



CITY OF
Yuma

Utilities Department

Yuma City Code: Chapter 191
Industrial Waste and other Wastewater Discharges

Enforcement Response Plan

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I. PURPOSE

This Enforcement Response Plan specifies how the City of Yuma will investigate and respond to instances of noncompliance with the Chapter 191: Industrial Waste and other Wastewater Discharges Article of the Yuma City Code.

This ERP was developed in accordance with 40 C.F.R. Section 403.8(f)(5); City of Yuma Code, and Chapter 191: Industrial Wastes and other Wastewater Dischargers.

The intent of the ERP is to enforce the Industrial Wastes and other Wastewater Dischargers Ordinance in an equitable and consistent manner to ensure compliance with this ordinance. The Ordinance was implemented to protect public health and safety, the City's investment in infrastructure, and the health and safety of personnel working in the publicly owned treatment works, and the environment.

II. DEFINITIONS

In this ERP the following words and phrases shall have the following meanings, unless the context otherwise requires:

AO or Administrative Order: A consent order, a compliance order, or a cease and desist order issued by the City of Yuma.

ADEQ: Arizona Department of Environmental Quality.

ARS: Arizona Revised Statutes.

AZPDES: Arizona Pollutant Discharge Elimination System.

BMP: Best Management Practices.

Administrative Enforcement: Legal, independently enforceable orders issued directly by Yuma officials that define the Violation, provide evidence of the Violation, impose Administrative Fines and/or require the Responsible Person to take corrective action within a specified time period.

Administrative Fine: Monetary civil penalty assessed through Administrative Enforcement.

CFR: Code of Federal Regulations.

City: The City of Yuma

Due Date: Date by which report or action is to be completed.

EPA: U.S. Environmental Protection Agency.

ERP: This Enforcement Response Plan

Harm Caused: POTW process upset/inhibition/disruption of normal operation and/or adverse change in POTW effluent, adverse change in POTW sludge (bio-solids) characteristics/concentrations; and/or adverse impact on the environment.

IDDE: Illicit Discharge Detection and Elimination.

Judicial Enforcement: Enforcement, either civil or criminal, against a responsible party or organization through a court of law.

NOI: Notice of Intent to Discharge to POTW.

NONC: Notice of Non-Compliance.

Nondomestic User: An individual, corporation, or organization other than a single-family domicile which uses the potable water, wastewater, or public storm drain systems.

NOV: Notice of Violation.

Ordinances: City of Yuma Code, Chapter 191: Industrial Wastewater and other Wastewater Discharger Ordinance.

Person: An 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.

pH: A measure of acidity or alkalinity of a solution expressed in standard units.

POTW: Publicly Owned Treatment Works.

RP: Responsible Person; the owner and/or operator of the property where a Violation occurs.

SNC or Significant Non-Compliance: (a) In order to comply with the public participation requirements of 40 CFR Part 25 in the enforcement of National Pretreatment Standards, for nondomestic users permitted to discharge wastewater, the definition of significant non-compliance shall have the same meaning as set forth by 40 CFR 403.8(f)(2)(viii) and the City of Yuma Code, Chapter 191 Industrial Wastes and other Wastewater Dischargers Ordinances, the RP shall be determined to be in SNC if the RP accumulates four or more points at any time during the previous six (6) months preceding the end of a quarter.

S.U.: Standard Unit for measurement of pH.

Violation: Non-compliance with the City of Yuma Code, Chapter 191: Industrial Wastes and other Wastewater Dischargers Ordinances.

III. GENERAL RESPONSIBILITIES

A. UTILITIES DEPARTMENT

Director of Utilities

The Director of Utilities is responsible for administration and enforcement of the Ordinances and the appropriate application of the ERP to suspected Violations and Violators. The responsibilities of the Director of Utilities may be delegated, in whole or in part to City staff as authorized by the City Code.

Assistant Director of Utilities

If so delegated, the Assistant Director of Utilities is responsible for the appropriate application of the ERP to suspected Violations and Violators. The Assistant Director of Utilities may:

- Conduct Show Cause Hearings;
- Issue Administrative Orders as deemed appropriate by the Director of Utilities following a Show Cause Hearing;
- Approve the assessment of Administrative Fines;
- Sign initial Administrative Orders;
- Make recommendations to the City Attorney regarding initiating Judicial Enforcement;
- Approve termination or emergency suspension of water or wastewater services;
- Implement enforcement responsibilities of the Ordinances.
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Water Quality & Compliance Manager

The Water Quality & Compliance Manager is responsible for ensuring fair and consistent implementation of the Ordinance requirements and ensuring that enforcement activities are consistent with the ERP. The Manager shall:

- Review all suspected Violations;
- Promptly notify the Assistant Director of Utilities of significant noncompliance;
- Recommend Administrative Orders;
- Recommend emergency suspension and termination of service;
- Sign Notices of Violation;
- Consult with the City Attorney regarding Administrative Enforcement;
- Make recommendations to the Director of Utilities regarding initiating Judicial Enforcement.

Water Quality Assurance Supervisor

The Water Quality Assurance Supervisor is responsible for ensuring fair and consistent implementation of the Ordinance requirements and ensuring that enforcement activities are consistent with the Enforcement Response Plan. The Supervisor shall:

- Supervise the Industrial Pretreatment Inspector;
- Review all suspected Violations;
- Recommend appropriate enforcement for Violations;
- Initiate and conduct communication with the RP, including telephone contact, site inspections and meetings;
- Develop and oversee compliance monitoring schedules;

- Track enforcement response times;
- Assist in drafting Administrative Orders;
- Approve compliance sampling schedules;
- Collect Administrative Fines for Violations upon approval by the Director of Utilities;
- Participate in Show Cause Hearings and court proceedings as deemed necessary by the Director of Utilities, Assistant Director of Utilities, Water Quality and Compliance Manager, and/or City Attorney.

Industrial Pretreatment Inspector

Industrial Pretreatment Inspectors are responsible for conducting compliance inspection and for conducting compliance monitoring. Inspectors shall:

- Conduct outreach and educational activities with regulated persons;
- Screen compliance monitoring data;
- Determine compliance with permit conditions or City Code through on-site inspections and prepare inspection reports;
- Identify instances of noncompliance;
- Promptly notify the Water Quality Supervisor of noncompliance;
- Draft NONC;
- Draft NOV;
- Develop compliance sampling schedules;
- Provide compliance assistance as appropriate;
- Conduct compliance monitoring as required by permit or City Code;
- Conduct field testing consistent with approved test methods;
- Preserve samples as test methods require;
- Initiate and maintain chain of custody of sample(s) until sample delivery to laboratory;
- Prepare and maintain detailed notes of sampling activities, dates, times, and observations;
- Participate in Show Cause Hearings and court proceedings as deemed necessary by the Director of Utilities, Assistant Director of Utilities, Water Quality & Compliance Manager, Water Quality Assurance Supervisor, and /or City Attorney.

B. CITY ATTORNEY

The City Attorney's Office shall:

- Provide assistance and advice on legal/regulatory issues, developments, and changes;
- Advise City staff during Administrative Enforcement matters as required;
- Consult with Director of Utilities on Administrative Enforcement actions and review Administrative Orders issued by the Assistant Director of Utilities;
- Manage and prosecute Judicial Enforcement on behalf of the City.

MAILING ADDRESS & CONTACT INFORMATION

Utilities Department
Pretreatment Section
155 West 14th Street
Yuma, Arizona 85364
Phone: (928) 373-4536
Fax: (928) 373-4501

IV. ENFORCEMENT RESPONSE

The City's enforcement response to any violation of the Ordinances may include, but is not limited to, the following:

1. Contact by Industrial Pretreatment Inspector;
2. Provide educational material of BMP and City Code requirements and/or prohibitions;
3. Notice of Non Compliance
4. Notice of Violation;
5. Administrative Orders, which may include:
 - a. Modification of wastewater discharge permits,
 - b. Affirmative obligations, such as increased monitoring,
 - c. Prohibited actions or obligations to cease and desist,
 - d. Other appropriate orders;
6. Administrative Fines;
7. Emergency suspension or permanent termination of service;
8. Hearings to show cause;
9. Publication of significant violators and imposition of fines;
10. Judicial enforcement action, including injunctive relief and criminal prosecution.

V. ENFORCEMENT RESPONSE TIME FRAME

1. Enforcement responses to initial violations shall be initiated within ten (10) days of discovery or at such other time in the discretion of the Water Quality & Compliance Manager. Whenever use of a NOV as an enforcement response is selected, immediate issuance is allowed.
2. When appropriate, follow-up inspections shall occur within ten (10) days of a due date specified in a NOV.
3. Follow-up escalated action for repeat or reoccurring offenses shall be taken within ten (10) days of discovery of the repeat or reoccurring offenses and may include additional Administrative Enforcement, including Administrative Orders and Administrative Fines, and Judicial Enforcement.
4. In emergency situations caused by violations, including imminent danger to the public health, safety, or welfare, and endangerment to City personnel or the environment, the Director of Utilities or his designated representative may initiate enforcement responses, including without limitation:

- a. Issuance of Cease and Desist Orders;
- b. Water or wastewater service termination;
- c. Revocation or termination of any discharge permits issued by the Utilities Department.

VI. POINTS CRITERIA

In order to apply enforcement in an equitable and consistent manner, Violation points have been developed for each classification of Violation (See Table B.) Points for Violations have been assigned depending upon the severity of the Violation; the potential for environmental, public, or employee harm; or facility damage that may result from a Violation, and the cost of the Violation to the City and its operations. Each Violation by a RP shall result in points being assigned to that RP.

When an RP’s total points in any two consecutive quarters equals or exceeds 16 points, Administrative Fines shall be assessed against the RP. The fines shall be assessed in the amounts specified on Table A.

VII. ASSESSMENT OF POINTS

- 1. When Violations are discovered, the assessed points shall be applied to the RP.
- 2. Significant Non-Compliance is calculated at the end of every quarter for the six (6) months preceding the end of the quarter:

<u>Compliance Review Date(s)</u>	<u>Period of Review</u>
April	October 1 of previous year through March 31 of current year
July	January 1 through June 30 of current year
October	April 1 through September 30 of current year
January	July 1 through December 31 of previous year

- 3. When the total number of points equals or exceeds sixteen (16) points during any two consecutive quarters, the Director of Utilities or his designated representative shall assess Administrative Fines consistent with this ERP and determine other appropriate enforcement actions which may include revocation of any the permit issued by the City, if applicable; publication of those in significant non- compliance; and/or termination of service or cease and desist orders.
- 4. If a permit or property is conveyed, points associated with that permit or property do not convey to the new permit holder or owner unless the new holder/owner is related to the previous holder/owner or unless it appears that the conveyance is an attempt to avoid enforcement.
- 5. If a Violation is discovered, the City shall issue the RP an NOV and set forth points assessed and the potential enforcement penalties under this ERP.
- 6. A single operational upset or activity, which leads to simultaneous Violations of more than one pollutant parameter, may be treated as a single Violation for point assessment, provided there is no Harm Caused.

VIII. ADMINISTRATIVE FINE SCHEDULE

As a result of significant noncompliance (SNC), when a RP is assigned sixteen (16) points or more during any consecutive two-quarter period, the Director of Utilities or his delegated representative shall assess an Administrative Fine with a base value of two hundred five thousand (\$2,500) dollars.

In addition to the base Administrative Fine, each point assessed in excess of 16 points shall be assigned a dollar value of \$156.25. For each point, the following values shall be applied:

TABLE A

1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0
\$156.25	\$312.50	\$468.75	\$625.00	\$781.25	\$937.50	\$1,093.75	\$1,250.00
9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0
\$1,406.25	\$1,562.50	\$1,718.75	\$1,875.00	\$2,031.25	\$2,187.50	\$2,343.75	\$2,500.00

Following an SNC and the imposition of the base fine, each subsequent Violation during the same consecutive two-quarter period shall be assessed a fine based on the point increment schedule. For subsequent Violations, all points assessed during the two-quarter period are used to determine whether a penalty shall be assessed, but the amount of the penalties are only assessed on points for which penalties were not previously assigned; i.e., no double billing for points assessed. At any time the accumulated points total less than sixteen points for any consecutive two-quarter period, fines shall not be assessed for that period.

Data used to determine compliance shall be maintained in accordance with the City's record retention policy and applicable state or federal regulations.

RECONSIDERATION OF THE FINE

If the RP desires to dispute an assessed Administrative Fine, the RP must, no later than ten (10) days following the date of notification of the Administrative Fine, file a written request for the Director of Utilities requesting reconsideration of the Administrative Fine.

PUBLICATION OF RP IN SIGNIFICANT NONCOMPLIANCE

The Director of Utilities shall publish at least annually in a newspaper of general circulation a list of RPs which, at any time since the list was last published, were in Significant Non-Compliance.

Industrial Users found to be in Significant Non-Compliance shall be published in accordance with 40 CFR 403.8(f)(2)(viii)(A-H).

TABLE B

Code	Violation	Points	Enforcement Response	Code Reference
P-1	Allow a prohibited discharge into the POTW which causes pass through or interference – 1 st occurrence.	8.0	NONC, NOV	§ 02(A)
P-2	Allow a prohibited discharge into the POTW which causes pass through or interference – 2 nd occurrence within any two consecutive quarters.	16.0	NONC, NOV	§ 02(A)
P-3	Allow a prohibited discharge into the POTW – 1 st occurrence.	8.0	NONC, NOV	§ 02(2)(a-r)
P-4	Allow a prohibited discharge into the POTW – 2 nd occurrence within any two consecutive quarters.	16.0	NONC, NOV	§ 02(2)(a-r)
P-5	Discharge from nondomestic source without a permit.	8.0	NONC, NOV	§ 04(B)(C)(D)
P-6	Discharge from nondomestic source without a permit – 2 nd occurrence within any two consecutive quarters.	16.0	NONC, NOV	§ 04(B)(C)(D)
P-7	Processing or storage of a prohibited pollutant, substance, or wastewater that could be discharged into POTW.	8.0	NONC, NOV	§ 02(A)
P-8	Violation of Local or Categorical limit - 1 st occurrence.	4.0	NONC, NOV	§ 02(B)(D)
P-9	Violation of Local or Categorical limit - 2 nd occurrence within any two consecutive quarters.	8.0	NOV	§ 02(B)(D)
P-10	Violation of Local or Categorical limit - 3 rd occurrence within any two consecutive quarters.	16.0	NOV	§ 02(B)(D)
P-11	Use of process water to dilute discharge as a partial or complete substitute to adequate treatment – 1 st occurrence.	8.0	NOV, AO	§ 02(F)
P-12	Use of process water to dilute discharge as a partial or complete substitute to adequate treatment – 2 nd occurrence within any two consecutive quarters.	16.0	NOV, AO	§ 02(F)
P-13	Tamper, damage, or destroy monitoring equipment.	16.0	NOV, AO Revocation of permit	§ 05(F)
P-14	Tamper with pretreatment device – 1 st occurrence.	8.0	NOV, AO, CEASE and DESIST	§ 11(C)
P-15	Tamper with pretreatment device – 2 nd occurrence within any two consecutive quarters.	16.0	NOV, AO, CEASE and DESIST	§ 11(C)
P-16	Failure to provide pretreatment facilities.	4.0	NONC, NOV	§ 03
P-17	Failure to restrict discharge during peak flow period.	1.0	NONC, NOV	§ 03(B)(a)
P-18	Failure to install suitable storage and flow control equipment as directed by the Director of Utilities.	1.0	NONC, NOV	§ 03(B)(2)

Code	Violation	Points	Enforcement Response	Code Reference
P-19	Failure to properly maintain pretreatment equipment and flow measurement equipment – 1 st occurrence.	4.0	NONC, NOV	§ 03
P-20	Failure to properly maintain pretreatment equipment and flow measurement equipment – 2 nd occurrence.	8.0	NONC, NOV	§ 03
P-21	Failure to properly maintain pretreatment equipment and flow measurement equipment – 3 rd occurrence.	16.0	NONC, NOV	§ 03
P-22	Failure to maintain cleaning and maintenance records – 1 st occurrence.	4.0	NONC, NOV	§ 03 (B)(3), 06 (D)(4)
P-23	Failure to maintain cleaning and maintenance records – 2 nd occurrence within any two consecutive quarters.	8.0	NONC, NOV	§ 03 (B)(3), 06 (D)(4)
P-24	Failure to maintain cleaning and maintenance records – 3 rd occurrence within any two consecutive quarters.	16.0	NONC, NOV	§ 03 (B)(3), 06 (D)(4)
P-25	Failure to develop and/or implement accidental discharge/slug control plan – 1 st occurrence.	2.0	NONC	§ 03(C)
P-26	Failure to develop and/or implement accidental discharge/slug control plan – 2 nd occurrence within any two consecutive quarters.	8.0	NONC, NOV	§ 03(C)
P-27	Failure to develop and/or implement accidental discharge/slug control plan – 3 rd occurrence within any two consecutive quarters.	16.0	NONC, NOV	§ 03(C)
P-28	Discharge of hauled waste into POTW without discharge permit – 1 st occurrence.	16.0	NOV, AO, CEASE and DESIST	§ 03(D)
P-29	Illegal disposal of pretreatment sludge and other material.	16.0	NOV, AO, CEASE and DESIST	§02(A)(2)(m)
P-30	Failure to submit wastewater analysis within thirty (30) days of request – 1 st occurrence.	4.0	NONC, NOV	§ 04(A)
P-31	Failure to submit wastewater analysis within thirty (30) days of request – 2 nd occurrence within any two consecutive quarters.	8.0	NONC, NOV	§ 04(A)
P-32	Failure to submit wastewater analysis within thirty (30) days of request – 3 rd occurrence within any two consecutive quarters.	4.0	NONC, NOV	§ 04(A)
P-33	Failure to submit information required by City Code Section 191-04.	1.0	NONC	§ 04(B)(E)
P-34	Failure to obtain wastewater discharge permit - discharge occurring.	8.0	NONC, NOV	§ 04(C)
P-35	Failure to notify Director of Utilities of significant changes to wastewater prior to changed discharge.	16.0	Revocation of permit	§ 10(H)
P-36	Failure to provide prior notification to the Director of Utilities of changed conditions.	16.0	Revocation of permit	§ 05(F)(a)
P-37	Misrepresentation or failure to fully disclose all relevant facts in wastewater discharge permit application.	16.0	Revocation of permit	§ 05(F)(c)
P-38	Falsifying self-monitoring reports.	16.0	Revocation of permit	§ 10(H)(b)
P-39	Refusing to allow the Director of Utilities timely access to the facility premises and records.	16.0	Revocation of permit	§ 05(F)(f)
P-40	Failure to meet effluent limitations.	16.0	Revocation of permit	§ 05(F)(g)

Code	Violation	Points	Enforcement Response	Code Reference
P-41	Failure to pay fines.	16.0	Revocation of permit	§ 05(F)(h)
P-42	Failure to pay sewer charges.	16.0	Revocation of permit	§ 05(F)(i)
P-43	Failure to meet compliance schedules.	16.0	Revocation of permit	§ 05(F)(j)
P-44	Failure to complete a wastewater survey or the wastewater discharge permit application.	16.0	Revocation of permit	§ 05(F)(k)
P-45	Failure to provide advance notice of the transfer of business ownership of a permitted facility.	16.0	Revocation of permit	§05(F)(l)
P-46	Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.	16.0	Revocation of permit	§ 05(F)(m)
P-47	Failure to immediately notify of potential problems.	4.0	NONC, NOV	§ 06(F)
P-48	Failure to submit detailed written report within 5 days following discharge Violation.	4.0	NONC, NOV	§ 06(F)(2)
P-49	Failure to post notification information of POTW in the event of an accidental discharge, non-routine discharge, or slug load which may impact the POTW.	8.0	NONC, NOV	§ 06(F)(3)
P-50	Failure to notify Director of Utilities within 24 hours of becoming aware of Violation – 1 st occurrence.	4.0	NONC, NOV	§ 06(H)
P-51	Failure to notify Director of Utilities within 24 hours of becoming aware of Violation – 2 nd occurrence within any two consecutive quarters.	8.0	NONC, NOV	§ 06(H)
P-52	Failure to notify Director of Utilities within 24 hours of becoming aware of Violation – 3 rd occurrence within any two consecutive quarters.	16.0	NOV, AO	§ 06(H)
P-53	Failure to notify of discharge of hazardous waste.	8.0	NONC, NOV	§ 06(I)
P-54	Improper test method conducted – 1 st occurrence.	2.0	NONC, NOV	§ 11(C)(3)
P-55	Improper test method conducted – 2 nd occurrence within any two consecutive quarters.	4.0	NONC, NOV	§ 11(C)(3)
P-56	Improper test method conducted – 3 rd occurrence within any two consecutive quarters.	8.0	NONC, NOV	§ 11(C)(3)
P-57	Failure to apply for renewal of discharge permit within 90 days of permit expiration.	8.0	NONC, NOV	§ 04(C)
P-68	Failure to apply for renewal of discharge permit within 90 days of permit expiration – 2 nd notice.	16.0	NONC, NOV, AO	§ 04(C)