Superintendent is responsible for sampling and reviewing quarterly compliance reports. The Operations Manager – Metro is responsible for annual inspections, and correspondence letters.

III. PROCEDURES

a. In accordance with 40 CFR 403.8(f)(5)(ii), the type of enforcement action that BSB will take in response to specific types of industrial user noncompliance is provided in Attachment A. The ERP specifies the minimum response for Industrial User violations of the local ordinance or a discharge permit. Escalation of enforcement actions is required in those cases where the initial action fails to bring/return the Industrial User into compliance. Enforcement responses are selected from a range of informal and formal actions that may be taken under the authority of the local sewer use ordinance. The following table lists the informal and formal actions in increasing order of severity and states response times.

ENFORCEMENT ACTION	MAXIMUM RESPONSE TIME
Informal	
1. Telephone Call	30 days
2. Letter of Noncompliance	60 days
Formal	
1. Notice of Violation	30 days
2. Compliance or Consent Order	60 days
3. Administrative Fines	30 days
4. Cease and Desist Order	30 days
5. Injunctive Relief	30 days
6. Civil Penalties	30 days
7. Criminal Prosecution	30 days
8. Show Cause Hearing	30 days
9. Emergency Suspension	1 day
10. Termination of Discharge Permit	30 days

b. In accordance with 40 CFR 403.8(f)(5)(iii), the following officials (by title) are responsible for each type of response:

1. The WWTP Superintendent is responsible for telephone calls and letters of noncompliance.

2. The Operations Manager – Metro is responsible for generating Notices of Violation (NOVs). The Operations Manager may also communicate all informal actions in place of the WWTP Superintendent.

3. The Director is responsible for issuing all Orders, fines, cost recovery actions, permit revocations, and terminations of discharge. The Director is responsible for requesting the initiation of all judicial actions including injunctive relief, civil penalties, and criminal prosecutions.

c. In accordance with 40 CFR 403.8(f)(5)(iv), enforcement actions against noncompliance with all applicable pretreatment requirements and standards are detailed in the Enforcement Response Plan. It will be the policy of BSB to escalate enforcement response actions by at least one level over the initial action and to continue escalating action levels until compliance is achieved.

All response times shall be observed except in cases where an approved Compliance Plan/Schedule or Consent Order contains a date of Final Compliance

which falls after the maximum stated time period. In all cases involving a Compliance Schedule or Compliance Order, if compliance is not achieved, escalation will occur within the specified time period starting immediately after the passing of the date of Final Compliance. BSB retains the right to escalate to any higher level of response at any point in the process in order to achieve compliance.

- d. The Operations Manager-Metro shall publish annually, in the Montana Standard a list of the IUs which at any time during the previous twelve months were in Significant Noncompliance. Significant Noncompliance is defined in the Municipal Code. The is a requirement of the Code of Federal Regulations 403.8(2)(viii).

Attachment A

Enforcement Response Plan (ERP)

Responsible Position	Minimum Response	Response Days	Type of Noncompliance
			A. Sampling and Monitoring
Dir.	CO	30	1. Failure to install monitoring equipment
Sup.	Phone	14	2. Failure to properly maintain monitoring equipment
Sup.	LNC	30	3. Monitoring equipment not available for use
Dir.	CO	14	4. Failure to allow access to facility
			5. Failure to correctly sample
Sup.	LNC	30	i. Improper sample collection, container, preservation, or sample type
Sup.	LNC	30	ii. Holding time exceeded
Sup.	LNC	30	iii. Incorrect analytical method used
Dir.	AF	30	6. Tampering with monitoring equipment
			B. Reporting
			1. Baseline Monitoring Report
Sup.	Phone	14	i. Incomplete
Sup.	Phone	14	ii. Report not submitted by deadline
Sup.	LNC	30	iii. Report not submitted 30 days past deadline
O.M.	NOV	30	iv. Report not submitted 45 days after due-date. This meets the definition of significant non-compliance.
			2. Compliance Schedule Submittal or Compliance Schedule Report (as required for a Baseline Report, NOV, or Other)
Sup.	Phone	14	i. Incomplete
Sup.	Phone	14	ii. Schedule/Report not submitted by deadline
Sup.	LNC	30	iii. Schedule/Report not submitted 30 days past deadline
O.M.	NOV	30	iv. Report not submitted 45 days past deadline. This meets the definition of significant non-compliance.
			3. Industrial Self-Monitoring Report
Sup.	LNC	30	i. Incomplete data (pollutant, location, or frequency)
Sup.	LNC	30	ii. Report not submitted by deadline
Sup.	NOV	30	iii. Report not submitted 45 days past deadline. This meets the definition of significant non-compliance.

Responsible Position	Minimum Response	Response Days	Type of Noncompliance
			4. Noncompliance
Sup.	LNC	30	i. Notice of noncompliance not given within 24 hours
Sup.	LNC	30	ii. Resample report not submitted by deadline (within 30 days of becoming aware of initial noncompliance)
Sup.	NOV	30	iii. Resample report not submitted within 60 days of becoming aware of initial noncompliance
O.M.	NOV	30	iv. Failure to accurately report noncompliance. This meets the definition of significant noncompliance.
Dir.	AF	30	5. Providing False Information
			C. Compliance Schedule Milestones
			1. Permit specified schedule
O.M.	NOV	30	i. Interim requirement incomplete 90 days past interim date (milestone)
O.M.	NOV	30	ii. Final requirement incomplete 90 days past final deadline. This meets the definition of significant non-compliance.
			D. Effluent Limits
Sup	LNC	30	1. Exceedance of general prohibitions, local limits or CIU limits (no imminent endangerment), no compliance plan in place
Sup	Phone	14	2. Exceedance of general prohibitions, local limits or CIU limits (no imminent endangerment), IU is meeting compliance plan.
O.M.	NOV	30	3. Exceedance of local limits or CIU limits meeting the criteria of significant noncompliance.
Sup	Phone	14	4. Noncompliance with best management practices
Dir.	CO/AF	1	5. Any violation of a pretreatment standard or requirement that the BSB Public Works determined has caused, alone or in combination with other discharges, interference or pass through
Dir.	ES/CO/AF	30	6. Any discharge of a pollutant that has caused endangerment to human health(including endangering the health of WWTP personnel or the general public), welfare or to the environment or has caused the Public Works to exercise its emergency authority to halt or prevent such a discharge.

Responsible Position	Minimum Response	Response Days	Type of Noncompliance
			E. Multiple Violations
O.M.	NOV	30	1. Any other violation or group of violations (which may include a violation of best management practice) which BSB Public Works determines will adversely affect the operation or implementation of the local pretreatment program. This meets the definition of significant non-compliance.
			F. Other Noncompliance
O.M.	NOV	30	1. Discharge with an expired discharge permit
O.M.	NOV	30	2. Discharge without a permit
O.M.	NOV	30	3. Dilution in lieu of treatment
O.M.	NOV	30	4. Discharge without approval
Sup.	LNC	30	5. Failure to provide advance notice of transfer of business ownership of permitted facility
			6. Failure to give notice of change production
Sup.	Phone	14	i. Notice Incomplete
Sup.	LNC	30	ii. Notice not provided
Sup.	LNC	30	iii. Permit Application not updated by deadline

Abbreviations:

Sup.	WWTP Superintendent
O.M.	Operations Manager – Metro
Dir.	Public Works Director
Phone	Log Telephone Call per ERP
LNC	Letter of Noncompliance
NOV	Notice of Violation
CO	Compliance or Consent Order
AF	Administrative Fines
ES	Emergency Suspension