

EXHIBIT C
ENFORCEMENT RESPONSE PLAN

1. GENERAL

- A. The purpose of the Enforcement Response Plan (ERP) is to provide guidance in all phases of enforcement related to the City's Pretreatment Program. General guidance has been provided by Chapter 60 of the Code of Ordinances of the City of Sedalia but specific application of that general guidance to the range of possible enforcement actions is provided in the ERP.
- B. The City reserves the right to escalate enforcement actions as needed to prevent imminent harm to the POTW or the environment. This includes the immediate and effective prevention of any discharge of pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of persons, pursuant to Code of Ordinances Section 60-105.

2. ENFORCEMENT RESPONSE PLAN

Chapter 60 of the Code of Ordinances implements the City's Pretreatment Program mandated by the Clean Water Act and the General Pretreatment Regulations. It provides specific limitations in Sec. 60-131, Sec. 60-161 and Sec. 60-195 and enforcement actions in Sec. 60-98. The enforcement philosophy is progressive that is, problems are addressed at the lowest level and with least formality possible consistent with the specific problem. No enforcement procedure is contingent upon the completion of any less formal procedure. For particularly severe violations, a Show Cause Hearing may be scheduled immediately without the need for Notice of Violation, Standards Meeting and compliance schedules.

Section 60-131 and Sec. 60-161 requires that all significant industrial users obtain a wastewater discharge permit as a condition of discharge. Permits may limit wastewater effluent limitations, may require installation and operation of sampling and monitoring facilities, establish compliance schedules and require submission of periodic reports and notices as needed. The wastewater discharge permit represents the City's first means of controlling the wastewater discharge by significant industrial users since, if permit requirements are met by the permittee, no further enforcement activity should be required.

The permit also represents a major enforcement tool for the City's use against significant industrial users violating the City's ERP, since the City Council, after a Show Cause Hearing, may direct a revocation of a user's permit which effectively bars discharge of industrial process wastewater to the City's sewers.

3. RESPONSIBILITIES

The ERP is administered by the Pretreatment Coordinator (PC) under the general supervision of the Public Works Director and in close coordination with the City Counselor. The PC may delegate certain tasks to subordinates. The PC shall maintain complete, accurate records of

activities conducted as part of the ERP and render periodic reports as required. Specific responsibilities are set forth in succeeding sections of this document.

4. COLLECTION AND DISSEMINATION OF INFORMATION

For industrial users, the PC shall determine what data is required or needed to determine compliance with applicable pretreatment standards as well as when and how it can be obtained. The PC shall specify reporting requirements for each industrial user in its permit as required by the United States Environmental Protection Agency and shall then track the submission of reports. If information submitted is deficient or late, the industrial user shall be notified and required to complete the submission as detailed in the appropriate enforcement response.

Baseline monitoring reports, 90-day compliance reports, reports required by the compliance directives and continuing compliance reports as received shall be retained for at least three years under the provisions of 40 CFR 403.112(n).

The PC shall notify significant industrial users of applicable pretreatment standards and any RCRA requirements as described in 40 CFR Part 403.8 (f.2.iii). By reporting the results of City sampling and analysis to industrial users, the PC will provide feedback to users on compliance status and inform industrial users of their compliance with responses to instances of noncompliance.

5. SAMPLING AND INSPECTION OF INDUSTRIAL USERS

The PC shall prepare and continually update and inspection plan for field investigation including sample collection, facility inspections and flow monitoring. Field investigations shall be used to verify compliance status, to monitor industrial self-monitoring activities, to collect samples, to initiate emergency or remedial action and to gather additional information. City personnel may conduct routine compliance monitoring or special monitoring in response to violations, technical problems or support for permit modifications. Routine wastewater sampling shall be conducted for each significant industrial user at least twice annually. The PC shall further develop such checklists and procedures for routine inspections as are necessary to assure that the results of each visit is documented and notify industrial users of any deficiencies found during any inspection. The PC shall advise the Missouri Department of Natural Resources of its routine and special field investigations each year. Joint investigation of industrial users with Environmental Protection Agency or the Missouri Department of Natural Resources may be conducted by mutual agreement.

6. COMPLIANCE SCREENING

Using all available information, the PC shall review and assess compliance with schedules, reporting requirements and applicable pretreatment standards. Reviews completed are designed to identify apparent violations rather than to determine an appropriate enforcement response to such apparent violations. During the screening process, the reviewer shall verify that any required reports are submitted on schedule, that they cover the proper time period, include all information required in the particular report and are properly signed. As part of this process, the reviewer will compare the information supplied with requirements in the industrial user's permit.

Any discrepancy shall be considered to be a violation of the ERP. To the extent possible, the industrial user will be required to correct such discrepancies immediately upon their discovery.

7. ENFORCEMENT VIOLATION

Violations and discrepancies identified during the compliance screening process will be reviewed by the PC to evaluate the type of enforcement response required. The enforcement response guide attached to this ERP will be used for this determination.

The PC will set deadlines for industrial users to respond to letters of violation. If contracts and commitments are oral, they will be confirmed in writing to preserve the record.

8. SIGNIFICANT NONCOMPLIANCE (SNC)

After completion of the compliance screening, violations will be characterized and a determination made as to whether the user is in Significant Noncompliance (SNC). Certain instances of noncompliance are not of sufficient impact to justify extensive enforcement actions. However, certain violations or patterns of violations are significant and must be identified as such. Such SNC may be on an individual or long term basis of occurrence. Categorization of industrial users as being in SNC allows the City to establish priorities for enforcement action and provides a means for reporting on significant industrial user performance summary. Instances of SNC are industrial user violations which meet one or more of the following criteria:

- A. Violations of wastewater discharge limits.
 - 1. Chronic violations. Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period (any magnitude of exceedance.) Maximum and daily limits are specified in Chapter 60 and the individual permit.
 - 2. Technical Review Criteria (TRC) violations. Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period. There are two groups of TRC:
 - a. Group I for conventional pollutants TRC = 1.4
(BOD, TSS, fats, oil and grease)
 - b. Group II for all other pollutants TRS = 1.2
 - 3. Any violation(s) of an effluent limit (average or daily maximum) that has or have caused, alone or in combination with other discharges, interference (e.g. slug loads or contamination of sludge) or pass-through; or endangered the health of sewage treatment personnel or the public.
 - 4. Any discharge of a pollutant which has caused imminent endangerment of human health/welfare or the environment and resulted in the City's exercise of its emergency authority to halt or prevent such a discharge.
- B. Violations of compliance schedule milestones, contained in a compliance directive or plan approved following an Enforcement Order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- C. Failure to provide reports for compliance schedules, (self-monitoring data, categorical standards, baseline monitoring reports), or to resubmit incomplete, inaccurate or

improper reports returned to a user by the City, within 30 days from the due date or date the report was returned to the user for resubmission.

- D. Failure to accurately report noncompliance.
- E. Reporting false information.
- F. Failure to install monitoring equipment.
- G. Exceeding variance limits.
- H. Discharging without a permit or approval when such discharge causes interference, pass-through or when continuing violations occur resulting in environmental damage.
- I. Any violation of permit conditions if evidence by neglect or intent.
- J. Refusal by a significant industrial use to allow access by City personnel to its premises.
- K. Any other violation or group of violations which the City considers to be significant.

When an industrial user is in SNC, the City shall; (1) report such information to the Missouri Department of Natural Resources as part of the Pretreatment Annual Report; (2) list the industrial user in Sedalia's newspaper in accordance with paragraph 9 as having significant violations; and (3) address the SNC through appropriate enforcement action.

9. PUBLISHING LISTS OF INDUSTRIAL USERS WITH SIGNIFICANT VIOLATIONS

General Pretreatment Regulations require the City to publish at least annually, in the largest daily newspaper within the City, a list of industrial users which were significantly violating applicable pretreatment standards and requirements during the previous twelve months. The procedures for complying the list of such industrial users is as follows:

- A. The PC shall prepare a compliance history from City records for each individual significant industrial user.
- B. The compliance history so obtained for each industrial user shall be reviewed to determine if a pattern of noncompliance exists or if the industry has been or continues to be in SNC. To the extent that an industry meets these criteria, it will be placed on the list for publication.

10. INFORMAL AND FORMAL MEANS OF ENFORCEMENT

Means of enforcement available to the City are:

- A. Informal Actions
 - Informal Notice to Industrial User, including verbal warnings by telephone or in person
 - Notice of Violation
 - Review Meetings
- B. Formal Actions
 - Standards Meeting and Compliance Schedule
 - Administrative Order
 - Appearance before the City Council
 - Show Cause Hearing
 - Revocation of Permit

- Termination of Service
- Civil Suit for Injunctive Relief of Civil Penalties
- Criminal Prosecution

11. DESCRIPTION OF ENFORCMENT ACTIVITIES

The categories of enforcement activities are described in the succeeding paragraphs.

A. Informal Actions

1. **Informal Notice to Industrial User.** Informal notice consists of personal contact, telephone calls or reminder letters to an appropriate official of an industrial user. The PC may use such a call or letter to notify industrial users of a minor violation and to seek an explanation, suggest the exercise of more due care or notify the violator that subsequent violations of the same type may be dealt with more severely. Such informal notice may be used to correct minor inadvertent noncompliance. Instances of informal notice shall be reduced to writing to preserve the record.
2. **Notice of Violation.** A Notice of violation is a written notice to the industrial user that the City has observed a violation of pretreatment standards or requirements and expects the noncompliance to be corrected and explained together with a statement that additional enforcement action may be pursued if corrections are not accomplished in a timely manner. A Notice of violation shall also state that an explanation of the violation does not excuse it or any previous violations. Notice of violation shall be sent by certified mail, return receipt requested, with copies maintained in the industrial user's file.
3. **Review Meetings.** Where violations of City ordinances have occurred, or appear to have occurred, the user shall be notified by the PC in writing as to the particulars of the violation and be called for a voluntary meeting with the industrial user. The notice sent to the industrial user shall be sent by certified mail and shall be entitled "Notice of Review". The meeting held shall be called a Review Meeting. Review meeting are intended to provide a voluntary means of preventing future violations of the City's Pretreatment Program.

At such meetings, the PC or a designee shall preside and minutes shall be kept. The industrial user may be required to respond in writing to the violations and provide an explanation for such violations and describe the means to eliminate such violations in the future.

Neither the informal notice or notice of violation is a precondition for calling a review meeting and no informal procedure is a prerequisite for instituting formal enforcement procedures.

B. Formal Actions

1. **Standards Meeting.** In cases where, following a review meeting, continued violations occur or where violations of themselves are either of significant magnitude or duration, a user may be required through a Notice of Standards Meeting to attend a Standards Meeting. Notice of such a meeting shall be sent by certified mail, return receipt requested. Attendance is mandatory by the industrial user and failure to

comply with such a notice may result in an order for Show Cause Hearing or suit for fines or penalties or such other remedies as are provided by Chapter 60 of the Code of Ordinances. The Standards Meeting shall establish procedures, investigations and studies as the PC deems necessary and desirable to determine the cause of such violations and methods to correct them. The City Counselor shall chair the Standards Meeting and minutes shall be kept.

At the conclusion of the Standards Meeting, the industry may be issued a compliance directive specifying actions to be undertaken including studies to identify and solve the problem. Timetables may also be established to complete any such studies as are required and variances, as set forth in paragraph 12, may be issued as required. Failure to comply with terms of the compliance directive or to implement the results of studies to alleviate the cause for violations may result in an order for Show Cause Hearing or Civil Litigation.

2. Administrative Order. An Administrative Order is a written document which orders a user to perform a specific act or refrain from an act. Administrative Order shall be sent by certified mail, return receipt requested.
3. Appearance Before City Council. At any time after a user is issued a compliance directive and thereafter violates the terms of such compliance directive, including any variance issued therewith, or violates City Ordinances in such manner as to warrant such action, the Public Works Director may, by written notice sent by certified mail, return receipt requested, require such user to be present at any regular or special meeting of the City Council to review such violations and for the City Council to take such actions as it is empowered to take without the formality of a Show Cause Hearing. An appearance before the City Council is not a condition precedent for other enforcement action and no previous enforcement action against the user is required before and appearance before the City Council is ordered.
4. Show Cause Hearing. The Public Works Director may order any user who causes or allows an unauthorized discharge or violates the City's pretreatment program to show cause before the City Council why the Council should not revoke the user's wastewater discharge permit or take such other enforcement actions as is dictated by the facts of the case. The Public Works Director shall issue such Orders for Show Cause Hearings and they shall be served upon the user specifying the time and place of a hearing to be held by the City Council regarding the violations, the reason why the action is to be taken, the proposed enforcement action, and shall direct the user to show cause before the Council why such action should not be taken. The notice of hearing shall be served personally or be certified or registered mail. Service may be made on any agent or officer of a corporation or agent of a partnership.

Show Cause Hearings shall be conducted by the City Council. Subpoenas shall be issued by the President of the Council upon request of any party to compel attendance of witnesses at such hearing. All testimony shall be under oath in accordance with rules of procedure and evidence developed by the Council for the conduct to show cause hearing.

Following such hearing, the City Council may take such action as it deems appropriate in the circumstances, including, but not limited to, revocation of permit,

Civil Litigation	Civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.
Criminal Prosecution	Pursuing punitive measures against an individual and/or organization through a court of law.
Fine	Monetary penalty.
I	Inspector.
IU	Industrial User.
Meeting	Informal compliance meeting with the IU to resolve recurring noncompliance.
NOV	Notice of Violation.
PC	Pretreatment Coordinator.
D	Director of Public Works.
CC	City Counselor.
SV	Significant Violation.
Show Cause Hearing	Formal meeting requiring the IU to appear and demonstrate why the Control Authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

DEFINITIONS

ADMINISTRATIVE ACTION (a fine or order) – An enforcement action authorized by the City’s legal authority which is taken without the involvement of a court.

ADMINISTRATIVE FINE – A punitive monetary charge unrelated to actual treatment costs which is assessed by the City rather than a court.

ADMINISTRATIVE ORDER – A document which orders a violator to perform a specific act or refrain from an act. For example, the order may require users to attend a show cause meeting, cease and desist discharging, or undertake activities pursuant to a compliance schedule.

CEASE AND DESIST ORDER – An administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

CIVIL LITIGATION – A lawsuit filed in a civil court. If the court rules that the defendant industrial user violated the law, the court may impose civil penalties, injunctions or equitable remedies and/or cost recovery.

CIVIL PENALTY – A punitive monetary award granted by a court to the Control Authority against a non-compliant industrial user.

COMPLIANCE ORDER – An administrative order directing a non-compliant industry to achieve or restore compliance by a date specified in the order.

CONSECT ORDER – An administrative order embodying a legally enforceable agreement between the Control Authority and the non-compliant industrial user designed to restore the user to compliance status.

NOTICE OF VIOLATION – A City document notifying an industrial user that is has violated pretreatment standards and requirements. Generally used when the violation is relatively minor and the Control Authority expects the violation to be corrected within a short period of time.

ENFORCEMENT RESPONSE GUIDE

UNAUTHORIZED DISCHARGES (No permit)			
<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Unpermitted discharge	IU unaware of requirement; no harm to POTW/environment	- Phone call - NOV with application form	PC
	IU unaware of requirement; harm to POTW	- NOV with Review Meeting - AO	PC, D D
	Failure to comply continues after notice by the POTW	- Standards Meeting - Appearance before City Council - Show Cause Hearing - Civil Litigation	D D D CC
2. Nonpermitted discharge (failure to renew)	IU has not submitted application within 10 days of due date	- Phone call - NOV	PC
DISCHARGE LIMIT VIOLATION			
<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Exceedance of local or Federal Standards (per limit)	Isolated, not significant	- Phone call - NOV	PC
	Isolated, significant (no harm)	- Review Meeting - AO - Standards Meeting	PC, D PC, D D
	Isolated, harm to POTW or environment	- AO - Standards Meeting - Appearance before City Council - Show Cause Hearing - Civil Litigation	D D D D CC
	Recurring; no harm on POTW/environment	- AO - Standards Meeting	PC, D D

	Recurring, significant (harm)	- Show Cause Hearing - Civil Litigation	D CC
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MONITORING AND REPORTING VIOLATIONS			
<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Reporting violation	Report is improperly signed or certified	- Phone call - NOV	PC
	Report is improperly signed or certified after notice by POTW	- Review Meeting - AO	PC, D PC, D
	Isolated, not significant (e.g., 5 days late)	- Phone call - NOV	PC
	Significant (e.g., report 30 days or more late)	- Review Meeting - AO	PC PC, D
	Reports are always late or no reports at all	- AO - Appearance before City Council - Show Cause Hearing - Civil Litigation	PC, D D D CC
	Failure to report spill or changed discharge (no harm)	- NOV - Review Meeting	PC PC
	Failure to report spill or changed discharge (results in harm)	- Standards Meeting - AO - Appearance before City Council - Civil Litigation	D PC, D D CC
	Repeated failure to report spills	- Show Cause Hearing - Civil Litigation	D CC
	Falsification	- Show Cause Hearing - Civil Litigation	D CC
2. Failure to monitor correctly	Failure to monitor all pollutants	- NOV	PC

	as required by permit	- Review Meeting	PC, D
	Recurring failure to monitor	- Standards Meeting - Appearance before City Council	PC, D D
3. Improper sampling	Evidence of intent	- Show Cause Hearing - Civil Litigation	D CC

MONITORING AND REPORTING VIOLATIONS (continued)			
<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
4. Failure to install monitoring equipment	Delay of less than 30 days	- NOV	PC
	Delay of 30 days or more	- Review Meeting - Standards Meeting - AO	PC PC, D PC, D
	Recurring, violation of AO	- Appearance before City Council - Show Cause Hearing - Civil Litigation	D D CC
5. Compliance Schedules (in permit)	Missed milestone by less than 30 days, or will not affect final milestone	- NOV - Review Meeting	PC PC, D
	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	- Standards Meeting - AO	D PC, D
	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	- Appearance before City Council - Show cause order - Civil Litigation	D D CC
	Recurring violation or violation of schedule in AO	- Show Cause Hearing - Civil Litigation	D CC
OTHER PERMIT VIOLATIONS			

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Wastestreams are diluted in lieu of treatment	Initial violation	- Standards Meeting - AO	D PC, D
	Recurring	- Appearance before City Council - Show Cause Hearing - Civil Litigation	D D CC
2. Failure to mitigate noncompliance or halt production	Does not result in harm	- NOV - Review Meeting	PC PC, D
	Does result in harm	- Standards Meeting - Appearance before City Council - Show Cause Hearing - Civil Litigation	D D D CC
3. Failure to properly operate and maintain pretreatment facility	See No. 2 above		
VIOLATIONS DETECTED DURING SITE VISITS			
<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Entry Denial	Entry denied or consent withdrawn. Copies of records denied.	- Obtain warrant and return to IU	I, PC, D
2. Illegal Discharge	No harm to POTW or environment	- NOV - Review Meeting	PC PC, D
	Discharges causes harm or evidence of intent/negligence	- Standards Meeting - AO	D PC, D
	Recurring, violation of AO	- Appearance before City Council - Show Cause Hearing - Civil Litigation	D D CC
3. Improper Sampling	Unintentional sampling at incorrect location	- NOV - Review Meeting	I, PC PC, D

	Unintentionally using incorrect sample type	- NOV - Review Meeting	I, PC PC, D
	Unintentionally using incorrect sample collection techniques	- NOV - Review Meeting	I, PC PC, D
4. Inadequate recordkeeping	Inspector finds files incomplete to missing (no evidence of intent)	- NOV - Review Meeting	I, PC PC, D
	Recurring	- Standards Meeting - AO	D PC, D
5. Failure to report additional monitoring	Inspection finds additional files	- NOV	I, PC
	Recurring	- Standards Meeting - AO	D PC, D

TIMEFRAMES FOR RESPONSES

A. All violations will be identified and documented within fifteen days of receiving compliance information.
B. Initial enforcement responses (involving contact with the industrial user and requesting information on corrective or preventative actions(s)) will occur within 15 days of violation detection.
C. Follow up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order, in addition to noncompliance publication.