

# Enforcement Response Plan



City of Elkhart  
*Public Works and Utilities*

*July 2011*

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## **I. INTRODUCTION**

This document will detail the enforcement response procedures used in controlling discharges to the Elkhart Public Works and Utilities Publicly Owned Treatment Works (POTW). The Wastewater Utility (Utility) institutes enforcement actions, through its Pretreatment Division, for discharge violations under the City of Elkhart's Ordinance No. 5285 and has primary responsibility to enforce all applicable pretreatment standards and requirements under this ordinance.

If an Industrial User's Noncompliance persists after notification by the Industrial Pretreatment Division of the Wastewater Utility, the Indiana Department of Environmental Management (IDEM) may proceed to enforce directly against the industrial user or the Utility.

Action taken by Elkhart Public Works and Utilities may be preferable to actions taken by IDEM. The US EPA retains the authority to take its own enforcement action where the state or local Control Authority is not willing to take timely or appropriate enforcement action.

The guide is tailored, as recommended by US EPA, to include a range of enforcement responses available to the Control Authority. It addresses a broad range of pretreatment violations but is not intended to cover every type of violation. It was developed for guidance and is not intended to limit the enforcement discretion of any of the administering agencies.

If industrial user personnel appear to be attempting, in good faith, to comply with pretreatment requirements, the Control Authority Enforcement Actions should be on a more cooperative level than if the industrial user personnel do not appear to be attempting to comply in good faith.

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## II. INDUSTRIAL USER INVENTORY

The General Pretreatment Regulations, 40 CFR, Part 403.8 (f) (6), require all POTW's to identify potential industrial users subject to the requirements of the pretreatment program and to identify the volume and characteristics of pollutants discharged by these industrial users.

In order to implement an effective Enforcement Response Plan, all industries subject to pretreatment regulations must be identified and regulated. Therefore, the Pretreatment Division has developed a systematic approach to identifying new users. This process, rather than being conducted on a biannual basis, is ongoing in order to remain current with the industrial community.

There is no single reliable source for the identification of new industrial facilities. Therefore, discovery of new industries occurs as a result of a variety of regular and ongoing activities. The following is a list of resources used by the Utility to identify new facilities and discover new uses for old facilities.

- 1) Commercial / Industrial User Wastewater Questionnaires
- 2) Top 25 Water Users List
- 3) Chamber of Commerce
- 4) Newspaper Articles
- 5) Citizens' Reports
- 6) Referrals from other agencies (Health Department, Other City Departments)
- 7) Windshield Surveys
- 8) Contact from Potential Industrial Users
- 9) Site Visits
- 10) Reports from other Industrial Users

All industries subject to either a federal categorical pretreatment standard or determined to be significant with respect to Elkhart's Local Limits are issued an Industrial Wastewater Discharge Permit. They are then added to the list of regulated facilities. This list is submitted to the IDEM on a quarterly basis as a part of the Quarterly Noncompliance Report. (QNCR) All facilities permitted under the Elkhart program are considered Significant Industrial Users and are subject to all program requirements.

Additionally, an accurate characterization of the type, volume and characteristics of discharge must be maintained for all permitted users. This is accomplished through the use of the following tools:

- ◆ Scheduled (1) and Unscheduled (1) Annual Inspections at each industry;
- ◆ Permit requirements to report change of ownership, new construction, change in production, change of process;
- ◆ Review of self-monitoring and surveillance sampling data;
- ◆ Information submitted on permit applications;
- ◆ Observations from field personnel; and
- ◆ Water utility flow data.

### **III. COMPLIANCE MONITORING DATA**

Compliance monitoring activities conducted by the Utility's Laboratory and Pretreatment Division are necessary to document and identify violations that can be presented as legally defensible evidence in administrative actions and legal proceedings. Industrial User compliance with applicable regulations is evaluated and determined through:

- 1) Inspections conducted by the Laboratory and Pretreatment Division;
- 2) Self-monitoring data from industrial users;
- 3) Surveillance sampling and analysis conducted by the Industrial Waste Specialist, Pretreatment Coordinator and other designated Utility personnel; and
- 4) Evaluation of the industrial permit applications by Utility personnel.

Self-monitoring data is required of all permitted industrial users. The forms used are provided by the Utility and must be used for reporting purposes. If a facility prefers to use its own form, it must be submitted for approval to the Director prior to use. No alternative form may be used without prior written approval. Each report shall be signed by the authorized industrial representative. The data included are used as evidence if violations are identified.

Inspections are conducted (one scheduled and one unscheduled per year) by the Pretreatment Division staff to identify any potential problems or violations and to verify compliance. Standard inspection forms are used to ensure all areas have been evaluated and are signed and dated by the inspector. All non-compliance issues are noted on the forms and these items are discussed with the industry. Appropriate actions for the specific non-compliance will occur as described in the compliance matrix that is found later in this document.

Sampling conducted by the Utility staff and the related chemical analyses are the foundation of the program's compliance monitoring. It is critical that stringent chain of custody procedures are followed along with strict adherence to standard operating procedures for sampling and analysis.

Personnel responsible for the collection of industrial samples are trained to collect those samples and properly complete chain of custody forms in the field for each sample collected. Laboratory personnel log in each sample and maintain the chain of custody in the laboratory.

The information submitted on the Industrial Wastewater Discharge Permit Applications is evaluated for regulatory compliance. The Environmental Compliance Supervisor must also determine if all the necessary information is documented for the completion of the application. Failure to disclose vital information shall be treated as a violation of the permitting program. The application form includes a certification statement that attests to the accuracy and completeness of the information submitted in the application. It must be signed by an authorized representative of the industrial user.

#### **IV. DATA SCREENING**

The majority of data screened and evaluated are generated through industrial self-monitoring and pretreatment staff sampling. The Pretreatment Coordinator and the Environmental Compliance Supervisor review all data generated by these activities.

Data are reviewed and evaluated as received so proper enforcement responses may be initiated if necessary. The time frames and specific responses are detailed in the Enforcement Response Section of this document. Included are those industries that fail to submit reports in a timely manner.

Reports submitted as a part of the compliance schedule activities are manually screened and tracked. Each facility operating under a compliance schedule is tracked in a separate file. Action is taken if required reports are not received in a timely manner or if milestones are missed. All data are entered into a database contained in our Linko Pretreatment Software. The following is a list of information that can be quickly retrieved from this database:

1. Self-monitoring report data
2. Inspection dates (completed and due)
3. All industry contact information
4. Telephone records
5. Permit renewals
6. Violations

Test results of the Utility-conducted monitoring as well as industry self-monitoring data are computerized. Additionally, the paper files are maintained in the industry's non-computerized files as a cross reference.

#### **V. IDENTIFICATION OF VIOLATIONS**

Identification of pretreatment violations, regardless of the severity, will initiate the enforcement process. This includes those industries that fail to submit reports in a timely manner. Discovery of a violation may occur as a result of any number of activities. The list below represents the most common sources used to identify violations:

- 1) Review of the Utility's industrial sampling results;
- 2) Review of Industrial User's self-monitoring reports;
- 3) Spill / Accidental discharge reports from Industrial Users;
- 4) 24-Hour Notification of Violation by an industry to the Utility;
- 5) Site Visits / Inspections by Utility personnel;
- 6) Observations by field personnel;
- 7) Information provided by private citizens and public employees;
- 8) Review of Compliance Schedule requirements;
- 9) Review of Consent Order requirements; or
- 10) Information provided by other agencies (EPA, IDEM, Elkhart County Health Department).

Once a violation is identified, it is the Environmental Compliance Supervisor's responsibility to implement the appropriate enforcement response action as required in this plan. When determining the appropriate response, particularly one which includes the imposition of penalties and fines, the specific procedures outlined in the Enforcement Response section must be followed. Additional criteria may be used to determine the response including:

- 1) Magnitude of the violation;
- 2) Duration of the violation;
- 3) Effect of the violation on the POTW's receiving stream;
- 4) Effect of the violation on the POTW and their compliance;
- 5) Compliance history of the industrial user;
- 6) Good faith of the industrial user; and
- 7) Pollutants of particular importance to the POTW.

## **VI. ENFORCEMENT RESPONSE**

All violations identified by the utility are reviewed, evaluated and addressed by the appropriate enforcement response. The responses fall within the guidelines of the Enforcement Response Plan Guide.

The majority of enforcement actions begin with a phone call to the User which is followed by the issuance of a Notice of Violation with Compliance Order (NOV). The NOV describes the nature of the violation, orders the industrial user to comply with the terms of its permit and informs the industrial user that any additional violations may result in escalated enforcement actions.

Once the industrial user is notified of a violation or has the knowledge of a condition which is a violation, the industrial user may be allowed up to fifteen calendar days to respond to the NOV. This period will apply only to the initial violation. A violation that occurs after this period shall be evaluated according to the plan procedures. A repeat occurrence does not necessarily indicate the same condition, parameter, or procedural requirement was found in violation. It simply means that another violation occurred within a specific period of time. An industry receiving the results of self-monitoring or Utility sampling which are in violation has up to thirty (30) calendar days to correct whatever condition exists or existed which contributed to the violation. Therefore, each violation is evaluated separately for enforcement action. In addition, if a violation occurs during the thirty (30) day correction period, the industry must demonstrate good faith was exercised to prevent or mitigate further violations during that period.

## **VII. STAFF RESPONSIBILITIES**

Described below are the responsibilities of the staff that are involved in sample collection and data screening, direction of enforcement actions, review of actions taken, and the overall management of the enforcement response procedures. An attempt has been made to identify all positions involved in the enforcement process.

Laboratory and Pretreatment Division Staff	Primary Responsibilities
Industrial Waste Specialist	Coordinates special enforcement sampling events with Environmental Compliance Supervisor
	Responds to spills, accidental discharge and complaints
	Coordinates the activities of field personnel
	Reviews, audits and inputs self-monitoring data
	Reviews utility-generated industrial data
	Generates information for Environmental Compliance Supervisor
Pretreatment Coordinator	Tracks reporting compliance
	Tracks permit renewal submissions
	Conducts inspections
	Reviews new and updated permits
	Corresponds with all industries regarding compliance and reporting issues
	Responds to spills, accidental discharges and complaints
Environmental Compliance Supervisor/Utility Services Manager (Director)	Issue Cease and Desist Orders
	Reviews applications, develops discharge permits for issuance by Board of Public Works
	Signatory for notices of violation notices
	General oversight of the Pretreatment Program
Board of Public Works and Utilities (Control Authority)	Approve and issue discharge permits
	Issue fines for violations as outlined in this plan
	Issue Consent Orders
	Conduct Show Cause Hearings
	Delist Permits

## **VIII. TRACKING SYSTEM**

Industrial users are required to submit various reports and information as a result of a number of compliance activities. It is important that the utility has reliable procedures in place to track submission deadlines to help ensure industrial users provide the required information by the required dates. The staff logs in reports or required information as it is received.

The following items may be required from Industrial Users by a specific date:

- ◆ Industrial Permit Applications;
- ◆ Self-Monitoring Reports;
- ◆ Best Management Practice Compliance Reports;
- ◆ Compliance Schedule Progress Reports;
- ◆ Follow-up information subsequent to industrial inspections;
- ◆ Written reports following spills, accidental or slug discharges;
- ◆ Written response to notices of violation; and
- ◆ Toxic Organic Management Plan or Spill and Slug Control Plan.

A number of forms, reports, and correspondence required by a specific due date are tracked by the Utility. These documents are submitted periodically and are tracked using a variety of methods. Much of the information is tracked using our Pretreatment software (Linko). Other tracking methods use a variety of forms, all of which are included in the Attachment Section of this document.

Applications for discharge permit renewal are sent to the facilities at least 30 calendar days prior to the deadline for submission. The Environmental Compliance Supervisor tracks all deadlines associated with notices of violation, permit draft reviews, compliance schedules and spill/slug reporting.

## **IX. SCHEDULING INDUSTRIAL INSPECTIONS**

Each facility permitted under the City of Elkhart's Pretreatment Program must be inspected at least twice annually. Facilities, however, may receive numerous inspections and visits during a given year in order to track compliance schedule activities, verify changes in discharges or processes, maintain a regulatory presence, or scrutinize facilities with discharges that may impact the POTW.

The Program defines a minimum of two yearly inspections, one being scheduled and the other unscheduled. Inspections are scheduled by the Pretreatment Coordinator based upon the date when the previous inspection was conducted. The compliance status of the industry and facilities operating under a compliance schedule are given priority for visits.

Other inspections or site visits are conducted as needed. Inspections may be scheduled at the request of an industrial user to verify compliance with certain requirements or to identify potential problems. Additional inspections may also be conducted as the result of a spill, accidental discharge, surveillance sampling or other special situations.

## **X. INDUSTRIAL PRETREATMENT ENFORCEMENT PROCEDURES**

Those industries found to be out of compliance with the federal, state, or local requirements are subject to the conditions of the Elkhart Public Works and Utilities' Enforcement Response Guide.

Pursuant to the Wastewater Utility Use Ordinance, No. 5285 this guidance will use the following definitions to assign responsibilities for enforcement.

- ◆ Director means the person responsible for supervising the operation of the POTW, or that person's duly authorized representative.
- ◆ Control Authority means the Board of Public Works of the City of Elkhart.
- ◆ Approval Authority means the Region 5 Administrator of the United States Environmental Protection Agency or delegated designee thereof.

Informal enforcement actions, oral telephone notices, notices of violation with compliance orders, site visits, cease and desist orders and compliance schedules are issued by the Director. Administrative fines, consent orders, and orders to show cause are issued by the Control Authority based on the recommendation of the Director.

Violations and discrepancies identified during the review process are evaluated by the Director as to the necessary type of enforcement response. In order to ensure impartial treatment of violators and provide a uniform basis for selection of appropriate responses to violations, the established Enforcement Response Procedures should be followed unless mitigating circumstances can be shown.

The Enforcement Response Guide indicates the type of non-compliance, the circumstances which may dictate the type of response, and the range of responses for that particular category of non-compliance. The Enforcement Response Guide was developed with the intention of serving the following three main purposes:

- 1) It recommends enforcement responses that are appropriate in relation to the severity and nature of the violation and the overall degree of non-compliance;
- 2) It facilitates a uniform application of enforcement responses to comparable levels in types of violations, and it can be used as a tool to review the appropriateness of the response; and
- 3) It provides notice to the industrial community regarding the importance of the pretreatment program along with meeting standards and limits as well as the proper operation of equipment.

The Enforcement Response Guide groups various types of violations into the following four categories:

- 1) Violations of monitoring, sampling, and reporting;
- 2) Violations of compliance schedule;

- 3) Violations of discharge limits; and
- 4) Violations detected through inspection or field monitoring.

## **XI. TYPES OF ENFORCEMENT RESPONSES**

### **TN -Telephone Notice**

This action is meant to describe a response to a very minor type of violation directed to the industry contact person, normally with no formal follow-up expected. This type of response is to be utilized when there is a very minor infraction, including but not limited to a report received one or two days late.

### **SV – Site Visit**

This is a visit to the industrial site to discuss and observe the problem. This can be in conjunction with a TN or NOV. The SV can also require a written or oral response within 15 calendar days indicating a reason for the non-compliance and what steps are being taken to eliminate any future violations of this nature.

### **NOV – Notice of Violation with Compliance Order**

This is the most widely used and is a written notification to the Industrial User indicating the type of violation. A written User Response is required within 15 calendar days and must include a reason for the non-compliance, verification that a follow-up was sample taken and the steps being taken to eliminate any future violations of this nature.

If no response is received, a Cease and Desist Order will be issued.

### **Consent Order**

For all effluent violations, the Wastewater Utility Use Ordinance, No. 5285 requires the Control Authority issue a Consent Order in conjunction with an Effluent Limitation Penalty of not more than \$2,500.00 per violation, per day.

The Ordinance allows the issuance, by the Control Authority, of a Consent Order with an Administrative Penalty for any non-effluent limit based violation of not more than \$2,500.00 per violation.

If no response is received, a Cease and Desist Order will be issued as well as an Order to Show Cause.

### **CDO - Cease and Desist Order**

The Director has the authority to issue a Cease and Desist Order which requires the discharge in question to be terminated immediately or service may be terminated.

### **ECS - Enforcement Compliance Schedule**

This is a Formal Enforcement Compliance Schedule and may be signed by both the Control Authority and the industry involved. This control mechanism is used when serious or long term violations of discharge limits occur that require the design and installation of new or additional pretreatment equipment. Usually the time frame will be six months to one year with specific reporting milestones defined.

The ECS may also contain administrative fines. Violations of the ECS may result in a Cease and Desist Order, Show Cause Hearing or Litigation.

### **Administrative Fines**

#### **Effluent Limitation Penalty**

Any User, who is found to have violated any **Effluent Limitation** defined in the Ordinance, contained in the User's Industrial Wastewater Discharge permit or found to cause the POTW to violate any Effluent Limitation in the POTW's permit shall be fined no more than \$2,500.00 for each offense. Each day on which a violation occurs or continues may be deemed a separate and distinct offense.

#### **Administrative Penalties**

Any User who is found to have **non-effluent limit violations** under the Ordinance or any orders, rules, regulations and permits issued, may be fined no more than \$2,500.00 for each offense. Each day on which a violation occurs or continues may be deemed a separate and distinct offense.

### **LIT – Litigation**

Litigation is utilized to define courses of action that include civil suits for injunctive relief and civil penalties, or criminal suits (initiated by State or Federal Government Agencies only). These types of actions would all involve the court system and would adhere to due process procedures.

Using the Enforcement Response Guide, the Director will initiate the appropriate response to each violation. The files will reflect the type of action taken and the response date. The Environmental Compliance Supervisor will initiate any sampling deemed necessary to substantiate data previously received or to verify the response of an Industrial User regarding corrective action taken to resolve the non-compliance.

## **XII. SIGNIFICANT NON-COMPLIANCE (SNC)**

On a quarterly basis the Pretreatment Division Staff will be responsible for reviewing the compliance file of all Industrial Users for the previous six (6) months to determine significant non-compliance of any industrial user. On an annual basis, the names of all Industrial Users found in significant non-compliance will be published in the Elkhart Truth. A definition of significant non-compliance follows.

Instances of Significant Non-Compliance (SNC) are Industrial User Violations which meet one or more of the following criteria:

- 1) Chronic violations of wastewater Discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
- 2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- 3) Any other violation of a Pretreatment Standard or Requirement that the Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- 4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- 5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- 6) Failure to provide, within thirty (30) days after the due date, required reports, such as baseline monitoring reports, ninety-day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;
- 7) Failure to accurately report noncompliance; or
- 8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment program.

*Note: A determination of Significant Non-Compliance will not be made if the non-compliance events triggering SNC occurred only in the first three- month period of any six- month period being evaluated, and if the events caused the user to be in SNC for the previous six- month period. If a user is found to be in SNC and continuing violations of the same type occur in the following six- month period, the events from the previous quarter may be used in determining SNC in the following period.*

**XIII. ENFORCEMENT RESPONSE PLAN EXAMPLES**

A. Sampling, Monitoring, and Reporting

<b>Non-Compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>
Failure to sample, monitor or report	Isolated, or infrequent	TN, NOV requiring correction within 15 calendar days, AF, CO
Failure to sample, monitor, report, and notify Control Authority	Isolated or infrequent	TN, NOV requiring correction within 15 calendar days, Escalated AF, CO
Failure to sample, monitor, report, and notify Control Authority	Frequent, or IU does not respond to NOV	NOV, Escalated AF, CO, SNC
Failure to notify of effluent limit violation, or slug discharge	Isolated, or infrequent. No known effects.	TN, NOV, AF, CO if no response within 15 calendar days
Failure to notify of effluent limit violation	Frequent or continued violation	TN, SV, NOV, AF, CO, SNC, LIT
Failure to notify of effluent limit violation, or slug discharge	Known environmental or POTW damage	TN, NOV, AF, SNC, CO, LIT
Failure to submit renewal permit application <b>180 days</b> prior to permit expiration	Number of days will be considered	NOV, AF, CO
Reporting false information	Any instance	LIT, Criminal Investigation Request

B. Discharge Limitations

<b>Non-Compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>
Exceeding Final Limits (categorical, local, or prohibited)	Infrequent or isolated minor violation	TN, NOV, AF
Exceeding Final Limits	Infrequent or isolated major violations, exceed TRC limits	TN, SV, NOV & AF, CO, LIT if environmental harm results
Exceeding Final Limits	Violation(s) which are SNC	NOV, AF, CO, LIT
Exceeding Interim Limits	No known damages	TN, NOV, AF, CO
Exceeding Interim Limits	Results in known environmental or POTW damage - SNC	TN, SV, NOV, AF, CO, LIT
Reported Slug load	Isolated, no known damage	TN, SV, NOV, AF, CO
Reported Slug load	Isolated with known interference, pass through or damage	TN, SV, NOV, AF, CO, LIT
Reported Slug load	Recurring - SNC	NOV, AF, CO, LIT
Discharge without permit or approval	One time, no known damage	TN, SV, NOV, CO, ECS, AF
Discharge without permit or approval	One time, results in damage	NOV, SV, , AF, CO, ECS, LIT, or request for criminal investigation
Discharge without permit or approval	Continuing violation with known damage	CDO, LIT, request for criminal investigation, sewer disconnect

C. Non-compliance detected through inspections or field investigation

<b>Non-Compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>
Minor violation of analytical procedures	Any instance	TN, NOV, AF with continuing violation
Major violation of analytical procedures	No evidence of intent	TN, NOV, AF, CO
Major violation of analytical procedures	Evidence of negligence or intent - SNC	TN, NOV, AF, CO, LIT (possible criminal action)
Minor violation of permit condition	No evidence of negligence or intent	TN, NOV, immediate corrective action required, AF
Minor violation of permit condition	Evidence of negligence or intent - SNC	TN, AF, CO, SNC, CDO, LIT (possible criminal action)
Major violation of permit condition	Evidence of negligence or intent - SNC	AF, CO, SNC, CDO, LIT (possible criminal action)

D. Compliance schedules

<b>Non-Compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>
Reporting false information	Any instance - SNC	LIT, criminal investigation
Missed interim date	Will not cause late final or other interim date	TN, NOV, AF
Missed interim date	Will result in other missed interim dates, violation for valid cause	NOV, AF, CO
Missed interim date	Will result in other missed interim dates, no valid cause - SNC	NOV, AF, CO, LIT
Missed final date	90 days or more, failure or refusal to comply without a valid cause	CO,CDO, LIT

**XIV. RESPONSE TIME FRAMES**

- 1) Initial enforcement action responses involving contact with industrial users and requesting information on corrective or preventative action will occur within 15 calendar days of becoming aware of the violation.
- 2) Follow-up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a consent order with milestones or deadlines.
- 3) Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- 4) All violations meeting the criteria for Significant Non-Compliance will be addressed with an enforceable order within 30 days of the identification of Significant Non-Compliance.

**XV. PENALTY MATRIX**

Any violations not specifically noted below may be penalized an amount up to and including \$2500 per offense. Unless otherwise noted, each day of violation constitutes a new offense. The number of offenses shall be based upon those accumulating within a twelve-month period, not each calendar year.

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD AND SUBSEQUENT OFFENSE(S)
<b>9.1 DISCHARGES</b>			
9.1.1 Discharging wastewater containing metals in excess of established limits per parameter when:			
a. No damage	\$100	\$200	\$300
b. Damage	\$500	\$1,000	\$2,000
9.1.2 Discharging substance causing POTW to violate permit	\$1,750	\$2,000	\$2,500
9.1.3 Discharging substance causing sludge to be unsuitable for beneficial reuse	\$1,000	\$1,750	\$2,500
9.1.4 Discharging a toxic pollutant when:			
a. No damage	\$200	\$500	\$1,000
b. Damage	\$1,000	\$2,000	\$2,500
9.1.5 Discharging substances which obstruct the sewer when:			
a. No damage	\$50	\$100	\$300
b. Damage	\$100	\$300	\$500
9.1.6 Discharging noxious or malodorous substance that:			
a. Creates a public nuisance	\$50	\$100	\$150
b. Prevents entry into the sewer	\$100	\$200	\$300
9.1.7 Discharging explosive or flammable substances when:			
a. No damage	\$100	\$200	\$500
b. Damage	\$500	\$1,000	\$2,000
9.1.8 Discharging wastewater with a pH of less than 5.0 S.U. when:			
a. No damage	\$100	\$150	\$200
b. Damage	\$500	\$1,000	\$1,500
9.1.9 Discharging wastewater with a pH of greater than 10.0 S.U. for more than 30 minutes when:			
a. No damage	\$100	\$150	\$200
b. Damage	\$500	\$1,000	\$1,500
9.1.10 Discharging wastewater, containing pollutants, that passes through or interferes with the POTW	\$1,000	\$1,750	\$2,500
9.1.11 Discharging wastewater containing parameters in excess of established limits per parameter when:			
a. No damage	\$100	\$200	\$300
b. Damage	\$500	\$1,000	\$2,000

City of Elkhart Public Works and Utilities  
Enforcement Response Plan

Modified 3/19/2013

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD AND SUBSEQUENT OFFENSE(S)
<b>9.2 PROCESS</b>			
9.2.1 Failure to calibrate flow meter	\$100	\$200	\$300
9.2.2 Refusal to allow Utility to inspect User's facility/premises	\$2,500	\$2,500	\$2,500
9.2.3 Failure to provide, properly operate, or maintain pretreatment facilities	\$1,000	\$1,750	\$2,000
9.2.4 Failure to report a hazardous materials spill	\$500	\$1,000	\$2,500
a. No damage	\$200	\$300	\$400
b. Damage	\$500	\$1,000	\$2,000
9.2.5 Failure to comply with a Consent Order	\$1,000	\$1,750	\$2,500
9.2.6 Providing false information	\$500	\$1,500	\$2,500
9.2.7 Tampering with samples, sampling equipment, or measuring devices	\$500	\$1,000	\$1,500
<b>9.3 ADMINISTRATIVE</b>			
9.3.1 Failure to file written report of slug or accidental discharge	\$100	\$200	\$400
9.3.2 Failure to conduct required self-monitoring (per parameter)	\$50	\$100	\$200
9.3.3 Failure to respond to Notice of Violation	\$100	\$200	\$500
9.3.4 Failure to report significant changes in operation, pretreatment facilities, wastewater constituents or characteristics	\$500	\$1,000	\$1,500
9.3.5 Failure to submit self-monitoring report, resulting in SNC	\$100	\$200	\$300
9.3.6 Failure to obtain an Industrial Wastewater Discharge Permit, when required, before connecting to or discharging into the POTW (one-time penalty per connection)	\$1,500	---	---
<b>9.3.7 Failure to submit renewal application 180 days prior to permit expiration</b>	30 days <b>\$50</b>	31 – 60 days <b>\$100</b>	> 60 days <b>\$200</b>
<b>9.3.8 Failure to maintain monitoring records *</b>	\$300	---	---

\*only one penalty for any specified time period