

EASTON AREA JOINT SEWER AUTHORITY

Resolution No. 1998-10-19-B

ADOPTING

ENFORCEMENT RESPONSE PLAN

OCTOBER 19, 1998

UPDATED
JULY 19, 1999

TABLE OF CONTENTS

SECTION 1 - GENERAL PROVISIONS	1
1.1 Purpose and Policy	1
1.2 Legal and Technical Terminology	2
SECTION 2 - ENFORCEMENT RESPONSE PLAN	8
2.1 General	8
2.2 Enforcement Evaluation	8
2.3 Formal Enforcement Responses	10
SECTION 3 – ENFORCEMENT	11
3.1 General	11
3.2 Notice of Violation	12
3.3 Administrative and Judicial Enforcement Remedies	12
3.4 Criminal Prosecution	13
3.5 Termination of Services	13
SECTION 4 - PUBLIC NOTIFICATION AND REPORTING OF SIGNIFICANT NONCOMPLIANCE	14
SECTION 5 – SEVERABILITY	14
SECTION 6 – MEMBER MUNICIPALITY APPROVAL AND CONSENT	14
SECTION 7 - EFFECTIVE DATE	14

TABLES

Table A	Enforcement Response Procedures
Table B	Administrative Fine and Civil Penalty Schedule

RESOLUTION NO. 1998-10-19-B

A RESOLUTION

AMENDING AND RESTATING THE ENFORCEMENT RESPONSE PLAN FOR DIRECT AND INDIRECT CONTRIBUTORS INTO THE SEWAGE SYSTEM AND TREATMENT PLANT OF THE EASTON AREA JOINT SEWER AUTHORITY;

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 Easton Area Joint Sewer Authority as follows:

SECTION 1 - GENERAL PROVISIONS

The Easton Area Joint Sewer Authority, 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 Easton Area Joint Sewer Authority Resolution XXX and is applied to each User through a User Permit. It provides for User Self-Monitoring and Inspections and Sampling by the Control Authority (Easton Area Joint Sewer Authority) 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 ^{1998-10-19-A}~~XXX~~, of the Resolutions of Easton Area Joint Sewer Authority. 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.
- (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
gpd	-	gallons per day
mg/l	-	milligrams per liter
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. An enforcement document which directs a User to undertake or to cease specified activities. Types of Administrative Orders are: Cease and Desist Orders, Consent Orders, Show Cause Orders, and Compliance Orders.
- (c) Baseline Monitoring Report. A report to be submitted at least ninety (90) days prior to commencement of discharge containing the following: Identifying information, Environmental Permits, Description of Operation, Flow Measurements, Measurements of Pollutants, Certification, Compliance Schedule, and Signatures and Certification.
- (d) Control Authority. The term "Control Authority" shall refer to the Easton Area Joint Sewer Authority.
- (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 (including holding tank waste), into the POTW, from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act (33 USC 1317).
- (h) Industrial User or User. A source of Indirect Discharge, from an establishment, which discharges or introduces industrial wastes into the POTW.
- (i) Industrial Waste(s). Any liquid, gaseous, radioactive, solid, or other substances, not sewage, resulting from any manufacturing or industry, or from establishment as herein defined, and mine drainage, refuse, silt, coal mines, coal collieries, breakers or other coal processing operation.
- (j) Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, causes the inhibition or disruption of the POTW's treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Control Authority's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations:

Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

- (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 XXX.
- (m) Pass Through. A discharge which exits the POTW into Waters of the State in quantities or concentrations which, alone or in conjunction with discharge or discharges from other sources, is a cause of a violation of any requirement of the Control Authority's NPDES permit, including an increase in the magnitude or duration of a violation.
- (n) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (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 to a less harmful state 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 by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

- (r) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- (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. A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the Control Authority. This definition 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 POTW 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 largest daily newspaper published in the service area in which the POTW is located, of all violators who have been determined to be in Significant Noncompliance with applicable pretreatment requirements, during the previous twelve (12) months.
- (w) Self Monitoring Report or SMR. 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 User.
 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 standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

(z) Significant Noncompliance. A User is in significant noncompliance if its violation meets one or more of the specific criteria set forth in 40 CFR 403.8(f)(2)(vii). For purposes of this definition, a User is in significant noncompliance if its violation meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six-month (6) period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

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 daily maximum limit or the average limit 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 effluent limit (daily maximum or average limit) 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 under Resolution 1998-10-19-A 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.
 6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, periodic self-monitoring reports, and compliance reports with schedules;
 7. Failure to accurately report non-compliance;
 8. Any other violation or group of violations which the Control Authority determines will adversely effect the operation or implementation of the local pretreatment program.
- (aa) State. The Commonwealth of Pennsylvania.
 - (ab) User or Industrial User. Refer to Section 1.2 (2) (h) of this Resolution.
 - (ac) Violation. An instance of noncompliance with any requirement of Resolution 1998-10-19-A
 - (ad) 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.
 - (ae) Wastewater Discharge Limits. Any applicable local, State, or Federal wastewater limit for a specific industrial classification.
 - (af) 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

1998-10-19 A

In order to administer the Control Authority's Resolution ~~XXX~~, 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)(y)2.] 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)(y)] 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:

- (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.

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.

- (2) If the User is in noncompliance with pretreatment standards or requirements, the User is notified with a Notice of Violation.
- (3) The Notice of Violation (NOV) is the first response to notify the User of the need to comply with the Control Authority's Wastewater Discharge Limits. It states the violation of the User Permit, requires a plan for implementing a 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 1998-10-19-A

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 assure 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 Notice of Violation

Notice of Violation - This is 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 Fine and Civil Penalties may be up to twenty-five thousand (\$25,000) dollars per day for each violation as defined in Table A, Enforcement Response Procedures and Table B, Administrative Fine Structure.

3.3 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 violation. Civil Penalties assessment shall be in accordance with Resolution 1996-10-19-A. This includes consideration of damage to air, water or land arising from User dischargers 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.

3.4 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 may be filed for violations when immediate injunctive relief is necessary.

3.5 Termination of Services

Through the Resolutions of the Control Authority, 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.

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 during the previous twelve (12) month period be published annually in the largest daily newspaper published in the boundaries of the service area.

The published list of violators in Significant Noncompliance with Pretreatment Standards and Requirements shall be in accordance with Resolution ~~1998-10-19-A~~, Section 9 - Publication of Users in Significant Noncompliance.

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 Easton Area Joint Sewer Authority member municipalities, the Control Authority may amend and supplement the Plan as it deems appropriate and the initial member municipality approval shall be deemed to be an advance consent to and approval of such further amendments and supplements as the Control Authority shall deem to be appropriate.

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.

ENACTED this 19th day of October, 1998 by the Easton Area Joint Sewer Authority.

Larry Koehler, Secretary

Samuel B. Becker, Chairman

This Resolution was REVISED on the _____ day of _____, 1999 by the Easton Area Joint Sewer Authority.

Carl J. Brown, Secretary

Samuel B. Becker, Chairman

The published list of violators in Significant Noncompliance with Pretreatment Standards and Requirements shall be in accordance with Resolution 1998-10-19-A Section 9 - Publication of Users in Significant Noncompliance.

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 Easton Area Joint Sewer Authority member municipalities, the Control Authority may amend and supplement the Plan as it deems appropriate and the initial member municipality approval shall be deemed to be an advance consent to and approval of such further amendments and supplements as the Control Authority shall deem to be appropriate.

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.

ENACTED this 19th day of October, 1998 by the Easton Area Joint Sewer Authority.



Larry Koehler, Secretary



Samuel B. Becker, Chairman

This Resolution was REVISED on the 19th day of July, 1999 by the Easton Area Joint Sewer Authority.



Carl J. Brown, Secretary



Samuel B. Becker, Chairman

TABLE A
ENFORCEMENT RESPONSE PROCEDURES

UNAUTHORIZED DISCHARGES (NO PERMITS)		Nature of Violation	Enforcement Response
<p>1. Unpermitted Discharge</p> <p style="text-align: center;">Non-Compliance</p>	<p>IU unaware of requirements, no harm to POTW/environment</p>	<p>-Schedule a meeting explaining the pretreatment program, how it operates, personnel to contact, and request to fill in an application within 30 days. -Evaluate 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 require response.</p>	
	<p>IU did not provide complete application or revise its application within time frame required</p>	<p>-Issue an Administrative Order (AO) within 30 days with a compliance schedule, and/or a fine (A), and/or civil penalty (I).</p>	
	<p>IU unaware of requirement, harm to the POTW</p>	<p>-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 (B), and/or civil penalty (II). -Compliance schedule will include completing the application form.</p>	
	<p>IU did not cooperate and continues to cause harm to the POTW</p>	<p>-Terminate service immediately, prepare for a civil action within 90 days, and/or a fine (E), and/or civil penalty (IV).</p>	
	<p>IU aware of requirement, with no harm</p>	<p>-Issue an AO within 60 days with compliance schedule, and/or a fine (A), and/or civil penalty (I).</p>	
<p>2. Non-Permitted Discharge (failure to renew)</p>	<p>IU aware of requirement, with harm</p>	<p>-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 (C), and/or civil penalty (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 (E), and/or civil penalty (IV).</p>	

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

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

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

REPORTING VIOLATION		Enforcement Response
Non-Compliance	Nature of the Violation	
1. Reporting Violation	Report is improperly signed or certified	-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 (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 (F).
	Significant (recurring), no reports	-Issue AO within 60 days of initial NOV date, and/or a fine (A), and/or civil penalty (I).
	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 (B), and/or civil penalty (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 (C), and/or civil penalty (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 (E), and/or civil penalty (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 (E), and/or civil penalty (IV).

For fine and/or penalty details refer to TABLE B.

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

REPORTING VIOLATION		Enforcement Response
Non-Compliance	Nature of the Violation	
1. Reporting Violations (cont.)	Falsification	-Criminal investigation within 30 days of detecting initial violation. -Terminate services immediately if proved true, and/or a fine (E), and/or civil penalty (II).
2. Failure to Monitor Correctly	Failure to monitor all pollutants as required by permit	-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 (A), and/or civil penalty (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 (E), and/or civil penalty (IV).
4. Failure to install monitoring 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 (A).
	Delay of 30 days or more	-Issue Compliance Order within 30 days of detecting violation, and/or a fine (B), and/or civil penalty (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 (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 (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 (B), and/or civil penalty (J).

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

SAMPLING, MONITORING AND REPORTING		
Non-Compliance	Nature of the Violation	Enforcement Response
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 (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 (B), and/or civil penalty (I). -Consider issuing AO, and/or a fine (C), and/or civil penalty (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 (E), and/or civil penalty (I), 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 or slug discharge	Isolated or infrequent. No known effects. (SNC - failure to report non-compliance.)	-Issue NOV within 60 days after detection of violation. Require response in writing with reasons for lack of response to isolated violation(s). Evaluate response. Re-sample and submit results, and/or a fine (A), and/or civil penalty (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 (B), and/or civil penalty (I). -If SNC violation occurs, notify using AO within 60 days of violation detection.

For fine and/or penalty details refer to TABLE B.

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

SAMPLING, MONITORING AND REPORTING		
Non-Compliance	Nature of the Violation	Enforcement Response
4. Failure to notify of effluent limit violation or slug discharge.	Frequent or continued violation (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 (B), and/or civil penalty (I). -Require up to daily additional sampling of wastewater discharge, if not performed, a fine (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 (B). -If frequent violations continue, escalate to Show Cause Hearing, and/or a fine (C), and/or civil penalty (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 (D), and/or civil penalty (IV), and/or criminal investigation, and/or termination of service.

For fine and/or penalty details refer to TABLE B.

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

VIOLATIONS DETECTED DURING SITE VISITS		Enforcement Response
Non-Compliance	Nature of the Violation	
1. Entry Denial	Entry denied or consent withdrawn Copies of records denied	-Issue a fine (C), and/or 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 (F).
	Recurring	-Issue AO within 30 days, and/or a fine (A), and/or civil penalty (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 (A).
	Recurring	-Issue AO within 60 days from detecting additional violation, and/or a fine (A), and/or civil penalty (I).

For fine and/or penalty details refer to TABLE B.

TABLE A (cont.)

ENFORCEMENT RESPONSE PROCEDURES

OTHER PERMIT VIOLATIONS		
Non-Compliance	Nature of the Violation	Enforcement Response
1. Wastestreams are diluted in lieu of treatment	Initial violation	-Issue NOV within 30 days of detecting violation, and/or a fine (A), and/or civil penalty (I).
	Recurring	-Issue an AO with Show Cause Hearing within 60 days, and/or a fine (B), and/or civil penalty (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 (C), and/or civil penalty (III).
	Does result in harm	-Issue AO within 60 days, and/or a fine (E), and/or civil penalty (IV). -Proceed with civil litigation within 30 days if not fully responsive.

For fine and/or penalty details refer to TABLE B.

TABLE B

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

- 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>	<u>Isolated</u>	<u>Recurring</u>
Exceed Permit and/or federal limit by up to 20 percent -	\$ 100.00	\$ 200.00
Exceed Permit and/or federal limit by up to 40 percent -	\$ 200.00	\$ 400.00
Exceed Permit and/or federal limit by up to 60 percent -	\$ 400.00	\$ 800.00
Exceed Permit and/or federal limit by up to 80 percent -	\$ 600.00	\$ 1,200.00
Exceed Permit and/or federal limit by up to 100 percent -	\$ 800.00	\$ 1,600.00
Exceed Permit and/or federal limit by up to 200 percent -	\$1,000.00	\$ 2,000.00
Exceed Permit and/or federal limit by over 200 percent -	\$2,000.00	\$ 4,000.00

<u>HARM</u>	<u>Isolated</u>	<u>Recurring</u>
Exceed Permit and/or federal limit by up to 50 percent -	\$1,000.00	\$ 2,000.00
Exceed Permit and/or federal limit by up to 100 percent -	\$2,000.00	\$ 4,000.00
Exceed Permit and/or federal limit by up to 200 percent -	\$3,000.00	\$ 6,000.00
Exceed Permit and/or federal limit by over 200 percent -	\$5,000.00	\$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 B

ADMINISTRATIVE FINE AND CIVIL PENALTY SCHEDULE

(continued)

Civil Penalty

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.