

MUNICIPAL AUTHORITY OF BEDFORD  
BOROUGH

Resolution No. 2026-02S

ADOPTING

ENFORCEMENT RESPONSE PLAN

ADOPTED:

December 4, 2024  
Resolution 2024-04S

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## RESOLUTION NO. 2026-02S

A RESOLUTION AMENDING AND RESTATING THE ENFORCEMENT RESPONSE PLAN FOR DIRECT AND INDIRECT CONTRIBUTORS INTO THE SEWAGE SYSTEM AND TREATMENT PLANT OF THE MUNICIPAL AUTHORITY OF BEDFORD BOROUGH;

PROVIDING FOR THE ENFORCEMENT AND IMPOSITION OF PENALTIES FOR VIOLATIONS THEREOF; AND

ENSURING COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAWS.

BE IT HEREBY RESOLVED, BY THE MUNICIPAL AUTHORITY OF BEDFORD BOROUGH AS FOLLOWS:

### SECTION 1 - GENERAL PROVISIONS

The Municipal Authority of Bedford Borough, through the Industrial Waste Pretreatment Program, has the legal authority and obligation to monitor and enforce each standard or regulation applicable to Users. This authority is established in Municipal Authority of Bedford Borough Resolution 2024-03S and is applied to each User through a User Permit. It provides for User Self-Monitoring and Inspections and Sampling by the Control Authority (Municipal Authority of Bedford Borough) to determine compliance and utilizes the Enforcement Response Plan to provide uniform enforcement action for noncompliance.

#### 1.1 Purpose and Policy

The Pretreatment Program regulations are set forth in Resolution 2024-03S of the Resolutions of the Municipal Authority of Bedford Borough. This Resolution enables the Control Authority to comply with Federal and State pretreatment regulations and requirements governing Users. Specifically, this Resolution satisfies the Federal and State (NPDES) pretreatment requirements on legal authority contained in 40 CFR Part 403 as follows:

- (1) By mandating compliance with applicable Federal, State and Local pretreatment standards for Users.
- (2) By authorizing the Industrial Pretreatment Coordinator to inspect and conduct surveillance to verify the compliance status of Users.
- (3) By requiring Users to submit Self-Monitoring Reports and other data.
- (4) By providing power for the Control Authority to bring administrative, civil, or criminal actions to remedy noncompliance with pretreatment standards. All Enforcement Response Procedures are identified in detail in Table A, which specifically identifies the non-compliance activity, nature of violation and enforcement response. **It should be noted that**

the enforcement action(s) for any particular non-compliance incidents are not defined in order of required implementation by MABB. Table A. lists the enforcement options for each non-compliance to MABB and the appropriate enforcement action is based on the noncompliance history, severity, and frequency.

- (5) By giving the Industrial Pretreatment Coordinator the authority to deny or condition new or increased contributions of pollutants by Users, where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate any of its permits.
- (6) By requiring Users from all contributing municipalities to obtain a Wastewater Discharge Permit(s).
- (7) By empowering the Industrial Pretreatment Coordinator to establish an implementation schedule for compliance in each permit.

## 1.2 Legal and Technical Terminology

### (1) Abbreviations and Acronyms

The following abbreviations and acronyms, when used in this Resolution, shall have the designated meanings:

CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
gallons per day	gpd
milligrams per liter	mg/l
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
USC	United States Code

### (2) Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Resolution, shall have the meanings hereinafter designated:

- (a) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.
- (b) Administrative Order. When the Authority finds that a user has violated or continues to violate the provisions set forth in this chapter, or the order issued thereunder, the Authority may issue an order for compliance to the user responsible for the discharge. Orders may contain any requirements as might be reasonable, necessary and appropriate

to address the noncompliance, including but not limited to the installation of pretreatment technology, additional self-monitoring and management practices.

- (c) Baseline Monitoring Report. Users to which the provisions of this requirement apply must submit a report to the Authority which contains all information listed in Section 12.13.C of the Rules and Regulations .
1. Existing Categorical Industrial Users currently discharging or scheduled to discharge to the Wastewater System shall submit a report to the Authority within either one hundred eighty (180) days of the effective date of a Categorical Pretreatment Standard or the final administrative decision on a category determination conducted under 40 CFR § 403.6(a)(4), whichever is later.
  2. Categorical New Sources and sources that become Categorical Industrial Users or Significant Industrial Users subsequent to the promulgation of an applicable categorical standard shall submit a report to the Authority at least ninety (90) days prior to commencement of discharge. In addition to the requirements of Section 12.13.C of the Rules and Regulations, New Sources shall also report the method of pretreatment intended for use to meet applicable categorical standards. A New Source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (d) Control Authority. The term "Control Authority" or "Authority" shall refer to the Municipal Authority of Bedford Borough whereas the Authority or Authority Chairman is defined as the Municipal Authority of the Borough of Bedford, County of Bedford, Pennsylvania and its duly authorized representatives and employees.

- (e) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency, including the Regional Water Management Division Director.
- (f) Industrial Pretreatment Coordinator. The person designated by the Control Authority to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Resolution, or a duly authorized representative, delegated by the Pretreatment Coordinator.
- (g) Indirect Discharge or Discharge. The introduction of pollutants into the Wastewater System from any nondomestic source
- (h) Industrial User or User. A non-residential source of Indirect Discharge.
- (i) Industrial Waste(s). Any liquid, gaseous or water borne wastes from industrial processes or commercial establishments.
- (j) Interference. the condition in which a discharge, alone or in conjunction with discharges from other sources:
  1. Inhibits or disrupts the processes or operations of the wastewater treatment plant or the sewage collection system, or the processing, use or disposal of sludge.
  2. Is a cause of a violation of any requirement of the Authority's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provision and regulations or permits issued thereunder (or more stringent State or local regulations), §405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxics Substances Control, and the Marine Protection, Research and Sanctuaries Act; or which results in or increases the severity of a violation of other State or national environmental statutes, rules or regulations.
- (k) Isolated. Single incident that shall be followed by twelve (12) consecutive months of compliance for the same parameter or requirement.
- (l) Notification. Depending on the situation, generally, the submission of information in response to event or request to characterize nature of event, condition, identification and/or estimation of information, as required by Resolution 2026-02S.
- (m) Pass Through. Discharge of pollutants from the Sewer System to the waters of the Commonwealth and either alone or in conjunction with other discharges, causes a

violation of the Authority's NPDES permit or an increase in the magnitude or duration of any such violation; or the concentration of pollutants in the sludge so that the end use of the sludge causes or contributes to pollution, harm to the environment, or a violation of any State or national sludge disposal regulation, guideline or standard..

- (n) Person. An individual, firm, company, association, society corporation, or other group or entity.
- (o) Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water, such that harm to human health or the environment results.
- (p) Pollutant. Any dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal, agricultural and industrial wastes; and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (q) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; process changes; or by other means, except as prohibited by 40 CFR § 403.6(d).
- (r) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard as outlined in 40 CFR 403.3(s).
- (s) Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- (t) Publicly Owned Treatment Works or POTW, Wastewater System, Sewer System. Terms describe the entire publicly owned treatment works as defined by Section 212 of the Act (33 U.S.C. Section 1292) which is owned by the Authority. The definition of these terms includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- (u) Publicly Owned Treatment Works Penalty Law or POTW Act. As defined by Act 9 of 1992, 35 P.S. § 752.1 et seq.
- (v) Public Notification. The annual publishing, in the newspaper of general circulation published within the jurisdictions served by the POTW, of all violators who have been determined to be in Significant Noncompliance with applicable pretreatment requirements, anytime during the previous twelve (12) months as defined in Section

1.01 OO of these Rules and Regulations.

(w) Self-Monitoring and Self-Monitoring Report or SMR.

Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on State, local law, applicable general Pretreatment Standards in 40 CFR Part 403, Categorical Pretreatment Standards, and local limits. The Authority shall receive and analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in 40 CFR § 403.12.

The User's compliance report as mandated by the User's Permit and/or the Control Authority's Rules and Regulations that are submitted on schedule, cover the proper time period, include all information required, and are properly signed. The report shall include the parameters required, the number of measurements for each parameter, sampling procedures, the discharge concentration and completeness of other information required.

(x) Shall is mandatory, May is permissive.

(y) Significant Industrial Users.

1. A User subject to categorical pretreatment standards; or
2. A User that:
  - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, cooling, noncontact cooling, and boiler blowdown wastewater);
  - b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - c. Is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a User meeting the criteria in Subsection 2. has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.
4. Non-Significant Categorical Industrial User – A special case of an Industrial User

which shall refer to any User subject to the determination criteria listed in 40 CFR § 403.3(v)(2).

- a. The Authority may designate an Industrial User as a Non-Significant Categorical Industrial User if that User never discharges more than one hundred (100) gallons per day of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and if the following conditions are met:
    - i. The User, prior to the Authority's findings, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
    - ii. The User annually submits certification required pursuant to 40 CFR § 403.12(q) and Section 12.23B. of the Rules and Regulations together with any additional information necessary to support the certification statement; and
    - iii. The User never discharges untreated concentrated wastewater.
  - b. For the purposes of the Rules and Regulations, Non-Significant Industrial Users may periodically be referred to simply as "Industrial Users" and shall be classified as either a Tier 2 or Tier 3 discharger pursuant to Section 12.02 of the Rules and Regulations, dependent upon the provisions of that section.
- (z) **Significant Noncompliance. The term Significant Noncompliance shall apply to Significant Industrial Users (or any other Industrial User that violates paragraphs 3, 4 or 8 of this Section) and shall mean:**
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 sample pollutant parameter during a six-month (6) 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 for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
  3. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the Control Authority 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, 90-day compliance reports, periodic self- monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report non-compliance; or
8. Any other violation or group of violations, which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.
9. Pursuant to the definition given for SNC the Control Authority recognizes the following items as additional types of SNC violations:
  - (a) When a violation continues after notifying the User to resolve the violation within a specified time frame or the violation is of a serious nature then it becomes a SNC violation.
  - (b) Failure to analyze listed pollutants according to an approved EPA procedure or an alternate analytical method approved by the Industrial Pretreatment Coordinator. The approved analytical method must have method detection limits (MDL) lower than set Categorical or Local Limits, unless the User demonstrates matrix inhibition in the Wastewater to the satisfaction of the Industrial Pretreatment Coordinator.

In addition to the above compliance evaluation, the compliance history of the violation is considered for enforcement assessment.

- (aa) State. The Commonwealth of Pennsylvania.
- (ab) Unpermitted and Non-permitted Discharges. Discharges from any user that does not hold an industrial discharge permit as deemed required by the Authority or EPA
- (ac) User or Industrial User. The party, whether Owner, tenant, agent or representative of the Owner, receiving wastewater service by the Authority for one or more families or a

business or institutional unit on one property owned or tenanted by the party or parties. Special cases of the term “User” are defined in Section 1.01 of the Rules and Regulations and those definitions shall prevail in all other sections of the Rules and Regulations unless specifically noted otherwise as part of that provision.

- (ad) Violation. An instance of noncompliance with any requirement of Resolution 2026-01S.
- (ae) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (af) Wastewater Discharge Limits. Any applicable local, State, or Federal wastewater limit for a specific industrial classification.
- (ag) Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of any portion thereof.

## **SECTION 2- ENFORCEMENT RESPONSE PLAN**

### **2.1 General**

In order to administer the Control Authority's **Resolution 2026-01S**, an Enforcement Response Plan has been developed to determine whether Users are complying with Pretreatment Standards and Requirements of the User's Wastewater Discharge Permit. This plan, known as the Enforcement Response Plan, provides compliance screening and compliance evaluation to determine how, when, and at what level to respond to noncompliance by Users.

To understand the Enforcement Response Plan, one must first understand noncompliance terminology and its administrative enforcement responsibilities. This relationship is as follows:

- (1) Noncompliance is the act of not meeting specified conditions or requirements.
- (2) A Violation is an instance of noncompliance.
- (3) The User shall notify the Control Authority of any and all violations.
- (4) All violations may require a Formal Enforcement Response.
- (5) The Level of Formal Enforcement Response to Significant Noncompliance is determined by the magnitude of the violation and violation history.
- (6) Formal Enforcement Responses require Public Notifications for Significant Noncompliance.

### **2.2 Enforcement Evaluation**

The determination of how and when to respond to noncompliance is established through compliance screening, enforcement evaluation, and application of appropriate enforcement response procedures and mechanisms. It requires the evaluation of the User's present compliance status and past compliance records to determine the appropriate enforcement response.

- (1) Compliance Screening

This involves reviewing all available information to sort out violations. This review assesses compliance with schedules, reporting requirements, pretreatment standards and Requirements.

The compliance screening process verifies that the reports are submitted on schedule, that they cover the proper time period, include all information required, and are properly signed. Also screened are the parameters reported, the number of measurements for each parameter, sampling procedures, the discharge concentration and completeness of other information contained in the Self Monitoring Report.

Additional compliance screening is performed by the Control Authority through compliance monitoring, facility inspections, and review of self monitoring reports to assess compliance with Pretreatment Standards and Requirements independent of information supplied by Users.

(2) Compliance Evaluation

When a violation of pretreatment standards or Requirements is identified during compliance screening, it is evaluated to determine whether it is a noncompliance, Technical Review Criteria, or Significant Noncompliance violation.

Nonsignificant violations are generally isolated violations of pretreatment standards or Requirements that do not cause interference or pass through at the POTW, endanger the health of sewage treatment personnel or the public, or damage the environment.

Technical Review Criteria (TRC) violations [as defined in Section 1.2 (2)(z).] indicate that a problem is occurring and a review of the current pretreatment process is warranted. This review should be used to identify any potential defects or needed changes which may have to be implemented to correct the problem.

Significant Noncompliance (SNC) violations [as defined in Section 1.2 (2)(z)] indicate that a problem is occurring repeatedly, and a solution must be found to correct the problem. A corrective plan of action is required to correct the problem.

Pursuant to the definition given for SNC the Control Authority recognizes the following items as additional types of SNC violations:

- (b) When a violation continues after notifying the User to resolve the violation within a specified time frame or the violation is of a serious nature then it becomes a SNC violation.
- (b) Failure to analyze listed pollutants according to an approved EPA procedure or an alternate analytical method approved by the Industrial Pretreatment Coordinator. The approved analytical method must have method detection limits (MDL) lower than set Categorical or Local Limits, unless the User demonstrates matrix inhibition in the Wastewater to the satisfaction of the Industrial Pretreatment Coordinator.

In addition to the above compliance evaluation, the compliance history of the violation is considered for enforcement assessment.

## 2.3 Formal Enforcement Response

Violations and discrepancies identified during compliance screening and compliance evaluation are reviewed to determine the type of enforcement response needed. The Control Authority's Pretreatment Program requires an Enforcement Response Plan to provide uniform enforcement responses to pretreatment violations or discrepancies. The response guide identifies types of responses that are appropriate, based on the nature of the violation (i.e., effluent-daily maximum, instantaneous maximum, weekly average, or monthly average limit; reporting late or deficient; compliance schedule beginning or completion date); duration of the violation (i.e., single incident or recurring); the potential impact of the violation (i.e., interference, pass through, or POTW worker safety). It also specifies the enforcement response time frame and identifies the Control Authority's personnel authorized to initiate such an enforcement response.

When compliance screening and compliance evaluation has been completed, the enforcement response prescribed in the Control Authority's Enforcement Response Plan will be applicable to the instance of noncompliance. The prescribed responses will be implemented as follows:

- (1) If the User is in violation of its Wastewater Discharge Limits, the User shall notify the Industrial Pretreatment Coordinator within twenty-four (24) hours of becoming aware of the violation. The User shall repeat the sampling within ninety-six (96) hours and shall submit the analytical results in writing within thirty (30) days of becoming aware of the violation.

Where the User believes the first reported result(s) indicating a violation maybe in error, the User may submit additional data to support its position with the repeat sampling results. If supported, no further action shall be required.

Where the repeat sampling results show a return to compliance and no further violation is identified during the 30-day period, no further action on the initial violation may be necessary.

Where the User believes its facility continues in violation of its Wastewater Discharge Permit, the User shall notify the Industrial Pretreatment Coordinator, and the ninety-six (96) hours repeat sampling requirement may commence at the point the User believes its facility has returned to compliance provided that the results of the repeat sampling are submitted within thirty (30) days of the discovery of the original violation. The User shall be considered in noncompliance with Pretreatment Requirements.

**Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:**

(i) The Control Authority performs sampling at the Industrial User at a frequency of at least once per month; or

(ii) The Control Authority performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

- (2) If the User is in noncompliance with pretreatment standards or requirements, the User is notified with a Notice of Violation unless it is determined based on the frequency or severity of the violation that elevated enforcement as outlined in Table A is determined appropriate by the Authority.
- (3) The Notice of Violation (NOV) may be the first response to notify the User of the need to comply with the Control Authority's Wastewater Discharge Limits. The NOV states the violation of the User Permit, requires a plan for implementing corrective action, an explanation of the violation, and a response in writing with a specific time frame.
- (4) If the violation persists, was deliberate, or the explanation of the violation or the plan of corrective action is inadequate, and Significant Noncompliance criteria is met, enforcement action may be escalated. Enforcement includes Consent Orders, Show Cause Hearings, Compliance Orders, Cease and Desist Orders and/or Administrative Fine(s) which may escalate to Civil Penalties. There may also be emergency suspensions of sewer service, termination of discharges, as well as Judicial Remedies by way of Injunctive Relief, Civil Penalties and/or criminal prosecution. Supplemental enforcement actions may include performance bonds, liability insurance and requesting that proceeding be brought pursuant to public nuisance laws.
- (5) If User is in violation of other Control Authority administration requirements that are not listed in the definition of SNC, no further action on the initial violation will be taken as long as the violation does not cause the Control Authority to incur Regulatory Agency sanctions and the User complies with an Administrative Order.

All Enforcement Responses and Civil Penalties will be issued and imposed pursuant to the provisions of the Control Authority Resolution [2026-01S](#).

All Enforcement Responses and User's Responses are recorded on a Violation Summary Log. The Violation Summary Log catalogues the date of the Enforcement Action, the date of the User's Response and provides a narrative of the Enforcement Action taken as well as the User's Response.

## SECTION 3- ENFORCEMENT

### 3.1 General

Enforcement is considered for each violation or group of violations that meet the definition of Significant Noncompliance. The decision to pursue formal action is developed on the basis of nature of violation, pattern of repetition, User's response to NOV, and its efforts to obtain compliance. The Control Authority may require a Show Cause Hearing associated with a Civil Penalty if the violations resulted in harm to the Control Authority personnel, facilities, or violated any Federal, State, or local Regulations. The first step of Formal Enforcement may commence with an Administrative Order detailing milestones required to comply. The Administrative Order shall also include all records of violation and duration of its occurrence. All records are reviewed to ensure that proper procedures were used to collect information and that all contacts with the User were recorded. If the User has received conflicting information regarding its compliance status, that status is clarified in writing. A special on-site review or inspection may be conducted to verify available data and review analytical test results to confirm the accuracy of the information contained in periodic reports.

### 3.2 DISCHARGE ENFORCEMENT, PENALTIES & REMEDIES

#### 3.2.1. Administrative Enforcement Remedies

##### A. RIGHT TO REFUSE

1. The Authority reserves the right to refuse to accept wastewater or combinations of wastewater, which are discharged in violation of the terms or conditions of the industrial pretreatment program, or any permit or written directions issued by the Authority pursuant to the conditions of the industrial pretreatment program. The Authority may take such steps as it deems necessary, as outlined in the Section, to compel discontinuance of use of the sewer system or to require pretreatment of industrial wastes in order to comply with the provisions of the Section. The Authority may exercise its right of refusal by denial of issuance of a wastewater discharge permit; in such a case the discharge of industrial waste by the industrial user in question is prohibited.
2. Discharge of any industrial waste to the sewer system by a Significant Industrial User, or by any other user required to have a permit in accordance with Section 12 of the Rules and Regulations, without a wastewater discharge permit is an unauthorized discharge and may be subject to the penalties provided herein.
3. **Notice and Opportunity to Respond Prior to Termination or Refusal of Service:**
  - (a) **Notice Requirement.** Except in emergency situations as defined in subsection (d), prior to terminating wastewater treatment services, refusing to provide service,

or otherwise discontinuing acceptance of wastewater from an Industrial User, the Control Authority shall provide written notice to the Industrial User specifying:

- The proposed action (termination, refusal, or other restriction of service);
- The reason(s) for the proposed action, including specific permit violations or other grounds under these Rules and Regulations;
- The effective date of the proposed action; and
- The Industrial User's right to respond or request reconsideration.

(b) **Opportunity to Respond.** The Industrial User shall be provided **ten (10) days** from the date of receipt of such notice to submit a written response or request an informal meeting with the Control Authority to discuss the proposed action.

(c) **Final Determination.** Following review of the Industrial User's response, if any, the Control Authority shall issue a written determination affirming, modifying, or rescinding the proposed action. The Control Authority's decision shall be final unless otherwise provided under applicable appeal procedures.

(d) **Emergency Situations.** In cases where continued discharge poses an **imminent endangerment to the health or welfare of persons, the environment, or the POTW**, or would cause the POTW to violate its NPDES permit conditions, the Control Authority may immediately suspend service or refuse wastewater acceptance without prior notice. The Industrial User shall be notified as soon as reasonably practicable and afforded an opportunity to respond after the emergency has been addressed.

B. NO ACTION

1. The Authority reserves the right to make a "no action" decision regarding any potential or confirmed noncompliance with these Rules and Regulations or any wastewater discharge permit. Such a decision does not absolve the User from any liability or damages should the Authority or any other applicable regulatory authority seek to initiate an enforcement action for any violations by the User.

C. PHONE CALL

1. In the event of a User's noncompliance with these Rules and Regulations, any wastewater discharge permit, or other applicable regulations, the least severe enforcement action shall be a Phone Call to the User. In this call, the Authority shall discuss the nature of a violation and potential remedies that may assist the User in returning to compliance with these Rules and Regulations and any wastewater discharge permits.
2. It should be noted that observance of this enforcement action is a formality and may be bypassed in favor of more severe enforcement actions at the discretion of the Authority.

3. Failure to implement those corrective actions discussed in this Phone Call or otherwise return to compliance may subject the User to more severe enforcement actions as outlined in subsequent paragraphs of this section of the Rules and Regulations.

D. MEETING

1. An impromptu or informal meeting with a User may be utilized to address violations that are minor in nature. The meeting shall take place during a sampling or inspection visit to the User's facility and will be conducted with any official responsible for the operation of the process or processes that discharge, directly or indirectly, into the Wastewater System.
2. Such a meeting may be utilized to notify the User that the Authority is concerned about a potential or confirmed violation of these Rules and Regulations and/or the User's discharge permit, to obtain an explanation regarding a confirmed or potential violation, to discuss possible solutions, and to suggest that subsequent violations of the same type may be dealt with by more severe means, as outlined in subsequent paragraphs of this section.

E. INCREASED MONITORING AND/OR REPORTING FREQUENCY

1. A User may be required to increase the frequency of monitoring and/or reporting beyond the minimum established by these Rules and Regulations or by the User's discharge permit to address violations by Users that have demonstrated a history of noncompliance.
2. Should increased monitoring frequency be required by the Authority, sampling to support those monitoring efforts may be conducted by the User or the Authority in lieu of the User. In all cases, provisions of Section 12.18 of these Rules and Regulations shall apply to sampling and analysis of wastewater.
3. Increased monitoring frequency may be imposed by the Authority as a modification to the User's discharge permit or in conjunction with other enforcement responses as deemed appropriate by the Authority.
4. Increased monitoring may be automatically triggered by certain conditions described in the User's discharge permit. Such language will be included in the permit at the time of issuance or reissuance following expiration.

F. MODIFICATION OF DISCHARGE PERMIT EFFLUENT LIMITATIONS

1. Additional effluent limitations, including, but not necessarily limited to, the imposition of additional statistical bases, may be enacted for Users with a history of noncompliance with discharge permit conditions or provisions of these Rules and Regulations. An example of such a limitation would be the introduction of a limit on the daily maximum for a User currently required to limit effluent concentration on a monthly average basis.

G. NOTICE OF VIOLATION

1. Whenever the Authority finds that any industrial user has violated or is violating these Rules and Regulations, its wastewater discharge permit or any prohibition, limitation or requirements contained herein, the Authority may serve upon such industrial user a written notice stating the nature of the violation and require a response within a specified time. Responses required of industrial users may include, but are not restricted to, actions, plans, compliance schedules or written explanation.

H. PUBLIC NOTICE OF NON-COMPLIANT USERS

1. The Authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements as defined in Section 1.01 OO of the Rules and Regulations. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs 3., 4., or 8. of Section 1.01 OO of the Rules and Regulations.)
2. The Authority reserves the right to provide additional public notice of noncompliance by any Industrial User at its sole discretion. Such notification may occur more frequently than once per year and may stem from noncompliance that does not meet the criteria for Significant Noncompliance.
3. The Authority further reserves its rights to implement any special community awareness steps, as an enforcement response, to deter noncompliance of Industrial Users with discharge permit conditions or these Rules and Regulations.

I. SHOW CAUSE HEARING

1. The Authority may direct any industrial user who causes or allows an unauthorized discharge to enter the sewer system, or who violates any condition or requirement of the industrial pretreatment program or its wastewater discharge permit, to show cause before the Authority why the proposed enforcement action should not be taken. A written notice may be served on the industrial user specifying the time and place of a hearing to be held by the Authority regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the industrial user to show cause before the Authority why the proposed enforcement action should not be taken. The notice of the hearing may be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation if the industrial user is a corporation.
2. The Authority may itself conduct the hearing and take the evidence, or may

designate any of its members or any representative to:

- a. Issue in the name of the Authority notices of hearings request the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - b. Take the evidence.
  - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Authority for action thereon.
3. At any hearing held pursuant to the Section, testimony taken may be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
4. After the Authority has reviewed the evidence, it may, in writing, direct the industrial user to take certain actions to correct the unauthorized discharge or to achieve compliance. The action which may be directed include, but are not limited to:
- a. Installation of pretreatment facilities or equipment.
  - b. Modification or additions to existing pretreatment facilities or equipment.
  - c. Initiation of management practices which are required to alter the nature of the industrial waste being discharged.
  - d. Development or implementation of SPCC plans or other measures.
  - e. Other measures found to be necessary to correct the unauthorized discharge or other noncompliance.
  - f. The direction may be in the form or a schedule of compliance, setting date by which certain actions shall be taken.
  - g. Failure of an industrial user to comply with written direction issued pursuant to a heading constitutes a violation of this Section.

#### J. WRITTEN DIRECTIONS

1. Written Directions are official notifications in which the Authority specified actions and deadlines which the User must meet to remain in compliance with or correct a violation of a discharge permit or these Rules and Regulations. Issuance of Written Directions may be issued following a Show Cause Hearing (as outlined in Section 13.01I. of these Rules and Regulations) or without such a formality. The Authority may issue Written Directions without the conductance of a Show cause Hearing if it is determined that such directions are necessary to correct conditions or remedy continuing violations of these Rules and Regulations, any

wastewater discharge permit, or any other requirements of the Industrial Pretreatment Program, the Authority, or Federal or State regulations.

2. Failure of a User to comply with Written Directions in accordance with the contents of the directions constitutes a violation of these Rules and Regulations and subjects the User to appropriate enforcement actions as outlined in Section 13 of these Rules and Regulations.
3. Written Directions may be provided in the form of an Administrative Order or a Compliance Order, depending on the nature of the violation.
  - a. An Administrative Order shall be issued to the User in response to a violation of these Rules and Regulations, provisions of a discharge permit, or other applicable regulations that is administrative in nature. Measures to correct that violation and a corresponding schedule of corrective actions will be outlined in the directions from the Authority.
    - i. Examples of violations which may result in the issuance of Administrative Orders include, but are not limited to, a failure to submit a Periodic Compliance Report on the prescribed cadence and inadequate report contents.
    - b. A Compliance Order shall be issued to the User in response to a violation as described above that is technical in nature and relates to a failure to comply with effluent limits or other similar conditions imposed upon the User by these Rules and Regulations, any wastewater discharge permit, or other applicable regulations.
      - i. An example a of violation which may result in the issuance of Compliance Orders includes, but is not limited to, exceedance of a local limit or Categorical Pretreatment Standard.

#### K. ADMINISTRATIVE FINES and CIVIL PENALTIES

1. The Authority may issue fines to any User as a means of escalating enforcement action following one or more of the actions outlined in preceding paragraphs of Section 13 of these Rules and Regulations, in response to Significant Noncompliance, or as otherwise described in these Rules and Regulations. Fines shall be assessed in addition to any fees that the Authority requires be reimbursed by the User for administration of the program, collection of samples, or analysis of those samples.
2. Fines shall be assessed on an escalating schedule for each instance that the Authority deems appropriate to assess a fine. The schedule may be updated from time to time by the adoption of a resolution by the Authority.
  - a. The current Fine Schedule is attached to these Rules and Regulations for reference. Two distinct schedules are included, the first of which is for

self-reported violations and the other of which pertains to violations discovered by the Authority or in some manner that was not initiated by the User.

- i. Escalation of fines shall proceed sequentially from “First Offense” level to “Second Offense” level and finally to “Third Offense” level regardless of how the violation was discovered. For example, a user who self-reports a violation and is assessed a “First Offense” violation from the appropriate schedule shall be assessed a “Second Offense” violation from the second table if the second offense was not self-reported by the User.
  - b. The escalating schedule of fines shall be maintained for one (1) year based on a rolling 365-day period. Should a User be assessed an Administrative Fine and 365 days lapse before the Authority assesses another fine, that User shall be assessed the lowest level of Administrative Fine as applicable pursuant to the most recent Fine Schedule.
3. Any user assessed an Administrative Fine shall remit payment of the appropriate amount to the Authority within thirty (30) days of receipt of notice of the fine amount. Failure to remit payment within thirty (30) days shall subject the User to additional penalties regarding delinquency pursuant to Section 13.02B. of these Rules and Regulations.
4. Civil penalties for violation of a Pretreatment Requirement or infractions of the Rules and Regulation can be assessed for each occurrence. Civil penalties are assessed under the provisions of the Rules and Regulations; civil penalties will be assessed by the municipality in which documented infractions originate. In addition to its authority under the Pennsylvania Municipality Authorities Act, the Authority also has the power to assess penalties under Pennsylvania law (35 P.S. §752, enacted as Act 9 of 1992 - the Publicly Owned Treatment Works Penalty Law, hereinafter "Act 9").
5. Administrative Fines and Civil Penalties are defined in Table B1 and B2 of the Enforcement Response Procedures and Table A

L. CONSENT ORDER

1. A Consent Order is an agreement between the Authority and a User regarding the implementation of significant corrective actions. As part of the execution of a Consent Order, the User shall assume responsibility for its noncompliance with these Rules and Regulations, any wastewater discharge permit, or other applicable regulations and shall agree to correct the cause of such violation.
2. The contents of a Consent Order shall be determined by the Authority and may include, but shall not be limited to, a detailed compliance schedule and list of corrective actions that must be taken in order to regain compliance with these

Rules and Regulations.

3. Execution of a Consent Order shall require the signature of both the Authority Chairman (or duly authorized representative) and an individual responsible for the implementation of the order on behalf of the User.
4. Failure to properly implement the corrective actions listed in the Consent Order or failure to comply with the provisions in the detailed compliance schedule shall constitute a violation of these Rules and Regulations and shall subject the User to enforcement actions outlined in Section 13.

M. REVOCATION OF PERMIT

1. Any industrial user who violates the following conditions of the Section, or applicable State or Federal regulations, is subject to having its wastewater discharge permit revoked.
  - a. Failure of an industrial user to factually report the wastewater constituents and characteristics of its discharge in any application for a wastewater discharge permit, or in any reports required by these Rules and Regulations.
  - b. Failure of the industrial user to report significant changes in operations, or wastewater constituents and characteristics as required by these Rules and Regulations.
  - c. Refusal of reasonable access to the industrial user's premises for the purpose of inspection or monitoring.
  - d. Violation of conditions of the wastewater discharge permit.
2. Any industrial user notified of a revocation of its wastewater discharge permit may be required to immediately (within one hour) stop or eliminate the discharge (even if an appeal of the revocation notice is pending). In the event of a failure of the industrial user to comply voluntarily with the notice of revocation, the discharge shall be considered an unauthorized discharge and the Authority may take such steps as deemed necessary, which may include immediate (within one hour) severance of the connection between the building sewer and the sewage collection system to prevent or minimize damage to the sewer system or endangerment to the environment or any property or person.

N. SUSPENSION OF PERMIT

1. The Authority may suspend the wastewater discharge permit when such suspension is necessary, in the opinion of the Authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment; causes or may cause interference or pass through; or cause or may cause the Authority to violate any condition of an NPDES permit or any other Federal or State law, rule, regulation or permit condition.
2. Any industrial user notified of a suspension of its wastewater discharge permit may be required to immediately (within one hour) stop or eliminate the discharge (even if an appeal of the suspension notice is pending). In the event of a failure of the industrial user to comply voluntarily with the notice of suspension, the discharge shall be considered an unauthorized discharge and the Authority may take such steps as deemed necessary, including immediate (within one hour) severance of the connection between the building sewer and the sewage collection system to prevent or minimize damage to the sewer system or endangerment to the environment or any property or person.
3. If a wastewater discharge permit has been suspended as a result of an unauthorized discharge, which discharge resulted in or contributed to damages to the sewer system or to any person or property, the wastewater discharge permit shall not be reinstated until such time as all such damage claims have been satisfied.
4. The Authority may reinstate the wastewater discharge permit upon Authority inspection and user submission of proof by the industrial user of the elimination of the unauthorized discharge or correction of the noncompliance for which the suspension was imposed.

O. SEVERANCE/PLUGGING OF SEWER LATERAL

1. In cases of extended noncompliance in which enforcement actions described in preceding paragraphs have proven ineffective in causing a User to return to compliance with these Rules and Regulations, any wastewater discharge permit, or other applicable regulations, the Authority may sever, plug, or otherwise terminate a User's connection to the Wastewater System.
2. The Authority may also utilize this means of enforcement in special cases where immediate (within one hour) cessation of discharge from a User is required to safeguard public health and safety or to protect the Wastewater System from damage. In such cases, prior enforcement actions need not be required.

P. CIVIL ACTIONS

1. If any person violates the provisions of the industrial pretreatment program, including local, national or State pretreatment requirements, categorical standards

or any wastewater discharge permit or written directions issued by the Authority, the Authority may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Bedford County or any other appropriate forum.

Q. INJUNCTIVE RELIEF

1. If any person:
  - a. Causes or permits an unauthorized discharge to occur.
  - b. Otherwise violates the conditions imposed by these Rules and Regulations or any wastewater discharge permit, schedule or written directions issued by the Authority or any National or State pretreatment requirement.
  - c. Discharges wastewater or industrial waste which otherwise presents or may present an endangerment to the environment or which threatens to interfere with the operations of the Sewer System.
2. The Authority may commence an action in the Court of Common Pleas of Bedford County or any other appropriate forum for injunctive relief to stop the discharge or violation, or to require compliance with the applicable condition.

R. EQUITABLE RELIEF

1. The Authority reserves the right to seek the recovery of damages caused by a User (“Equitable Relief”) in a court of law. The Authority also reserves the right to request that specific actions (“Specific Performance”) be required of a User. The provisions of this paragraph should not be construed to preclude the Authority from seeking other forms of Equitable Relief as appropriate based upon the nature and severity of damages caused by a User of the Wastewater System.

S. CRIMINAL PENALTIES

1. Criminal penalties may be sought against Users or representatives of any User that perform actions befitting of such recourse. Examples of such actions include, but shall not be limited to, falsification of records, interference with the Authority’s monitoring efforts, or other criminal actions.
2. Criminal penalties shall never be imparted by the Authority; rather, the Authority reserves the right to initiate criminal investigations and the filing of criminal actions where deemed appropriate. Criminal penalties must be sought under the ordinances of the municipality in which the purported violation occurred or under applicable Pennsylvania statute or law.

T. REFERRAL TO EPA OR PENNSYLVANIA DEP

1. The Authority may, as it deems appropriate, refer any instance or repeated cases of noncompliance with these Rules and Regulations, any wastewater discharge permit, or other applicable regulations to the Pennsylvania Department of

Environmental Protection (“DEP”) and/or the Environmental Protection Agency (“EPA”). Those agencies may subject the User in noncompliance with appropriate penalties afforded to each agency under applicable law.

2. The Authority (or a duly authorized representative) reserves the right to joint in any lawsuit or otherwise assist the DEP or EPA, including the provision of sworn testimony.

**U. Reference the Rules and Regulations Section 13.01(V) – Right of Appeal for Right of Appeal applicability and process**

**SECTION 4 - PUBLIC NOTIFICATION AND REPORTING OF SIGNIFICANT NONCOMPLIANCE**

General Pretreatment Regulations require that a list of violators in Significant Noncompliance with Pretreatment Standards and Requirements at any time during the previous twelve (12) month period be published annually in the a newspaper of general circulation published within the jurisdictions served by the POTW.

The published list of violators in Significant Noncompliance with Pretreatment Standards and Requirements shall be in accordance , Section 13.01 H. - Publication of Users in Significant Noncompliance, of the Rules and Regulations.

**SECTION 5 - SEVERABILITY**

If any provision of this Resolution is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

**SECTION 6- MEMBER MUNICIPALITY APPROVAL AND CONSENT**

Following initial approval of this Enforcement Response Plan ("the Plan") by the Municipal Authority of Bedford Borough member municipalities, the Control Authority may amend and supplement the Plan as it deems appropriate to properly administer the Industrial Pretreatment Program. The Plan modifications, changes, and supplements will be in accordance with EPA regulations, MABB Rules and Regulations and the applicable Intermunicipal Agreements.

**SECTION 7- EFFECTIVE DATE**

This Resolution shall take effect immediately on approval by EPA and shall be in force from and after its approval in accordance with the provisions of the Control Authority's appropriate regulations.

This Resolution was adopted on the 7<sup>th</sup> day of January, 2026 by the Municipal Authority of the Borough of Bedford.

**Table A**  
**ENFORCEMENT RESPONSE**  
**PROCEDURES**

<b>UNAUTHORIZED DISCHARGES (NO PERMITS)</b>		
<b>Non-Compliance</b>	<b>Nature of Violation</b>	<b>Enforcement Response*</b>
1. Unpermitted Discharge	IU unaware of requirements, no harm to POTW/environment	-Schedule a meeting explaining the pretreatment program, how it operates, personnel to contact, and request to fill in an application within 30 days. -Evaluate the application and issue a permit if all requirements are met. Otherwise, prepare a letter within 30 days of receiving the application form stating missing or incomplete information and requiring a response.
	IU did not provide complete application or revise its application within time frame required	-Issue an Administrative Order (AO) within 30 days with a compliance schedule, and/or a fine (see Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I).
	IU unaware of requirement, harm to the POTW	-Schedule a Show Cause Hearing within 30 days, issue an AO with the requirement to cease harmful discharge and a compliance schedule, and/or a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule III). -Compliance schedule will include completing the application form.
	IU did not cooperate and continues to cause harm to the POTW	-Terminate service immediately, prepare for a civil action within 90 days, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule IV).
2. Non-Permitted Discharge (failure to renew)	IU aware of requirement, with no harm	-Issue an AO within 60 days with compliance schedule, and/or a fine (see Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I).
	IU aware of requirement, with harm	-Issue AO within 30 days with the requirement to cease harmful discharge and a compliance schedule. -Sample weekly through a 90 day period. -Request a complete application within 30 days. If application is not received within 30 days, IU is considered in SNC, and/or a fine (see Fine Schedule C), and/or civil penalty (see Civil Penalty Schedule III). -If IU fails to submit properly completed or revised application form within 90 days, cease temporary permit(s) and terminate services, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty IV).

TABLE A (cont.)

**ENFORCEMENT RESPONSE PROCEDURES**

<b>DISCHARGE LIMIT VIOLATION</b>		
<b>Non-Compliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Response*</b>
1. Exceedance of Local or Federal Limits (Permit Limit)	Isolated, not significant	<ul style="list-style-type: none"> <li>- Request a written justification for exceedance of limits and resampling within 30 days.</li> <li>- Issue NOV within 60 days of initial detection of apparent violation and/or fine (see Fine Schedule D), if confirmed.</li> </ul>
	Isolated, significant, exceeds the limits by TRC of an individual effluent limit, no harm	<ul style="list-style-type: none"> <li>- Request a written justification for exceedance of limits and resampling within 30 days.</li> <li>- Issue NOV if resampling indicates continued violation within 30 days of confirmation or violation.</li> <li>- Issue a Compliance Order within 90 days of detecting initial violation, a written justification and presenting measures for preventing this incident from occurring.</li> <li>- Formulate Compliance Order to identify procedure for addressing significant violation, and/or fine (see Fine Schedule D), and/or civil penalty (see Civil Penalty Schedule I).</li> </ul>
	Isolated, harm to POTW/environment	<ul style="list-style-type: none"> <li>- Issue an AO within 60 days of detecting initial violation that requires ceasing the harmful discharge and request response within 30 days, Show Cause Hearing, Compliance Order, and/or a fine (see Fine Schedule D), and/or civil penalty (see Civil Penalty Schedule III), and/or criminal investigation, and/or termination of service.</li> </ul>
	Recurring (continuing, frequent, and/or multi-violation or SNC), no harm to POTW/environment,	<ul style="list-style-type: none"> <li>- Issue AO within 60 days, and/or fine (see Fine Schedule D), and/or civil penalty (see Civil Penalty Schedule I).</li> </ul>
	Recurring (continuing, frequent, and/or multi-violation), significant which constitutes SNC or chronic, harmful to POTW/environment	<ul style="list-style-type: none"> <li>- Issue AO within 60 days, Show Cause Hearing, and/or fine (see Fine Schedule D), and/or civil penalty (see Civil Penalty Schedule IV), and/or civil litigation, and/or criminal investigation, and/or termination of service</li> </ul>

TABLE A (cont.)

**ENFORCEMENT RESPONSE PROCEDURES**

REPORTING VIOLATION		
Non-Compliance	Nature of the Violation	Enforcement Response*
1. Reporting Violation	Report is improperly signed or certified; including required certification statements	-Request complete information to be forwarded within 30 days.
	Report is improperly signed or certified after notice by POTW	-Issue NOV within 60 days of detecting initial violation (if not signed or certified within 30 days of notification), and/or fine (see Fine Schedule F).
	Isolated, single incident, no report	-Request violation be corrected within 30 days. -Issue NOV within 60 days from detecting violation if not corrected*, and/or a fine (see Fine Schedule F).
	Significant (recurring), no reports	-Issue AO within 60 days of initial NOV date, and/or a fine (see Fine Schedule A), and/or civil penalty (1).
	Reports are always late or no report at all	-Issue AO with Show Cause Hearing within 60 days of initial date of AO. -Where violation persists after 90 days from Show Cause Hearing, a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule I), and/or terminate service.
	Failure to report spill or changed discharge, no harm	-Issue NOV within 30 days, request written justification for failure to report; AO for emergency response plan, and/or a fine (see Fine Schedule C), and/or civil penalty (see Civil Penalty Schedule II).
	Failure to report spill or changed discharge, results in harm to POTW/environment	-Issue AO within 60 days of detecting violation, and/or develop emergency response plan, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule IV).
	Repeated failure to report spills	-Issue AO with a Show Cause Hearing within 60 days. -Terminate services if failure occurs more than twice a year, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule IV).

TABLE A (cont.)

**ENFORCEMENT RESPONSE PROCEDURES**

<b>REPORTING VIOLATION</b>		
Non-Compliance	Nature of the Violation	Enforcement Response*
1. Reporting Violations (cont.)	Falsification	-Criminal investigation within 30 days of detecting initial violation. -Terminate services immediately if proved true, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule III).
2. Failure to Monitor Correctly	Failure to monitor all pollutants as required by permit; Failure to analyze using the proper/designated methods	-Request a response within 30 days justifying violation. -Issue NOV within 60 days of detecting initial violation if inadequate justification received.
	Recurring failure to monitor	-Issue AO within 60 days of second occurrence, and/or a fine (see Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I).
3. Improper sampling	Evidence of intent	-Criminal investigation within 30 days of detecting violation. -Termination of services immediately if proved true, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule IV).
4. Failure to install monitoring equipment, including failure to properly operate and maintain pretreatment equipment.	Delay of less than 30 days	-Issue NOV within 30 days, request response with time frame for completion of proper installation. -AO within 60 days of initial violation, if no response received, and/or a fine (see Fine Schedule A).
	Delay of 30 days or more	-Issue Compliance Order within 30 days of detecting violation, and/or a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule I)
5. Compliance Schedules (in Permit)	Missed milestone by less than 30 days, or will not affect final milestone	-Issue NOV within 30 days of detecting violation, and/or a fine (see Fine Schedule A).
	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	-Issue NOV within 30 days of detecting violation, SNC, and/or a fine (see Fine Schedule A).
	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	Issue Show Cause Hearing notice within 30 days of detecting violation, and/or a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule I).

TABLE A (cont.)

**ENFORCEMENT RESPONSE PROCEDURES**

<b>SAMPLING, MONITORING AND REPORTING</b>		
<b>Non-Compliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Response*</b>
1. Failure to sample, monitor, report (routine reports, BMR's, etc.)	Isolated or infrequent	-Request missing information. If not received, issue NOV within 30 days of initial violation detection requiring a written response to be submitted within 30 days from the date of the NOV. If not received within these 30 days, SNC, and/or a fine (see Fine Schedule A). -Issue AO within 90 days if no response received within 60 days from original due date.
2. Failure to sample, monitor, report, or notify	No response to letters, does not follow through on written agreement, or frequent violation--SNC. (This circumstance is subsequent to Item above.)	-Notify of SNC violation within 30 days of violation detection, and/or a fine (see Fine Schedule B), and/or civil penalty ( <b>see Civil Penalty Schedule I</b> ). -Consider issuing AO, and/or a fine (see Fine Schedule C), and/or civil penalty (see Civil Penalty Schedule I) if no response is received after AO or after 90 days from original due date. -Consider terminating service and request judicial action, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule II), and/or criminal investigation depending on circumstances, if no acceptable response after 120 days of original due date.
3. Failure to notify of effluent limit violation, slug discharge, or illegal discharges	Isolated or infrequent. No known effects. (SNC - failure to report non-compliance.)	-Issue NOV within 30 days after detection of violation. Require response in writing with reasons for lack of responding to isolated violation(s). Evaluate response. Re-sample and submit results, and/or a fine (See Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I). Provide due dates in correspondence. If response is not received within 30 days of due date, SNC, issue Show Cause Hearing notice. Issue AO within 90 days of due date if no response received and/or a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule I). -If SNC violation occurs, notify using AO within 60 days of violation detection

TABLE A (cont.)

**ENFORCEMENT RESPONSE PROCEDURES**

<b>SAMPLING, MONITORING AND REPORTING</b>		
Non-Compliance	Nature of the Violation	Enforcement Response*
4. Failure to notify of effluent limit violation, slug discharge, or illegal discharges	Frequent or continued violation or with known effects (SNC - failure to accurately report non-compliance.)	-Issue AO within 60 days of initial violation detection, and AO shall request response as to why notification not made and cause of violation(s), and/or a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule II). -Require up to daily additional sampling of wastewater discharge, if not performed, a fine (see Fine Schedule B).
5. Failure to re-sample after discovery of violation.	Infrequent or Frequent	-Issue NOV within 60 days after due date, and/or a fine (A), and/or civil penalty. Escalate to AO within 90 days after due date if no response received, and/or a fine (see Fine Schedule B). -If frequent violations continue, escalate to Show Cause Hearing, and/or a fine (see Fine Schedule C), and/or civil penalty (see Civil Penalty Schedule I).
6. Failure to notify of effluent violation or slug discharge.	Known environmental (i.e., pass-through or interference) and/or POTW damage results -- SNC.	-Notify of SNC violation using AO within 30 days of violation detection, and/or a fine (see Fine Schedule D), and/or civil penalty (see Civil Penalty Schedule IV), and/or criminal investigation, and/or termination of service.

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

VIOLATIONS DETECTED DURING SITE VISITS		
Non-Compliance	Nature of the Violation	Enforcement Response*
1. Entry Denial	Entry denied or consent withdrawn Copies of records denied	-Issue a fine (see Fine Schedule C), and/or civil penalty (see Civil Penalty I) within 60 days. -Obtain entry warrant immediately and return to facility. -May terminate service.
2. Inadequate record-keeping	Inspector finds incomplete or missing information(no evidence of intent)	-Request to complete files within 30 days from inspection date, reschedule inspection within 90 days from inspection date. -Issue NOV within 30 days of inspection if not corrected, and/or a fine (see Fine Schedule F).
	Recurring	-Issue AO within 30 days, and/or a fine (see Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I).
3. Failure to report required additional monitoring	Inspector finds additional files	-Request files be properly organized, a listing of organized files and records shall be provided within 30 days. -Issue NOV within 60 days if not performed, and/or a fine (see Fine Schedule A).
	Recurring	-Issue AO within 60 days from detecting additional violation, and/or a fine (see Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I).

**TABLE A (cont.)**

**ENFORCEMENT RESPONSE PROCEDURES**

<b>OTHER PERMIT VIOLATIONS</b>		
<b>Non-Compliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Response*</b>
1. Wastestreams are diluted in lieu of treatment	Initial violation	-Issue NOV within 30 days of detecting violation, and/or a fine (see Fine Schedule A), and/or civil penalty (see Civil Penalty Schedule I).
	Recurring	-Issue an AO with Show Cause Hearing within 60 days, and/or a fine (see Fine Schedule B), and/or civil penalty (see Civil Penalty Schedule I), and/or terminate services.
2. Failure to mitigate non-compliance or halt production	Does not result in harm	-Request response within 30 days. -Issue NOV within 60 days of detecting violation if inadequate response received, and/or a fine (see Fine Schedule C), and/or civil penalty (see Civil Penalty Schedule III).
	Does result in harm	-Issue AO within 60 days, and/or a fine (see Fine Schedule E), and/or civil penalty (see Civil Penalty Schedule IV). -Proceed with civil litigation within 30 days if not fully responsive.

**\*NOTES:**

**RESPONSIBLE OFFICIALS:** Except as may be otherwise provided herein, the Authority Chairman shall administer and enforce the provisions of these Rules and Regulations. The Authority Chairman may delegate any or all power granted by these Rules and Regulations to the Authority Manager or to others as he or she deems appropriate.

**Referral to EPA and/or PADEP**

For any instance(s) of Noncompliance, the Authority, as it deems appropriate, may refer the case to PADEP and/or EPA so as to subject the noncomplying Industrial User to the penalties available to such agencies under applicable law. The Authority may join in the lawsuit or otherwise assist PADEP and/or EPA, e.g., provide testimony

### **Notice of Violation**

Notice of Violation - This **may be** the first written response to a Noncompliance violation of pretreatment standards or requirements. The Notice of Violation may apply to all Noncompliance violations and can be accompanied by or followed by an Administrative Fine, Civil Penalty, or other Administrative Enforcement Remedies, Judicial Enforcement Remedies or Enforcement Action.

The Notice of Violation identifies the regulation violated, requests an explanation of the Noncompliance, requests a plan of corrective action to resolve the Noncompliance, requests a response within thirty (30) days, is accompanied by an invoice if an Administrative Fine is levied, identifies the date of the Show Cause Hearing if a hearing is requested by the Industrial Pretreatment Coordinator and is sent by Certified Mail, return receipt requested. In addition, it indicates that continued Significant Noncompliance will be met with escalating enforcement activity. Administrative Fines and Civil Penalties are defined in Table B1 and B2 of the Enforcement Response Procedures and Table A.

### **Administrative and Judicial Enforcement Remedies**

Judicial Enforcement Remedies may include Injunctive Relief, Civil Penalties and/or Criminal Prosecution. A civil suit for injunctive relief may be initiated when the User does not execute steps necessary to achieve or maintain compliance, when the violation is of such seriousness to warrant court action to deter future violations or when the danger does not permit lengthy negotiation of a settlement. If requested, the court may issue a temporary restraining order or preliminary injunction restraining the User from violating pretreatment standards or requirements pending the outcome of the civil action if a harm to the POTW's operation, its workers, or receiving stream can be shown as a result of an ongoing User violation. The Administrative Civil Penalty or Judicial Civil Penalty may be up to twenty- five thousand (\$25,000) dollars per day for each violation, pursuant to the provisions of the Publicly Owned Treatment Works Penalty Law.

The amount of Civil Penalty imposed depends on the nature of the violation. This includes consideration of damage to air, water, or land arising from user discharges to the POTW, cost of restoration or abatement; savings resulting from noncompliance, history of past violations; deterrence of future violations; and any other relevant factors.

### **Criminal Prosecution**

Criminal Prosecution - Section 309 (c) of the Clean Water Act authorizes the Federal Government to seek criminal punishment for any person who willfully or negligently violates pretreatment standards, knowingly makes false statements regarding any report, application, record, or any other document required by General Pretreatment Regulations. There may also be criminal prosecution under applicable provisions of the Pennsylvania Criminal Code. The determination to pursue violations through criminal action will take into consideration the willfulness of the violation, knowledge of the violation, nature and seriousness of the offense, need for deterrence, compliance history of the User, adequacy of the evidence and adequacy of penalties and sanctions available through civil and administrative enforcement action.

Examples of criminal intent include falsification of data, tampering with results or equipment, willful or negligent failure to provide notice of upset, slug or accidental discharge or willful violation of the User Permit. Parallel criminal and civil actions maybe filed for violations when immediate injunctive relief is necessary.

### **Termination of Services**

The Control Authority maintains the authority to halt any actual or threatened discharge of prohibited materials that may represent an endangerment to public health, the environment or the POTW. Additionally, the Control Authority can deny or condition new or increased discharges by a User, or changes in the nature of pollutant discharge by a User, if the discharge does not meet Pretreatment Standards or causes the Control Authority to violate any of its permits. Termination of Service is a remedy to be used to bring Users into compliance by halting noncomplying discharges

**TABLE B1**

**ADMINISTRATIVE FINE AND CIVIL PENALTY SCHEDULE**

The Administrative Fine and Civil Penalty Schedule establishes the specific fine and/or penalty associated with the violations identified in Table A of this Resolution. The recommended fines and/or civil penalties for each response action may be decreased/modified if appropriate circumstances are found by the Control Authority or increased if deemed necessary by the Control Authority.

**Administrative Fine**

The Authority may issue fines, in addition to requiring the reimbursement of administrative fees and costs of sampling and testing, as a means to incentivize the IU to regain compliance as outlined in the Rules and Regulations. Fines shall be assessed on an escalating basis for Users with a history of noncompliance. The assessment of fines shall be implemented based on the Fine Schedule, included in the Rules and Regulations as an Appendix and updated from time to time by adoption of an ordinance by the Authority

- Schedule A: The first fine associated with each violation will be \$100.00/day. The second violation will be \$200.00/day and will process until it reaches \$1,000.00/day. After twelve (12) months of zero violations, a User shall revert to the minimum fine.
- Schedule B: The fine associated with each violation will be \$500.00/day for the first offense. The second violation within twenty-four (24) months will be \$1,000.00/day.
- Schedule C: The fine associated with each violation will be \$1,000.00/day.
- Schedule D: The fine associated with each violation will be on a per day basis as follows:

<u>NO HARM</u>	Isolated	Recurring
Exceed Permit and/or federal limit by up to 100 percent	\$ 500.00	\$1000.00
Exceed Permit and/or federal limit by 100 to 200 percent	\$ 1000.00	\$3000.00
Exceed Permit and/or federal limit by over 200 percent	\$ 3000.00	\$5000.00
 <u>HARM</u>	 Isolated	 Recurring
Exceed Permit and/or federal limit by up to 100 percent	\$2,500.00	\$ 5,000.00
Exceed Permit and/or federal limit by 100 to 200 percent	\$5,000.00	\$ 7,500.00
Exceed Permit and/or federal limit by over 200 percent	\$7,500.00	\$10,000.00

- Schedule E: The fine associated with each violation will be \$2,500.00/day.
- Schedule F: The fine associated with this violation will be \$200.00/incident.

**TABLE B2**

**ADMINISTRATIVE FINE AND CIVIL PENALTY SCHEDULE**

(continued)

**Civil Penalty**

Civil penalties for violation of a Pretreatment Requirement or infractions of the Rules and Regulation can be assessed for each occurrence. Civil penalties are assessed under the provisions of the Rules and Regulations; civil penalties will be assessed by the municipality in which documented infractions originate. In addition to its authority under the Pennsylvania Municipality Authorities Act, the Authority also has the power to assess penalties under Pennsylvania law (35 P.S. §752, enacted as Act 9 of 1992 - the Publicly Owned Treatment Works Penalty Law, hereinafter "Act 9").

Schedule I:               The penalty shall be \$2,500.00/day per violation.

Schedule II:             The penalty shall be \$5,000.00/day per violation.

Schedule III:            The penalty shall be \$10,000.00/day per violation.

Schedule IV:            The penalty shall be \$25,000.00/day per violation.

**Fines, Penalties and Other Cost**

All fines and/or penalties shall continue until the violations are corrected so as to be in compliance with this Resolution. In addition to fines and penalties, the Control Authority will seek to recover all funds expended as a result of User's non-compliance.