

Quonset Development Corporation

Enforcement Response Plan

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ENFORCEMENT RESPONSE PLAN

1. PURPOSE AND LEGAL AUTHORITY

In accordance with 40 CFR 403.8 (f) (5), as revised July 24, 1990, and the Rhode Island Pollution Discharge Elimination System (RIPDES) Permit # RI01 00404, the Rhode Island Economic Development Corporation (QDC) has developed this Enforcement Response Plan (ERP). The Quonset Point Wastewater Treatment Facility (WWTF) is owned and operated by the QDC. This facility provides secondary treatment for wastewater collected within its service area which is primarily the Quonset Business Park (Park). There are a few adjacent residential developments that are also served.

The QDC was created by the Rhode Island General Assembly in 1974. Rhode Island General Law Title 42 Chapter 64 (the Act) confers the necessary legal authority on the QDC to establish a sewage pretreatment program to control the discharge of pollutants into the Quonset Point WWTF, to promulgate rules and regulations to insure compliance with applicable State and Federal Law and to enforce and impose fines for violations of the Act, or of any permit, rule, regulation or order issued pursuant to the Act.

The QDC has adopted rules and regulations implementing and enforcing the legal authority granted to the QDC by the General Assembly. The QDC's rules and regulations impose specific requirements on users discharging into the QDC's facilities to insure the proper collection, treatment and disposal of wastewater and sewage sludge, and also to insure the adequate treatment of industrial wastewater to provide maximum public protection and benefit the wastewater disposal facilities.

2. RESPONSIBILITIES WITHIN THE QDC

The Pretreatment Program regulates the activities of those who discharge into the QDC's facilities (users). The Executive Director (Director) of the QDC oversees the Pretreatment Program. Technical Services, along with support from WWTF personnel, in the Quonset/Davisville Division of the QDC is responsible for implementation of the Pretreatment Program. The Pretreatment Program consists of a Facility Engineer, whose primary function is Pretreatment Coordinator, who is the key person in the Pretreatment Program responsible for the execution and management of the day-to-day activities of the Program; the Manager of Engineering who is responsible for the ultimate execution of the Program, including policy and enforcement decisions; an Engineering Assistant responsible for assisting with file management and word processing of documents; WWTF personnel whose major responsibility is execution of sampling for the Program including investigation of discharge violations; QDC legal counsel who provides general legal support and support for legal action against violators. The specific responsibilities of the above positions with regard to enforcement are outlined in the Enforcement Procedures section of the Enforcement Response Guide.

The Pretreatment Program is responsible for issuing Wastewater Discharge Permits to facilities to establish their site-specific discharge conditions, standard provisions, compliance sampling and reporting requirements; conducting sampling and monitoring compliance of industries; inspecting industries to insure compliance with permits and regulations; screening new industries to determine which industries are discharging wastewater into the QDC's collection system; screening relevant data to determine compliance with permits and regulations; and taking appropriate enforcement action when users are not complying with permits or regulations.

3. COMPLIANCE SCREENING

The Industrial User list is updated annually. There are mechanisms in place at the QDC that are utilized in an effort to track the industrial user inventory throughout the year. The QDC maintains a list of all tenants in the Park, which, therefore, includes industrial users. This list is updated as needed, i.e., when a tenant moves in/out of the Park. The information on this list is stored on the QDC computer network. Also, any company wishing to build or expand in the Park must submit plans to the QDC for review/approval. Within the QDC, Technical Services, Planning, Business Development/Marketing have Plan Review meetings periodically to review/discuss information submitted. As part of this process, a review checklist is utilized which includes an item for the Industrial Pretreatment Questionnaire and Wastewater Discharge Permit Application. The appropriate form is determined and sent to the company to complete.

Data obtained by the Pretreatment Program is reviewed to ascertain the status of each users' compliance with the QDC's Rules and Regulations, permit conditions and/or administrative orders. The Pretreatment Coordinator screens compliance by reviewing/tabulating data from self monitoring reports submitted by users and from QDC's compliance monitoring reports; conducting annual and periodic facility inspections; and tracking submission of required reports, notices and compliance schedules. Reports are reviewed for completeness, accurateness, and timeliness.

Typically, monitoring reports are screened for compliance within one week of receipt. Subsequently, usually within 30 days, the data is put onto tabulation sheets, titled "Monitoring Summary Report" sheets, which are kept in the file of the respective user. If any deficiencies are noted, the Pretreatment Coordinator will initiate the appropriate enforcement action.

Usually, for discharge limitations this may involve re-sampling of the user's effluent discharge to determine/demonstrate compliance. Required user response dates, if specified in an enforcement action Notice, is noted and manually tracked by the Pretreatment Coordinator. A schedule for QDC compliance monitoring sampling is prepared by the Pretreatment Coordinator. The execution of the sampling, as mentioned above, is performed by our WWTF personnel. When a sampling event has been performed, a copy of the laboratory work order is given to the Pretreatment Coordinator, who tracks the event by entering the date of the sampling event onto the Pretreatment Monitoring Schedule sheet.

The Director and other duly authorized employees of the QDC bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection,

observation, measurement, sampling and testing. Any person obstructing or hindering any duly authorized employee in the performance of their duties, including conducting facility inspections, shall be subject to civil and criminal penalties. Inspection powers and enforcement procedures are detailed and authorized in R.I.G.L. 42-64-9.1, -9.2, & -9.3.

The purpose of annual facility inspections is to ensure compliance with Federal, State, and QDC Regulations and to ensure the proper operation and maintenance of pretreatment equipment if so installed. The Pretreatment Coordinator will bring a standardized inspection checklist form to the inspection to review compliance. If any deficiencies are noted during the inspection, typically within one week but not more than 30 days, the Pretreatment Coordinator will initiate appropriate action, usually a follow up letter or a Notice of Deficiency which specifies actions required to correct the deficiency. The Pretreatment Coordinator tracks facility inspections on a worksheet form which lists the company name and date of inspection.

Additionally, any reports, anonymous or otherwise, made to the Pretreatment Coordinator or staff indicating that a user is violating QDC's Rules and Regulations, will be investigated by the Pretreatment Coordinator and/or WWTF personnel.

4. ENFORCEMENT RESPONSES

To resolve non-compliance in a timely, fair, and consistent manner, the QDC determines the appropriate enforcement action depending on the severity and significance of the violations. The initial response by the QDC may be informal or formal as indicated in the Enforcement Response Guide (See Enclosure 1). When a user fails to respond to the QDC's initial enforcement action, enforcement action is escalated until the user demonstrates compliance. The typical time periods for initial enforcement actions are outlined in the Enforcement Response Timetable (See Enclosure 2). Additionally, the QDC annually publishes in the Providence Journal, the state's largest daily newspaper, a list of users which, at any time in the previous pretreatment year, were in Significant Non-Compliance, as defined in 40 CFR 403.8 (f)(2)(viii)

A. INFORMAL RESPONSES:

Informal responses are initiated by the Pretreatment Coordinator in response to insignificant instances of non-compliance. Informal responses inform the user of the non-compliance which must be remedied. The Enforcement Response Guide indicates the type of response initiated in a given situation. Informal responses include telephone calls and informal meetings.

Telephone Calls:

Telephone calls are usually made by the Pretreatment Coordinator to notify a company that it is not complying with the QDC Wastewater Ordinance. Telephone discussions are documented and kept in the industrial users file.

Informal Meetings:

Informal meetings may be requested by the QDC to discuss what corrective action the company proposes to implement to produce compliance. The QDC has found that informal meetings with users are effective enforcement tools for correcting minor violations, because in many instances the industrial user wants to correct the non-compliance. The meetings also provide the QDC with an opportunity to inform the user of the ramifications of continued noncompliance.

Informal meetings are generally conducted by the Pretreatment Coordinator along with the Program Manager. The objective of the meeting is to foster a cooperative atmosphere between the industry and the QDC in an effort to allow the user to resolve non-compliance in a timely manner. Generally, the QDC will establish a timeframe by which the user must correct the deficiency in an effort to allow the user to remedy the noncompliance on its own initiative. If a company is unwilling to cooperate with the QDC to achieve compliance, the QDC will notify the user that failure to correct the deficiencies within the timeframe may subject the user to escalated enforcement action.

Letters

An informal letter typically may be used to summarize initial telephone call or discussion with a user regarding instances of insignificant non-compliance, or may confirm the time of an informal meeting, or address other minor issues.

Violations Which May Result In Informal Responses:

(See Enforcement Response Guide for the specific type of informal response, Enclosure 1)

- **Failing to file permit renewal application but continuing to comply with expired permit;**
- **Reporting spill with no known adverse effect;**
- **Inadvertently using incorrect sample collection procedures;**
- **Failing to properly sign or certify self-monitoring reports;**
- **Failing to notify of slug load, which has no known adverse effect;**
- **Filing late reports (less than 30 days);**

B. FORMAL RESPONSES:

Notice of Deficiency (NOD):

Notices of Deficiency (NOD) are an official warning to any person in violation of Federal or State Law, its Wastewater Discharge Permit or the QDC's Rules and Regulations. NOD's are in the form of a letter usually sent by certified mail with return receipt requested. They may be issued for violations that are of a minor nature and for which the industry is not in significant non-compliance. These violations are usually of a corrective nature with the NOD issued to

make the user aware of the problem before it becomes significant. They typically list the nature and type of violations and include a specific timeframe by which the user needs to respond and to correct the problem. Failure to correct such violations and demonstrate compliance within the time allowed may result in the issuance of a Notice of Violation.

Notice of Violation (NOV)

Notices of Violation (NOV) are an official formal notice to a user that it is in violation of Federal or State Law, its Wastewater Discharge Permit or the QDC's Rules and Regulations. The Notices of Violation are in the form of a letter usually sent by certified mail with return receipt requested. A Notice of Violation (NOV) may be issued without the prior issuance of a Notice of Deficiency. The issuance of an NOV allows the user an opportunity within a specified timeframe to request a hearing on the matter.

The NOV may be issued as a follow up action to a NOD if it is determined that the user has not come back into compliance as required by the NOD; if the user's re-sampling indicates further violations; or if the user is non-responsive. In case of significant noncompliance, the NOV may also be issued prior to issuing an administrative order or pursuing judicial remedies, or may even include an administrative order, with or without assessment of a penalty.

If it is determined that the user has not come back into compliance as required by the NOD or the NOV, the Pretreatment Coordinator may recommend to the Program Manager that escalating enforcement action be taken. The most common escalating enforcement action is the issuance of an Administrative Order, with or without an assessment of a penalty. The Director (or his designee) must approve Administrative Orders. Prior to the issuance of an Administrative Order the Director will consult with the Program Manager and the Pretreatment Coordinator to determine what type of formal response is warranted. If the Director is satisfied that there is sufficient data and reasonable grounds to proceed with an enforcement action, QDC's legal counsel, after consulting with the Pretreatment Coordinator or other personnel involved, will prepare the appropriate Order. This formal response is typically prepared after the discovery of non-compliance and the procurement of all necessary data to establish the alleged violations. It is then reviewed and signed by the Director and sent to the user by certified mail, return receipt requested, or hand delivered.

Administrative Orders (AO) and Administrative Penalties (AP)

Administrative Orders (AO) and Administrative Penalties (AP) are enforcement mechanisms typically used by the QDC when a user fails to return to compliance usually after a Notice of Violation has been issued or when a violation is significant, as defined in 40 CFR 403.8 (f) (2) (vii). Refer to the Enforcement Response Guide for specific enforcement actions taken in a given situation. There are four (4) general types of Administrative Orders: Compliance Orders, Cease and Desist Orders, Consent Orders and Suspension or Termination Orders and all may involve the payment of an Administrative Penalty. Except in emergency situations, all types of Administrative Orders are in fact Show Cause Orders since they all provide the user an opportunity to speak informally with the QDC prior to assignment to hearing.

Compliance Orders

Compliance Orders are issued by the QDC to achieve or restore the user to compliance by a certain date. These Orders may be negotiated with the user or required by the QDC. Compliance Orders may be issued when a user has neglected or refused to develop or comply with Pretreatment regulations, spill prevention programs, and/or related QDC Pretreatment program requirements that the QDC has requested of the user.

The QDC's legal counsel prepares the Compliance Order upon determination of noncompliance and discussion with the appropriate Pretreatment Program staff and with the approval of the Director. The Compliance Order outlines the non-compliance and the required actions to be accomplished by specific dates. The QDC shall take into account all relevant factors in determining an appropriate time schedule. Compliance Orders may be accompanied by an assessment of an Administrative Penalty.

Cease and Desist Orders

Cease and Desist Orders are issued by the Director or his designee when a discharge reasonably appears to present an imminent danger to human health or the environment or has caused or is causing an interference, pass through, or any other emergency situation. In an emergency situation, the Order may be issued verbally by telephone or in person immediately upon discovery of the problem. A written Order will be prepared outlining the existence of the violation and directing the user to cease the violation. The written Order will be sent by registered mail, return receipt requested, or hand delivered to the user. An Administrative Penalty may accompany Cease and Desist Orders

Consent Orders

Consent Orders are written agreements used to resolve non-compliance without the need for an administrative hearing. These agreements allow the user to negotiate the terms of the order with the QDC and generally keep legal fees low. From an enforcement point of view, the time and cost involved with a hearing is saved and the inclusion of stipulated penalties generally provides the user with sufficient incentive to achieve compliance in a timely manner and to maintain continued compliance. Typically, Consent Orders will include time frames for installation of necessary equipment, monitoring and sampling requirements, and an installment plan for payment of a negotiated penalty, if so levied. Consent Orders often may include an environmental project and stipulated provisions. A user has an incentive to enter into a Consent Order because the Order typically contains a provision that, by entering into the Order, the user is not specifically admitting to liability.

Once all parties reach an agreement as to the terms of the Consent Order, the QDC's legal counsel will prepare a draft Consent Order. A final Consent Order will be prepared after all relevant parties have reviewed and commented on the draft.

Suspension or Termination of a Permit or Service

The QDC may order suspension or Termination of a Permit or Service when a discharge presents an endangerment to the environment or threatens to interfere with the operations of the QDC's Wastewater Treatment Facility. Under emergency conditions, when a discharge reasonably appears to present an imminent endangerment the health and welfare of persons, the QDC may suspend a user's service after informal notice (telephone call to user's facility) whether or not an agent or officer can be directly contacted. The informal notice will be followed up with an explanatory letter sent registered and certified mail. Under non-emergency conditions the QDC shall provide the user with notice and opportunity for hearing prior to suspension or termination of a permit or service. Said notice shall consist of written notice to the user of the alleged violations and the QDC's intent to terminate service.

The decision to suspend or terminate service is made by the Director or his designee. There are a few methods which the QDC can employ to effectuate termination of service. The QDC may physically sever (or plug) the user's connection to the QDC's collection system, revoke the user's Wastewater Permit, issue a Cease and Desist Order, or any combination of these actions.

Specific Violations Which May Be Addressed By Formal Responses:

(See Enforcement Response Guide for the specific type of formal response, Enclosure 1).

- Isolated, insignificant exceedance of specific discharge limitations;
- Missing interim deadline by 30 days or less with no effect on final milestone;
- Harm to the WWTF, environment or public health;
- Isolated but significant exceedance of discharge limits;
- Recurring significant or insignificant exceedance of discharge limits;
- Reports repeatedly improperly signed or certified after notice by the QDC;
- Repeatedly late reports (after thirty (30) days);
- Non-submittal of reports;
- Incidents that result in Pass-Through of or Interference with the WWTF;
- Failure to report significant spill or changed discharge;
- Repeated failure to report spills or changed discharge;
- Recurring failure to monitor;
- Failure to install monitoring equipment (delay of 30 days or more);

- Missing interim deadlines by more than 30 days with an effect on final milestone;
- Missing final deadline by more than 30 days;
- Failure to apply for permit continues after notice by the QDC;
- Recurring and significant exceedance of discharge limitations;
- Repeated failure to report spills;
- Falsification of data;
- Improper sampling, evidence of intent;
- Failure to install monitoring equipment in violation of AO;
- Missing interim or final deadline by more than 30 days (with no good cause for delay);
- Recurring violation of schedule in AO;
- Recurring violation of AO;
- Recurring violation of diluting of waste streams in lieu of treatment;
- Failure to notify of a slug load that has caused or has potential to cause harm to the WWTF and/or environment;
- Entry refusal, denial of facility entry for the purposes of inspection, sampling or other pretreatment activity.

Administrative Penalties

The purpose of an administrative penalty is, at a minimum, to remove economic benefit of noncompliance to a user and to deter future noncompliance. In an effort to provide fair and equitable treatment to the regulated community, to provide a logical basis for the calculation of administrative penalties and to promote a swift resolution of environmental problems and of enforcement actions the QDC has designed a penalty matrix.

Currently, the QDC has legal authority to assess administrative penalties in the amount of Twenty-five Thousand Dollars (\$25,000.00) for each violation and each day constitutes a separate violation. The QDC applies a penalty matrix on a case-by -case basis. The first determination made is which category (class) of legal requirement the user has violated. The QDC has defined three different classes of violations presented in the Administrative Penalty Matrix (See Enclosure 3). Thereafter, the following factors are considered in determining whether the violation is a major, moderate, or minor deviation from the expected standard:

- The extent to which the act or failure to act was out of compliance;

- The amount, toxicity and/or nature of the pollutant;
- The duration and/or magnitude of the violation;
- The effect of the violation on the receiving waters;
- The effect of the violation on the WWTF;
- Whether the user took reasonable and appropriate steps to prevent and/or mitigate the non-compliance;
- The user's history of non-compliance;
- The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable;
- Willingness to participate in supplemental environmental projects that are directly related to addressing compliance problems of the Industry within which the violation took place. Such projects are subject to the approval and control of the QDC;
- The economic benefit achieved by non-compliance;
- Any other factor(s) that may be relevant in determining the amount of a penalty, provided that, said other factor(s) shall be set forth in a written Assessment of Penalty to be provided to the user upon request.

In each case where the QDC intends to impose an Administrative Penalty according to the penalty matrix, the Director calculates the administrative penalty taking into consideration all contributing factors as mentioned above. The Director consults with the Program Manager and Pretreatment Coordinator to confirm that the penalty assessed accurately considers all contributing factors.

Civil Litigation, Injunctive Relief (temporary or permanent, preliminary or mandatory)

Civil Litigation, including Injunctive Relief, (temporary or permanent, preliminary or mandatory) would typically be used as a last resort in an emergency situation where a Cease and Desist (verbal or written) was ineffective in halting or preventing discharges which potentially threatened human health or the environment. In addition, civil litigation would most likely result when efforts to restore compliance through administrative remedies have failed or the user has failed to honor the provisions of a Consent Order. When corrective action necessary to be taken is so costly and complex and/or the penalty to be assessed exceeds that which the QDC can assess administratively, the QDC might make use of the judicial forum and the relevant state statutes. Civil litigation is an effective enforcement tool because successfully concluded litigation established precedent to deter future non-compliance.

Criminal Penalties

Any person who willfully or with criminal negligence violates any of the provisions of the Act, or any permit, rule, or regulation issued pursuant thereto, or an order of the Corporation shall be subject to criminal penalties as described in 42-67-9.3 of the Act.

Criminal Referrals are made by the Director, or his designee, to the Rhode Island Attorney General's office, the Department of Environmental Management for criminal investigation, or other appropriate governmental agencies, when actions reflecting criminal intent or criminal negligence are present.

The foregoing rules and regulations, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State this __1__ day of July, 2008, to become effective thirty (30) days after filing, in accordance with the provisions of R.I.G.L. § 42-35-2(a)(2), § 42-35-3, and § 42-117-8.

Enclosure 1

ENFORCEMENT RESPONSE GUIDE

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSES	*PERSONNEL
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UNAUTHORIZED DISCHARGES (NO PERMIT)

Unpermitted discharge	U unaware of requirement ; no harm to WWTF/environment	<ul style="list-style-type: none"> • Phone call • NOD with application form 	PC PC; PM
	U unaware of requirement; harm to WWTF/environment	<ul style="list-style-type: none"> • NOV • AO with fine • Civil action 	GM ED
	Failure to apply continues after notice by the RIEDC	<ul style="list-style-type: none"> • Civil action • Terminate service • Criminal Investigation 	ED ED
Nonpermitted discharge (failure to renew)	U has not submitted application within 10 days of due date	<ul style="list-style-type: none"> • Phone call • NOD 	PC PC; PM

DISCHARGE LIMIT VIOLATION

Exceedance of local Federal Standard (permit limit)	Isolated, not significant	<ul style="list-style-type: none"> • NOD 	PC; PM
	Isolated, significant (no harm)	<ul style="list-style-type: none"> • NOD/NOV • AO with/without fine 	PC; PM GM
	Isolated, harm to WWTF or environment	<ul style="list-style-type: none"> • NOV • AO with fine 	PC; PM GM
	Recurring, no harm to WWTF or environment	<ul style="list-style-type: none"> • NOV • AO with fine • Civil Action 	GM ED
	Recurring, significant (harm)	<ul style="list-style-type: none"> • AO with fine • Civil action • Terminate service 	GM ED ED

MONITORING AND REPORTING VIOLATIONS

Reporting Violation	Report is improperly signed or certified	<ul style="list-style-type: none"> • Letter or Phone Call • NOD 	PC; PM
	Report is improperly signed or certified after notice	<ul style="list-style-type: none"> • NOD/NOV 	PC; PM
	Isolated, not significant (e.g. 5 days late)	<ul style="list-style-type: none"> • Letter or Phone Call • NOD 	PC; PM
	Significant (e.g. report 30 days or more late)	<ul style="list-style-type: none"> • NOV • AO with fine 	PC; PM GM
	Reports are always late or no reports at all	<ul style="list-style-type: none"> • AO with fine • Terminate Service 	GM ED
	Failure to report spill or changed discharge (no harm)	<ul style="list-style-type: none"> • NOD/NOV 	PC; PM
	Failure to report spill or changed discharge (harm)	<ul style="list-style-type: none"> • NOV • AO with fine • Civil Action 	GM ED
	Repeated failure to report spills	<ul style="list-style-type: none"> • NOV 	PC; PM GM

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		<ul style="list-style-type: none"> • AO with fine • Terminate Service 	ED
	Falsification	<ul style="list-style-type: none"> • AO with fine • Criminal Investigation • Terminate Service 	GM ED ED

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSES	*PERSONNEL
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Failure to monitor correctly	Failure to monitor all pollutants as required by permit	<ul style="list-style-type: none"> • NOD 	PC; PM
	Recurring failure to monitor	<ul style="list-style-type: none"> • NOV • AO with fine • Civil Action 	GM ED
Improper Sampling	No evidence of intent Evidence of intent	<ul style="list-style-type: none"> • NOD/ • NOV • AO with fine • Criminal Investigation • Terminate Service 	PC; PM GM ED ED
Failure to install monitoring equipment	Delay of less than 30 days	<ul style="list-style-type: none"> • NOD/NOV 	PC; PM
	Delay of 30 days or more	<ul style="list-style-type: none"> • NOV • AO with fine 	GM
	Recurring violation of AO	<ul style="list-style-type: none"> • Civil Action • Criminal Investigation • Terminate Service 	ED ED ED
Compliance Schedules (In Permit)	Missed milestone by less than 30 days, or will affect final milestone	<ul style="list-style-type: none"> • NOV 	PC; PM
	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	<ul style="list-style-type: none"> • NOV • AO with fine 	PC; PM GM
	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	<ul style="list-style-type: none"> • NOV • Civil Action • Terminate Service 	PC; PM ED ED
	Recurring violation or violation of schedule in AO	<ul style="list-style-type: none"> • Civil Action • Criminal Investigation • Terminate Service 	ED ED ED

OTHER PERMIT VIOLATIONS

Wastestreams are diluted in lieu of treatment	Initial violation	<ul style="list-style-type: none"> • NOV 	PC; PM
	Recurring	<ul style="list-style-type: none"> • AO with fine • Terminate Service 	GM ED
Failure to mitigate noncompliance or halt production	Does not result in harm	<ul style="list-style-type: none"> • NOV 	PC; PM
	Does result in harm	<ul style="list-style-type: none"> • AO with fine 	GM

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		<ul style="list-style-type: none"> • Civil Action 	ED
Failure to properly operate and maintain pretreatment facility	Does not result in harm Does result in harm	<ul style="list-style-type: none"> • NOV • AO with fine • Civil Action 	PC; PM

VIOLATIONS DETECTED DURING SITE VISITS

Entry Denial	Entry denied or consent withdrawn Copies of records denied	Obtain warrant and return to facility AO with fine	GM; ED GM
NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSES	*PERSONNEL

Illegal Discharge	No harm to POTW or environment	<ul style="list-style-type: none"> • NOV • AO with fine 	GM
	Discharges causes harm or evidence of intent/negligence	<ul style="list-style-type: none"> • AO with fine • Civil Action • Criminal Investigation 	GM ED ED
	Recurring violation of AO	<ul style="list-style-type: none"> • Terminate service 	ED
Improper Sampling	Unintentional sampling at incorrect location	<ul style="list-style-type: none"> • NOD/NOV 	PC; PM
	Unintentionally using incorrect sample type	<ul style="list-style-type: none"> • NOD/NOV 	PC; PM
	Unintentionally using incorrect sample collection techniques	<ul style="list-style-type: none"> • NOD/NOV 	PC; PM
Inadequate Recordkeeping	Inspector finds files incomplete or missing (no evidence of intent)	<ul style="list-style-type: none"> • NOD 	PC; PM
	Recurring	<ul style="list-style-type: none"> • NOV • AO with fine 	PC; PM GM
Failure to report additional monitoring	Inspection finds additional files	<ul style="list-style-type: none"> • NOV 	PC; PM
	Recurring	<ul style="list-style-type: none"> • AO with fine 	GM

DEFINITION OF ABBREVIATIONS

AO	Administrative Order
ED	Executive Director
FINE	Administrative penalty or civil penalty assessed by the Corporation
GM	General Manager
NOV	Notice of violation
PC	Pretreatment Coordinator
PM	Program Manager
POTW	Publicly owned treatment works
U	User
NOD	Notice of Deficiency

* Personnel listed or as designated by the Director

Enclosure 2

ENFORCEMENT RESPONSE TIMETABLE

ENFORCEMENT RESPONSE	TIMETABLE*
Informal Responses	
• Tel/Con; Mtg.; Letter	30 Days
Formal Responses	
• Notice of Deficiency	30 Days
• Notice of Violation	30 Days
• Compliance Orders	120 Days
• Cease and Desist Orders	120 Days
• Consent Orders	120 Days
• Suspension or Termination Orders	120 Days

* Indicates the maximum amount of time in which the RIEDC shall initiate enforcement action after detection of the deficiency or violation(s). Violation(s) or deficiencies, which endanger health, property or the environment, are considered emergencies and shall receive immediate attention.

NOTE: Please note that time periods begin from receipt of lab results and / or upon discovery of a violation.

Enclosure 3

Administrative Penalty Matrix

Penalties may be calculated according to the following penalty matrix for violations of Chapter 42-64 of the Rhode Island General Laws and all Rules and Regulations, permits and Orders issued pursuant thereto. In accordance with R.I.G.L. Chapter 42-64-9.2, penalties are assessed for each day of noncompliance.

TYPE OF VIOLATION			
Deviation From Standard	I	II	III
Major	\$25,000 - \$5,000	\$5,000 - \$1,000	\$1,000 - \$500
Moderate	\$5,000 - \$1000	\$1000 - \$500	\$750 - \$ 250
Minor	\$1000 - \$500	\$750 - \$250	\$ 500 - \$ 100

Type of Violation

Refers to the nature of the legal requirement allegedly violated, Type includes but is not limited to the following examples:

Type I

Includes violations of legal requirements identified by the RIEDC as directly related to the protection of the public health, safety, welfare or environment.

1. Violation of wastewater discharge limits.
2. Violations of compliance schedule milestones.
3. Failure to provide reports (compliance schedules, self monitoring data, BMR & FCMR).
4. Failure to accurately report noncompliance.
5. Failure to obtain required permit from the RIEDC.
6. Failure to take remedial action to mitigate a known harm.
7. Any other violation or group of violations that the RIEDC considers to be significant including a pattern of Type II and Type III violations.

Type II

1. Violation of legal requirements indirectly related to public or environmental protection, e.g., late reports, (but with notification to the RIEDC that sampling has been performed.)
2. Failure to comply with an equipment or design specification or any other operational methods or procedure required by the RIEDC or specified in the RIEDC Sewer User Regulations, which is indirectly related to protection of the public health and welfare and / or the environment, e.g. the discharge of non-contact cooling water without approval.
3. A pattern of Type III violations.

Type III

1. Violation of legal requirements identified by the Director as important but incidental to the protection of the plant workers, and environment, e.g. late sampling.

Deviation from Standard

Refers to the degree to which the violation is out of compliance with the requirement allegedly violated. The RIEDC will evaluate the circumstances of each case to assess whether a violation is a minor, moderate, or major deviation from the standard with reference to the following factors:

1. The extent to which the act or failure to act was out of compliance;
2. The amount, toxicity, and/or nature of the pollutant;
3. The duration of the violation;
4. Whether the user took reasonable and appropriate steps to prevent and/or mitigate the non-compliance;
5. The user's history of non-compliance;
6. The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable;
7. Willingness to participate in supplemental environmental projects that are directly related to addressing compliance problems of the industry within which the violation took place. Such projects are subject to the approval and control of the RIEDC;
8. The economic benefit achieved by non-compliance;
9. Any other factor(s) that may be relevant in determining the amount of a penalty, provided that, said other factors) shall be set forth in the Notice of Violation, Administrative Order, or other written notice of the assessment of Penalty.