



ENFORCEMENT RESPONSE PLAN

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SECTION 1

INTRODUCTION

1.1 OVERVIEW

Camino Real Regional Utility Authority (CRRUA) has responsibility for operations and maintaining the wastewater treatment facilities in Sunland Park and Santa Teresa. The facility is responsible for maintaining compliance with a National Pollutant Discharge Elimination System (NPDES) permit, which requires CRRUA to regulate industrial discharges to the sewer system in accordance with an approved pretreatment program. The pretreatment program and has primary responsibility to enforce all applicable pretreatment standards and requirements.

This Enforcement Response Plan (ERP), provides the framework for systematically investigating, documenting, and selecting appropriate enforcement actions, as well as conducting follow-up investigations to ensure Industrial Users and/or Significant Industrial Users are in compliance with pretreatment standards and regulations. The enforcement procedures included in the ERP assist pretreatment staff in responding to violations for pretreatment regulations and discharge standards in a consistent and timely manner, allowing for escalating enforcement actions.

In general, non-compliance will initially be addressed through issuance of a Notice of Violation and increased Self- Monitoring, if applicable. Reoccurring violations may subject the violator to a compliance schedule and/or an order for corrective action, which may include fines. In cases where these enforcement actions are not effective in achieving compliance, civil fines, and/or suspension of service may be utilized.

1.2 LEGAL AUTHORITY

Camino Real Regional Utility Authority (Industrial Wastewater Ordinance No. 2013-01) establishes the authority for Camino Real Regional Utility Authority to manage the acceptance of industrial wastes discharged into the sewerage system through adequate regulation of industrial wastewater discharges.

This is accomplished in compliance with a Publicly Owned Treatment Works (POTW) Pretreatment Program. This Program is mandated by the National Pollutant Discharge Elimination System (NPDES) permits issued by the New Mexico Environment Department (NMED) to Camino Real Regional Utility Authority's POTW in conformance with 40 CFR Part 403, and the Clean Water Act (CWA) as amended in 1977, as amended by the Water Quality Act (WQA) of 1987.

TABLE 1.1

Legal Authority
Authority to require IU and/or SIU to comply with applicable pretreatment standards and requirements.
Authority to deny the discharge of pollutants that cause pass-through, or interference.
Authority to regulate prohibited discharge standards.
Authority to require compliance with categorical pretreatment standards as they are promulgated.
Authority to establish and enforce deadlines for IU and/or SIU installation of pretreatment facilities or technology to meet pretreatment standards.
Authority to require IU and SIU's to notify CRRUA of noncompliance's from Self-Monitoring and submit results of repeat sampling within 30 days.
Authority to enter, inspect, sample, and monitor IU and SIU's to ensure compliance with standards, federal, state and local.
Authority to require a compliance schedule.
Authority to issue an administrative order.
Authority to impose administrative fines or penalties against IU and SIU's violating pretreatment standards and requirements.
Authority to suspend and/or revoke a wastewater discharge permit.
Authority to suspend water service. (if deemed necessary)
Authority to halt discharges and seek injunctive relief
Authority to impose judicial fines or penalties against IU and SIU's violating pretreatment standards and requirements.

1.3 DOCUMENT MANAGEMENT

The ERP will be reviewed and revised as necessary every five years or when a change is necessary to maintain currency with federal and state regulations. The plan must be submitted to EPA Region VI for approval prior to implementation.

SECTION 2 IDENTIFYING NONCOMPLIANCE

Inspections and compliance monitoring are the primary means for investigating and confirming non-compliance.

2.1 INSPECTIONS

Inspections are conducted at least semiannually on all Significant Industrial Users (SIU's). Inspections focus on all processes generating waste, chemical usage and storage, pretreatment operation, Best Management Practices (BMP's), documentation review, etc. Inspections can reveal violations resulting for suspected tampering with sampling equipment, falsification of information, noncompliance with construction schedules, illegal discharges. Unreported spills, and unreported process changes or modifications to pretreatment facilities. Noncompliance observed during an inspection will be documented in the inspector's notes at the time of the inspection and in the final inspection report following the inspection. The Pretreatment Coordinator shall review the inspection report, determine the appropriate enforcement action, and notify the IU and/or SIU within 30 days of the inspection date of the observed noncompliance, evaluate progress on a corrective measure, and/or confirm compliance status.

2.2 COMPLIANCE MONITORING

Compliance monitoring is conducted by CRRUA at least semiannually on all SIU's for all parameters and monitoring locations identified in the users wastewater discharge permit. Where possible, advance notice is not provided to the SIU. SIU's are required to conduct self-monitoring of their permitted discharge at least quarter-annually. Compliance monitoring can reveal violations of pretreatment standards.

A valid compliance monitoring event must adhere to the following procedures:

- Samples collected by the user must be from the predetermined site(s) at the specified frequency as described in the permit and analyzed for all of the parameters listed in the permit, at a minimum. Additional samples may be collected but are not required to be analyzed for all of the parameters listed in the permit. Data from sites other than compliance locations are not subject to enforcement.

- Sample type and frequency must conform to permit requirements (e.g., grab or composite, four grabs over composite period, etc.).
- Proper documentation must be provided, including chain of custody forms, field calibration data and results, EPA approved sample preservation and holding times, and QA/QC data (if applicable).

Repeat sampling must be conducted by the user where invalid compliance monitoring data is collected or when a pretreatment standard violation is detected. Repeat sampling results must be submitted to CRRUA within 30 days of an SIU and/or IU becoming aware of a violation or invalid sampling event. If CRRUA conducted the sampling event and a violation is identified, the repeat sampling can either be done CRRUA or CRRUA can designate the SIU and/or IU to conduct the repeat sampling.

2.3 REVIEW OF IU AND/OR SIU SELF-MONITORING REPORTS AND COMPLIANCE MONITORING DATA

IU and/or SIU noncompliance of pretreatment permit limits as a result of self-monitoring activities is identified through verbal notification, written correspondence, and submittal of self-monitoring reports. SIU and/or IU's are required to notify the Pretreatment Program Manager within 24-hours of becoming aware of a violation. When verbally notified, the date and location of the violation as well as the discharge concentration of the parameter violated is recorded in a phone log-book. This page is then copied for filing in the industrial user's correspondence file. When e-mail notification is made, the e-mail is printed for filing in the industrial user's correspondence file. In some cases, the user may not be aware that a violation has occurred or has failed to verbally notify CRRUA of the violation. In this case the violation would not be identified until the self-monitoring report is received and reviewed by the Pretreatment staff. Self-monitoring reports shall be date-stamped upon arrival to document compliance with report due dates. Review of self-monitoring reports shall be conducted within 30 days of receipt, when possible, to detect and respond to violations.

A Notice of Violation will be given to SIU's for late reports. The NOV will document the lateness of the report and serve as a notice the SIU that if their report is not received within 45 days (of the original due date) that they will be listed in Significant Noncompliance.

Compliance monitoring samples collected by CRRUA shall be reviewed upon receipt from the laboratory. Laboratory reports should be received no later than 30 days after the samples collection. Within 30 days following receipt of the laboratory report, the report shall be checked for accuracy and completeness and enforcement actions taken for any violations identified.

2.4 TRACKING COMPLIANCE STATUS

The compliance status of each SIU and/or IU is tracked on an ongoing basis. The compliance determination is based on self-monitoring reports, CRRUA sampling data, current inspection results, and whether due dates for compliance schedules and report submittals were met. Data may be tracked manually and/or entered into spreadsheets or a pretreatment database (currently using CRRUA database).

The following types of pretreatment violations may be identified:

- **Exceeds discharge standards-** Any exceedance of a permit limit is a violation. Significant noncompliance (SNC) occurs when 1) 66% or more of samples exceed the numeric pretreatment standard or requirement, including instantaneous limits (chronic violation) or 33% or more of samples equal or exceed the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable technical review criteria (TRC) value. The TRC value is 1.4 times the permit limit for biochemical oxygen demand (BOD), Total Suspended Solids (TSS), and Fats, Oils and Grease, and 1.2 times the limit for all other pollutants except pH.
- **Causes interference or pass-through-** Any violation of a permit limit or pretreatment standard or requirement that causes interference, pass-through, endanger human health, or results in the emergency authority to halt or prevent discharge, and is considered a significant violation.
- **Failure to meet compliance schedule deadlines-** Up to 90 days late is a pretreatment violation. SNC occurs after 90 days, and applies to all industrial discharges, SIU and/or IU.
- **Failure to meet reporting requirements-** Up to 45 days late is a pretreatment violation. SNC occurs after 45 days and applies to all industrial discharges.

- **Failure to accurately report noncompliance-** This is considered a significant noncompliance violation.
- **Failure to comply with permitting requirements of pretreatment regulations, including BMP requirements-** generally, these would be considered pretreatment violations unless they are shown to adversely affect the operation or implementation of the pretreatment program. Applies to all SIU and/or IU's.

SECTION 3

RESPONDING TO NONCOMPLIANCE

3.1 SUMMARY OF ENFORCEMENT ACTIONS

A summary of enforcement actions available to enforcement personnel is discussed below. Enforcement actions shall escalate as necessary to resolve the noncompliance. All actions are initiated by the Pretreatment Program Manager. Escalating enforcement actions may involve the Executive Director of CRRUA and/or the CRRUA Attorney.

3.11 Informal Actions

Informal enforcement actions may be used by CRRUA Industrial Pollution Prevention Department when the violations are minor or in addition to other enforcement actions. Examples of informal actions used to address minor violations include phone calls, e-mail, and inspections reports. For example, a phone call or e-mail reminder would be used to inform an IU of a minor reporting violation (e.g., incomplete self-monitoring report submitted prior to due date). Inspections reports could be used to document minor violations identified during an inspection, such as the need for secondary containment, and failure to provide requested documentation.

3.1.2 Notice of Violation

A Notice of Violation (NOV) is a formal notice to the IU that a pretreatment violation has occurred. An NOV provides the IU with an opportunity to correct noncompliance on its own initiative rather than through an imposed compliance schedule and/or administrative order. The NOV documents the initial attempts by CRRUA to resolve the noncompliance and sets the stage for escalating enforcement actions if required to resolve noncompliance. Generally, the NOV will direct the IU to submit a written response within a specified time frame (the time frame will vary depending on the nature of the noncompliance and the complexity of the response). The response shall address the cause for the violation and corrective actions measures taken to prevent reoccurrences. If the IU and/or SIU demonstrates a good faith effort to correct the problem, the Pretreatment Program Manager will closely track the IU and/or SIU's progress toward achieving compliance, but most likely no further enforcement action would be required.

3.1.3 Increased Monitoring

Depending on the magnitude and duration of the violation and/or the compliance history of the IU and/or SIU, the Pretreatment Program Manager may require the IU and/or SIU to conduct additional monitoring. This increased monitoring request may be verbal if it

is a recommendation only in order to gather additional data points in the quarter for SNC evaluation. Mandatory increased monitoring may either be documented in the NOV and/or incorporated into a revised wastewater discharge permit. At a minimum, an IU and/or SIU must resample the wastewater at the exact location where the violation occurred for those parameters that were violated and submit results to CRRUA within 30 days of becoming aware of a violation.

3.1.4 Compliance Schedule

A compliance schedule may be used when insufficient progress has been made by an IU and/or SIU to voluntarily remedy its noncompliance or when the value has been found to be in SNC due to recurring violations. A compliance schedule shall contain eight detail time schedule for specific actions that the IU and/or SIU shall take to prevent the discharge for corrective the source and or cause of the violation. The times schedule for users voluntarily making progress may be longer and more flexible than those users demonstrating insufficient progress. A compliance schedule can either be incorporated into a wastewater discharge permit or an administrative order (i.e., Notice of Violation and Proposed Order). A compliance schedule in a wastewater discharge permit will not extend the compliance deadline for any pretreatment standards or requirements.

3.1.5 Administrative Order

CRRUA may issue a Notice of Infraction and Proposed Order if CRRUA has reason to believe that an IU and/or SIU is violating pretreatment standards and regulations and has not voluntarily corrected the problem or the IU and/or SIU is determined to be in

SNC. The pretreatment program Manager and appropriate staff shall work with CRRUA's Attorney's Office to draft the Notice of Infraction and Proposed Order.

The Notice of Infraction shall include the following information:

- Nature, time, and place of violation(s):
- Corrective or remedial action to be taken in any fines imposed;
- Procedure for responding to a notice of Infraction and Proposed Order and requesting a hearing.

Failure on the IU and/or SIU's part to respond to the Notice of Infraction will result in adoption of some or all the Proposed Order. The Proposed Order may require the IU and/or SIU to do the following;

- Eliminate the violation(s);
- Comply with Proposed Order;
- Take specific actions to avoid future violations;
- The finds, costs, or other amounts, as authorized by CRRUA.

The Proposed Order may also include a schedule for completion of any directives of the Proposed Order identified above. The Proposed Order may also provide for the suspension and revocation of the wastewater discharge permit if the industrial user does not comply with the Order. The IU and/or SIU may respond in writing within 30 days to a notice of Infraction and Proposed order. If the IU and/or SIU denies any of the allegations in the Notice of Infraction or asks that any term in the Proposed Order be modified (and CRRUA does not concur), CRRUA shall conduct a hearing within 30 days of receiving the response (unless an extension is granted). The hearing shall be conducted by a hearing examiner retained by CRRUA. The hearing examiner may issue a final order. If the IU and/or SIU does not ask that any terms in the Proposed Order been modified, CRRUA agrees with the recommended changes, a final order shall be issued by CRRUA without conducting a hearing.

3.1.6 Administrative Fines

CRRUA may impose administrative fines on the industrial user as part of its effort to enforce compliance with pretreatment standards and regulations. The schedule finds is provided in the pretreatment regulations and is presented below in **Table 3.1**. The pretreatment program manager will determine when an administrative fines should be imposed in the amount of the fine. Fines shall be a minimum of \$300 and shall increase at least \$100 every day the violation continued, up to the maximum be fined listed in **Table 3.1**.

A notice of Infraction and Proposed Order must be prepared when an administrative fine is imposed. The Executive Director of CRRUA shall review the case and concur or make further recommendations. The case will then be referred to CRRUA's Attorney's Office for final approval. The pretreatment program manager will prepare the bill to collect the fine. The bill will identify the violation and the fine amount for each individual violation

(or each individual day a fine was imposed for the same violation), and the total amount due. The bill will accompany the Notice of Infraction and Proposed order. Payment will be made through a customer service account established for Permitted Industry.

Table 3.1 Administrative Fines

	Type of Violation	Maximum daily fine (for each day during which a violation occurs)
1	Recurring failure to monitor discharges, comply with best management practices, or comply with permit requirements not otherwise listed below.	\$1000
2	Unintentional effluent dilution.	\$1000
3	Waste stream intentionally diluted in lieu of treatment.	\$10000
4	Significant noncompliance due to chronic or technical review criteria violations.	\$1000
5	Significant noncompliance due to violations identified in wastewater pretreatment ordinance.	\$10,000
6	Unintentional prohibited discharges.	\$500
7	Unintentional prohibited discharge is which cause damage to CRRUA’s wastewater sewer system or endangerment to health, or the environment.	\$1000
8	Intentional prohibited discharges.	\$5000
9	Intentional prohibited discharges, which cause damage to CRRUA’s wastewater sewer system and or endangerment of health, welfare, or the environment.	\$10,000
10	Failure to report spill or change in discharge.	\$1000
11	Falsification or tampering with discharge and monitoring equipment.	\$10,000
12	Negligently operated pretreatment facility.	\$1000
13	Failure to comply with a requirement issued in a directive letter or notice of violation.	\$500
14	Failure to comply with compliance schedule deadlines imposed in response to a previous violation.	\$1000

15	Failure to comply with a procedural order or deadlines imposed persuade to CRRUA's wastewater pretreatment ordinance.	\$1000
16	Failure to pay a fine imposed in response to a previous violation within 60 days.	\$1000
17	Failure to apply or renew a permit (i.e. industrial wastewater discharge permit).	\$10,000
18	Recurring failure to provide requested information.	\$1000
19	Failure to allow right of entry.	\$1000
20	Falsification of data or failure to report or accurately report noncompliance.	\$10,000
21	Failure to retain records for a minimum of three years.	\$1000
22	Improper sampling technique.	\$1000
23	Failure to perform required monitoring during reporting period.	\$1000

3.1.7 Annual Publication of Significant Violators

A list of industrial users in significant noncompliance with pretreatment standards and requirements in any given calendar year shall be published annually by CRRUA's designated newspaper of general circulation that provides meaningful public notice within the jurisdiction served by CRRUA in accordance with 40 CFR 403.8 (f) (2) (viii). The procedures and criteria for determining significant noncompliance are provided in Camino Real Regional Utility Authority's Wastewater Pretreatment Ordinance 2013 -01. The notification will summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month calendar year.

3.1.8 Suspension of Permit

CRRUA can revoke or suspend a wastewater discharge permit. Grounds for permanent suspension or revocation include the following:

- Violation of any terms or conditions of the permit;
- Misrepresentation or failure to fully disclose all relevant facts during the permit application process or subsequent to permit issuance.
- Causing imminent danger to CRRUA's sewer system, staff, or the environment.

A notice of Infraction and Proposed order must be prepared when a permit is suspended or revoked. The Executive Director of CRRUA shall review the case and concur or make further recommendations. The case may be referred to CRRUA's Attorney's Office for final approval. If the IU and/or SIU requests a hearing, the hearing examiner also has the power to suspend permits for the purpose of enforcing the payment of monetary fines, penalties, or hearing inspection costs.

3.1.9 Suspension of Water Service

CRRUA has the legal authority to suspend water service, after informal notice to the discharger, in the event of an actual or threatened discharge to the wastewater treatment plant that reasonably appears to present an imminent danger to health or welfare of persons in order to avoid or abate the danger. CRRUA may also suspend water service if the actual or threatened discharge presents an imminent danger to the environment or operation or integrity of the wastewater treatment plant or collection system. However, in this case, CRRUA must provide notice to the discharger as well as provide an opportunity to respond to the discharger in attempt to avoid or abate the danger prior to suspending service.

3.1.10 Civil Litigation

CRRUA has the legal authority to file a lawsuit against an industrial user and or significant industrial user in a civil court in order to impose civil penalties, injunctions, or other applicable remedies and or cost recovery. The Executive Director of Camino Real Regional Utility Authority shall decide whether to initiate these proceedings after consultation with CRRUA's Attorney's Office. Civil litigation may be useful under the following circumstances:

- CRRUA is seeking cost recovery for damages to CRRUA's property;
- CRRUA believes administrative actions are not sufficient to achieve or maintain compliance;
- The violation is serious enough to warrant court action to deter further violations;
- The danger presented by the industrial user and/or significant industrial user noncompliance does not permit lengthy negotiations settlement (typically incurred with administrative actions).

The civil lawsuit for injunctive court relief may require such actions as needed to correct any harm caused by a violation or to ensure that future violations do not occur, such as installation of pretreatment facilities and/or devices. In addition, the industrial user

and/or significant industrial user may be liable for civil penalties up to \$10,000 for each day the violation continues.

3.1.11 Criminal Prosecution

If the pretreatment program manager has gathered evidence of illegal activity, the case will be referred to CRRUA's Attorney's office for evaluation. The executive director shall decide whether to pursue this course of action after consultation with CRRUA's Attorney. Criminal lawsuits may be used in the following the cases:

- A person will fully one negligently violates any provision of the Act or pretreatment regulations;
- A person knowingly makes any false statements in a pretreatment document:
- A person falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required for compliance with pretreatment regulation.

Criminal lawsuits to require additional evidence and proof beyond a reasonable doubt of knowledge of the intent of the violator to conceal a violation or fact. CRRUA's Attorney would coordinate further investigations for discovery of additional evidence or illegal activity. The Doña Ana county police department may be contacted for assistance in obtaining sufficient evidence of criminal activity, or for assistance in conducting and onsite criminal investigation after obtaining sufficient evidence of criminal activity and a search warrant. CRRUA shall notify EPA Region VI of all potential criminal cases and work closely with the regional office in developing the case. Federal assistance may also be a valuable from EPA Environmental Crimes Unit in the Office of Enforcement and Compliance Assurance and the Federal Bureau of Investigation.

3.2 RESPONSIBILITIES OF ENFORCEMENT PERSONNEL

Pretreatment inspectors may conduct the following enforcement-related activities:

- Screening compliance monitoring data for violation;
- Identifying suspected violations during facility inspections;
- Issuing informal (verbal) warnings;
- Notifying the Pretreatment Program Manager of potential violations

The Pretreatment Program Manager is responsible for initiating all enforcement actions, conducting and overseeing the enforcement-related activities of the inspectors, as well as the following additional responsibilities:

- Reviewing, investigating, and tracking instances of industrial user Noncompliance;
- Determining appropriate enforcement responses and ensuring timely action;
- Issuing NOV's and compliance schedules, and publishing the annual list of IU's and SIU's in significant noncompliance;
- Initiating administrative orders and assessing fines.

The **Executive Director or Assistant General Manager** must concur with all enforcement actions that escalate past a Notice of Violation and increased monitoring. The Executive Director or AGM provides guidance and assistance as needed to the Pretreatment Program Manager and his signing authority for Compliance Schedules and Administrative Orders (including administrative fines).

CRRUA's Attorney has the responsibility to advise the above individuals on enforcement matters, provide assistance in preparing administrative orders, conducting hearings, and orchestrating judicial processes initiated by Pretreatment Program Manager and/or Executive Director.

3.3 SELECTING A PROPER ENFORCEMENT RESPONSE

Enforcement actions should match the seriousness of the violation, the industrial users state of noncompliance (past or present), and, to some extent, the diligence with which Industrial user corrects the problem. The following criteria should be considered when determining a proper response:

- Magnitude and duration of the violation;
- The fact of the violation on the receiving water or POTW;
- Compliance history of the industrial user.

Magnitude and duration of the violation are important when determining compliance status and developing an enforcement response. An isolated instance of noncompliance can usually be handled by an NOV. If the magnitude (and/or duration) of the violation is sufficient to classify the user in significant noncompliance (SNC), then, in addition to the NOV, the user must be published in the newspaper with the annual list of users in significant noncompliance.

The impact of the violation on the receiving waters and/or the POTW is assessed to determine if the industrial discharge contained pollutants at a sufficient level to damage the collection system, cause interference of plant operations, pass through the plant, cause a violation of the NPDES permit, or have toxic effect on the river. And some less obvious impacts on POTW operations may include increased treatment costs, worker health and safety issues, and increased sludge contamination. Communication with wastewater treatment staff is essential to identify and evaluate potential impacts on the collection system and treatment plant. The enforcement response to a violation of this nature should include a notice of infraction and proposed order (including administrative fines) or civil penalties (if intent is demonstrated or cost recovery is needed), and a requirement to correct the condition causing the violation. And if that discharge causes repeated harmful effects to the receiving stream or POTW then termination of sewer service and/or water service should be considered.

The compliance history of an industrial user is important when determining an appropriate enforcement response. A pattern of recurring violations of similar magnitude usually indicates that the user has not committed the resources necessary to identify and correct the problems causing the violations. In this case, a more severe enforcement action would be taken. If the compliance history shows improvement in the magnitude and duration of the violations or a sporadic pattern of noncompliance, then a less severe enforcement action may be appropriate.

Good faith efforts will be recognized and rewarded with less severe enforcement action where possible. Good faith efforts are when the user honestly intends to correct the noncompliance and has documented corrective actions taken to substantiate this intent.

3.4 DOCUMENTING ENFORCEMENT ACTIONS

All pretreatment enforcement actions shall be documented by a formal letter to the industrial user and/or a memorandum to the industrial user, correspondence file documenting phone conversations, meetings, and collection of supporting documentation. The time frame guidelines for documenting in initiating enforcement actions are provided below:

- All violations will be identified and documented in a memorandum to file within five (5) days of receiving compliance information;
- Initial enforcement responses (e.g., NOV letter) shall occur within 15 days of receiving compliance information, when possible;

- Violations that threaten health, property, or environmental quality are considered emergencies and will receive an immediate response;

In addition, an annual pretreatment program report is prepared each year and indicates those facilities in SNC for the previous calendar year. A list of industrial users in significant noncompliance during any period within the calendar year is then submitted for publication in Las Cruces Sun News.

3.5 CONDUCTING FOLLOW-UP ACTIONS

The Pretreatment Program Manager shall closely track the IU and/or SIU's progress towards achieving compliance. If industrial users of actions or results are unsatisfactory, CRRUA can address the continued noncompliance's in a progressive manner through implementation of consecutive enforcement actions including requiring increased monitoring and/or inspection; issuing additional NOV's; establishing a formal compliance schedule with the industrial user; and/or issuing an administrative order with fines. Follow-up actions shall be taken within 60 days of the initial response for all continuing violations.

SECTION 4
ENFORCEMENT RESPONSE GUIDE

4.1 INTRODUCTION

The enforcement response guide (Table 4.1) is used as follows:

- Locate the type of noncompliance in the first column and identify the most accurate description of the violation.
- Determine the most appropriate response (see Section 3.3). For example, first offenders or industrial users demonstrating good faith efforts may receive a more lenient response than repeat offenders or those demonstrating negligence in correcting compliance deficiencies.
- Apply the enforcement response to the industrial user, specifying corrective action or other response is required of the industrial user in accordance with personnel and time frame guidelines established by this Enforcement Response Plan.
- Follow up with escalated enforcement action if the industrial user does not respond or the violation continues.
- All violations that are listed as SNC must be published in Las Cruces Sun News on an annual basis.

The enforcement response guide is provided in table 4.1.

4.2 ENFORCEMENT RESPONSE GUIDE

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
	Failure to retain records for a minimum of 3 years	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Improper sampling technique (unintentional)	NC	NOV Increased monitoring	P P
	Improper sampling technique (intentional)	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to perform required monitoring during reporting period	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Intentional, willful or reckless falsification or tampering with discharge monitoring equipment	SNC	Administrative order Administrative fine Suspension of permit Suspension of water service Criminal prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC GM, GC P
	Failure to report violations to DC Water within 24-hours	NC	NOV	P
	Failure to collect and submit resample results within 30 days	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Failure to report additional monitoring	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Failure to comply with required Best Management Practices, isolated	NC	NOV	P
	Failure to comply with required Best Management Practices, recurring	SNC (SIUs only)	Compliance schedule Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P, D/AGM P
Compliance Schedule Violation	Missed milestone by less than 90 days, no effect on final milestone or effect on final milestone but valid cause	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Missed milestone by more than 90 days	SNC (SIUs only)	Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
Discharge of Prohibited Substance	Isolated, does not present an imminent endangerment to health, welfare, or the environment, no evidence of intent	NC	NOV Increased monitoring	P P
	Persistent, does not present an imminent endangerment, no evidence of intent	SNC (SIUs only)	Compliance schedule Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P, D/AGM P
	Isolated, causes an imminent endangerment to human health, welfare, the environment, or the POTW or evidence of intent or negligence	SNC	Administrative order Administrative fine Civil Litigation with Public Notice	P, D/AGM P, D/AGM GM, GC P
	Persistent, causes an imminent endangerment, or evidence that person intentionally, willfully or recklessly discharged a prohibited substance	SNC	Administrative order Administrative fine Suspension of permit Suspension of water service Civil Litigation Criminal Prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC GM, GC GM, GC P
Discharge Limit Violation	Isolated, not significant, no harm to POTW or environment	NC	NOV Increased monitoring	P P
	Persistent, not significant, no harm to POTW or environment	NC	NOV Increased monitoring Compliance schedule Administrative order Administrative fine	P P P, D/AGM P, D/AGM P, D/AGM
	Isolated, significant, no harm to POTW or environment	SNC (SIUs only)	Compliance schedule with Public Notice	P, D/AGM P
	Persistent, significant, no harm to POTW or environment	SNC (SIUs only)	Administrative order Administrative fine with Public Notice	P, D/AGM P, D/AGM P
	Isolated, significant, causes harm to POTW or environment	SNC	Administrative order Civil litigation with Public Notice	P, D/AGM GM, GC P
	Persistent, significant, causes harm to POTW or environment or evidence that person intentionally, willfully or recklessly caused a discharge limit violation	SNC	Administrative order Administrative fine Suspension of permit Suspension of water service Civil litigation Criminal prosecution with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC GM, GC GM, GC P

Table 4.1 Enforcement Response Guide

Noncompliance	Nature of the Violation	Type	Enforcement Action	Personnel
	Failure to comply with a term of a Notice of Violation, Notice of Infraction, or Administrative Order	NC or SNC (SIUs only)	NOV Administrative order Administrative fine Suspension of permit Suspension of water service with Public Notice	P P, D/AGM P, D/AGM GM, GC GM, GC P
Fees, Fines, and Costs	Failure to remit within 30 days	NC	NOV	P
	Failure to remit within 60 days	NC	Administrative order Administrative fine Suspension of permit Suspension of water service	P, D/AGM P, D/AGM GM, GC GM, GC
Unpermitted Discharge	Failure to apply for a permit and no harm to POTW or environment	NC	NOV Administrative order Administrative fine	P P, D/AGM P, D/AGM
	Failure to apply for a permit and harm to POTW or environment	SNC	Administrative order Administrative fine Civil litigation Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to apply for a permit continues more than 45 days after notice by POTW	SNC (SIUs only)	Administrative order Administrative fine Civil litigation Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P
	Failure to renew permit prior to expiration date.	SNC (SIUs only)	Administrative order Administrative fine Civil litigation Suspension of water service with Public Notice	P, D/AGM P, D/AGM GM, GC GM, GC P

NC = Noncompliance

SNC = Significant noncompliance

I = Inspector

P = Pretreatment Program Manager

D= CRRUA Executive Director and/or Assistant General Manager

GM= CRRUA Plant Manager or General Manager

GC= CRRUA Attorney