



Town of Bristol

Enforcement Response Plan

July 23, 2024

Introduction

NPDES # IN0036846

This document will detail the enforcement response procedures used in controlling discharges to the Town of Bristol's Publicly Owned Treatment Works (POTW). The Wastewater Utility (Utility) institutes enforcement actions for discharge violations under the Town of Bristol's Sewer Use Ordinances (SUO) and has the primary responsibility to enforce all applicable pretreatment requirements under these ordinances.

If a Significant Industrial User's (SIU) noncompliance persists after notification by the Utility, the Indiana Department of Environmental Management (IDEM) and the United States Environmental Protection Agency (US EPA) has the authority to proceed to enforce directly against the industrial user or the Utility.

Action taken by the Town of Bristol may be preferable to actions taken by the Indiana Department of Environmental Management (IDEM) or the United States Environmental Protection Agency (US EPA). IDEM and the US EPA retain the authority to take its own enforcement action where the local authority is not willing to take timely or appropriate enforcement action.

This plan is tailored as recommended by IDEM, to include a range of enforcement responses available to Bristol. This plan addresses a broad range of pretreatment violations and is not intended to cover every type of violation. It was developed for guidance and is not intended to limit the enforcement discretion of any of the administering agencies.

If the Significant Industrial User (SIU) personnel appear to be attempting in good faith, to comply with pretreatment requirements, the enforcement actions should be on a more cooperative level than if the SIU personnel do not appear to be attempting to comply in good faith.

Industrial User Inventory

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The General Pretreatment Regulations (40 CFR, Part 403.8 (f)(6)), require all POTW's to identify potential industrial users subject to the requirements of the pretreatment program and to identify the volume and characteristics of pollutants discharged by these industrial users.

In order to implement an effective Enforcement Response Plan (ERP), all industries subject to pretreatment regulations must be identified and regulated. Therefore, the Town of Bristol's Wastewater Utility has developed a systematic approach to identifying new users. This process, rather than being conducted on an annual basis, is ongoing in order to remain current with the industrial community in Bristol's Town Limits.

There is no single reliable source for the identification of new industrial facilities. Therefore, the discovery of new industries occurs as a result of a variety of regular and ongoing activities. The following is a list of resources used by the Wastewater Utility to identify new facilities and discover new uses for old facilities:

- I. Commercial/Industrial
- II. Top 10 Water Users List
- III. Newspaper Articles
- IV. Citizens' Reports
- V. Referrals from other agencies (Health Department, Other City Departments)
- VI. Contact from Potential Industrial Users
- VII. Site Visits
- VIII. Reports from other Industrial Users
- IX. Internet searches for industry

All industries that are subject to either a federal categorical pretreatment standard or determined to be significant with respect to the Town of Bristol's Sewer Use Ordinance (SUO) are issued an Industrial Wastewater Pretreatment Permit (IWP) from IDEM. They are then added to the list of regulated facilities. All facilities permitted by IDEM are considered Significant Industrial Users and are subject to all program requirements.

Additionally, an accurate characterization of the type, volume, and characteristics of discharge must be maintained for all permitted users. This is accomplished through the use of the following tools by Bristol's Wastewater Utility:

- ❖ Annual Inspections at each permitted industry.
- ❖ No less than semi-annually, per calendar year, measure the volume of flow and sample and analyze the discharge for all parameters contained in the IWP.
- ❖ Permit requirements to report change of ownership, new construction, change in production, and change of process.
- ❖ Review of self-monitoring and surveillance sampling data
- ❖ Information submitted on permit applications

- ❖ Observations from field personnel
- ❖ Water utility flow data

Compliance Monitoring Data

Compliance monitoring activities conducted by the Utility are necessary to document and identify violations that can be presented as legally defensible evidence in administrative actions and legal proceedings. SIU compliance with applicable regulations is evaluated and determined through:

- I. Inspections conducted by the Utility
- II. Self-monitoring data from the SIU
- III. Surveillance sampling and analysis conducted by the Utility
- IV. Evaluation of the SIU questionnaires by Utility personnel

Self-monitoring data is required of all permitted SIUs. The forms used are provided by the Utility and must be used for reporting purposes. If a facility prefers to use its own form, it must be submitted for approval to Bristol's Utility Director prior to use. No alternative form may be used without prior written approval. Each report shall be signed by the authorized industrial representative. The data included are used as evidence if violations are identified.

Inspections are conducted annually by the Utility staff. Extra inspections are conducted by the Utility staff to identify any potential problems or violations and to verify compliance. Standard inspection forms are used to ensure all areas have been evaluated and are signed and dated by the inspector. All non-compliance issues are noted on the forms and these items are discussed with the industry. Appropriate actions for the specific non-compliance will occur as described in the compliance matrix that is found later in this document.

Sampling conducted by the Utility staff or contracted lab and the related chemical analyses are the foundation of the program's compliance monitoring. It is critical that a stringent chain of custody procedures is followed along with strict adherence to standard operating procedures for sampling and analysis.

Personnel responsible for the collection of industrial samples are trained to collect those samples and properly complete chain of custody forms in the field for each sample collected. Laboratory personnel log in each sample and maintain the chain of custody in the laboratory.

Data Screening

The majority of data screened are evaluated and are generated through industrial self-monitoring and Utility staff sampling. The Town of Bristol's Utility Director or their designated representative, reviews all data generated by these activities.

Data is reviewed and evaluated as received so proper enforcement responses may be initiated if necessary. The time frames and specific responses are detailed in the Enforcement Response Section of this document. Included are those industries that fail to submit reports in a timely manner.

Test results of the Utility-conducted monitoring as well as industry self-monitoring data are computerized. Additionally, the paper files are maintained in the industry's non-computerized files as a cross reference.

Identification of Violations

Identification of pretreatment violations, regardless of their severity, will initiate the enforcement process. This includes those industries that fail to submit reports in a timely manner. Discovery of a violation may occur as a result of any number of activities. The list below represents the most common sources used to identify violations:

- I. Review of the Utility's industrial sampling results
- II. Review of the SIU's self-monitoring reports
- III. Slug/Accidental Spill reports
- IV. Notification of Violation to the Utility
- V. Site Visits/Inspections by Utility personnel
- VI. Observations by field personnel
- VII. Information provided by private citizens and public employees
- VIII. Review of Compliance Schedule requirements
- IX. Information provided by other agencies (like US EPA, IDEM, Elkhart County Health Department)

Once a violation is identified, it is the Utility Director's responsibility to implement the appropriate enforcement response action as required in this plan. When determining the appropriate enforcement response, particularly one which may include the imposition of civil fines, the specific procedures outlined in the Enforcement Response section must be followed. Additional criteria may be used to determine the response including:

- I. Magnitude of the violation
- II. Duration of the violation
- III. Effect of the violation on the POTW's receiving stream
- IV. Effect of the violation on the POTW and their compliance
- V. Compliance history of the industrial user

- VI. Good faith of the industrial user
- VII. Pollutants of particular importance to the POTW.

Enforcement Response

All violations identified by the Utility are reviewed, evaluated, and addressed by the appropriate enforcement response. The responses fall within the guidelines of the Enforcement Response Plan Guide.

The majority of enforcement actions begin with a phone call to the User which is followed by the issuance of a Notice of Violation with Compliance Order (NOV). The Notice of Violation describes the nature of the violation, orders the SIU to comply with the terms of its permit, and informs the SIU that any additional violations may result in escalated enforcement actions.

Once the SIU is notified of a violation or has the knowledge of a condition which is a violation, the SIU may be allowed up to fifteen (15) calendar days to respond to the NOV. This period will apply only to the initial violation. A violation that occurs after this period shall be evaluated according to the plan procedures. A repeat occurrence does not necessarily indicate the same condition, parameter, or procedural requirement was found in violation. It simply means that another violation occurred within a specific period of time. An industry receiving the results of self-monitoring or Utility sampling which are in violation has up to thirty (30) calendar days to correct whatever condition exists or existed which contributed to the violation. Therefore, each violation is evaluated separately for enforcement action. In addition, if a violation occurs during the thirty (30) day correction period, the industry must demonstrate good faith was exercised to prevent or mitigate further violations during that period.

Staff Responsibilities

Described below are the responsibilities of the Utility Director or their designated representative involved in sample collection and data screening, direction of enforcement actions, review of actions taken, and the overall management of the enforcement procedures.

- ❖ Coordinate special enforcement sampling events
- ❖ Response to spills, accidental discharge, and complaints
- ❖ Coordinate the activities of field personnel

- ❖ Review, audit, and input self-monitoring data
- ❖ Review utility-generated industrial data
- ❖ Conduct inspections
- ❖ Review new and updated permits
- ❖ Correspond with all industries regarding compliance and reporting issues
- ❖ Signatory for violation notices
- ❖ General oversight of the Pretreatment Program
- ❖ Issue civil fines for violations as outlined in this plan

Tracking System

SIUs are required to submit various reports and information as a result of a number of compliance activities. It is important that the utility has reliable procedures in place to track submission deadlines to help ensure SIUs provide the required information by the required dates. The staff logs in reports or required information as it is received.

The following items may be required from SIUs by a specific date:

- ❖ Industrial Permit Applications
- ❖ Self-Monitoring Reports
- ❖ Compliance Schedule Progress Reports
- ❖ Follow-up information subsequent to industrial inspections
- ❖ Written reports following spills, accidental or slug discharges
- ❖ Written response to notices of violations

A number of forms, reports, and correspondence required by a specific due date are tracked by Bristol Utilities. These documents are submitted periodically and are tracked using a variety of methods. The Utility Director tracks all deadlines associated with notices of violation, permit draft reviews, compliance schedules, and spill/slug reporting.

Scheduling Industrial Inspections

Each permitted facility is subject to an annual inspection. Facilities, however, may receive numerous inspections and visits during a given year in order to track compliance schedule activities, verify changes in discharges or processes, maintain a regulatory presence, or scrutinize facilities with discharges that may impact the POTW.

Inspections are scheduled by the Utility Director based on the date when the previous inspection was conducted. Other inspections or site visits are conducted as needed. Inspections may be

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scheduled at the request of the SIU to verify compliance with certain requirements or to identify potential problems. Additional inspections may also be conducted as the result of a spill, accidental discharge, upset, surveillance sampling, or other special situations.

Industrial Pretreatment Enforcement Procedures

Pursuant to the Town of Bristol's Sewer Use Ordinance No. 50.04 (SUO), as amended, and the Town's National Pollutant Discharge Elimination System (NPDES) Permit No. IN0036846, this plan will use the following definitions to assign responsibilities for enforcement.

- ❖ Director: The person responsible for supervising the operation of the POTW, or that person's duly authorized representative.
- ❖ Board: The Town Council of the Town of Bristol.
- ❖ Control Authority: The Indiana Department of Environmental Management (IDEM) and the United States Environmental Protection Agency (US EPA).

Informal enforcement actions, oral telephone notices, notices of violations with compliance orders, site visits, and Cease and Desist orders are issued by the Director. Compliance schedules and civil fines may be issued by either the Board or the Control Authority, or both, based on the recommendation of the Director.

Violations and discrepancies identified during the review process are evaluated by the Director as to the necessary type of enforcement response. In order to ensure impartial treatment of violators and provide a uniform basis for selection of appropriate responses to violations, these established Enforcement Response Procedures should be followed unless mitigating circumstances can be shown.

This Enforcement Response Plan indicates the type of non-compliance, the circumstances which may dictate the type of response, and the range of responses for that particular category of non-compliance. This Enforcement Response Plan was developed with the intention of serving the following three main purposes:

- I. It recommends enforcement responses that are appropriate in relation to the severity and nature of the violation and the overall degree of non-compliance
- II. It facilitates a uniform application of enforcement responses to comparable levels in types of violations, and it can be used as a tool to review the appropriateness of the response
- III. It provides notice to the industrial community regarding the importance of the pretreatment program along with meeting standards and limits as well as the proper operation of equipment.

This Enforcement Response Plan groups various types of violations into the following four categories:

- I. Violations of monitoring, sampling, and reporting
- II. Violations of compliance schedule
- III. Violations of discharge limits
- IV. Violations detected through inspection or field monitoring

Types of Enforcement Responses

Using this Enforcement Response Plan, the Director will initiate the appropriate response to each suspect violation. The files will reflect the type of action taken and the response date. Initial responses to suspect violations may involve telephone inquiries with the industry contact person or an onsite visit to discuss and observe the problem. If a violation is confirmed, a notice of violation shall be issued to the user by the Director.

Informal Notice - IFN

The most widely used and common notification will be an informal notice. The Director has the authority to issue an informal notice to the user indicating the type of violation. An informal notice may consist of but not be limited to a documented phone call or email to the user.

Notice of Violation– NOV

This is a written notification to the Industrial User indicating the type of violation. A written User Response is required within 10 calendar days and must include a reason for the non-compliance and the steps being taken to eliminate any future violations of this nature.

If no response is received, a Cease-and-Desist Order may be issued.

Compliance Order - CO

The Director has the authority to issue an order to the user responsible for the discharge directing that user to come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer services may be discontinued unless adequate facilities, devices, or other appurtenances are installed and properly operated.

Cease and Desist Order – CD

The Director has the authority to issue a Cease-and-Desist Order which requires the discharge in question to be terminated immediately or water service may be terminated.

Administrative Fines – AF

Any user who is found to have violations under the SUO or any orders, rules, regulations, and permits issued, may be fined no more than \$2,500.00 per day per violation. The user may be fined no more than \$7,500.00 per day per violation for subsequent violations in accordance with IC-36-1-3-8 (a)(10)(B). Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 12% of the unpaid balance and interest shall accrue thereafter at a rate of 1% per month.

Emergency Suspensions – ES

When a user is found to have actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons the Director may immediately suspend a user's discharge after informal notification to the user. The Director may immediately suspend a user's discharge after informal notification to the user if it threatens to interfere with the operation of the POTW or the environment.

Termination of Discharge – TD

The Director has the authority to issue a Termination of Discharge notice to the user. The user will be notified 14 days before the effective date of termination by first class mail to the billing address for the user.

Civil Penalties – CP

Civil Penalties are utilized to define courses of action that include civil suits for injunctive relief and civil penalties, or criminal suits (initiated by the State or Federal Government Agencies or the Town of Bristol). These types of actions would all involve the court system and would adhere to due process procedures.

Significant Non-Compliance (SNC)

Annually the Director will be responsible for reviewing the compliance file of all SIUs for the previous year to determine significant non-compliance of any SIU. On an annual basis, the names of all the SIUs found in significant non-compliance will be published on the Town of Bristol's website (bristolindiana.org). A definition of significant non-compliance follows.

Instances of Significant Non-Compliance (SNC) are Violations which meet one or more of the following criteria:

- I. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66%) or more of all the measurements taken for the same pollutant parameter during

- a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3 (I)
- II. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, Fats, Oils, and Grease (FOG)m and 1.2 for all other pollutants except pH)
 - III. Any other violations of a Pretreatment Standard or Requirement that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Utility personnel or the general public)
 - IV. Any discharge of pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the Utility’s exercise of its emergency authority to halt or prevent such a discharge
 - V. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
 - VI. Failure to provide, within thirty (30) days after the due date, required reports, such as baseline monitoring reports, ninety-day (90-day) compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules
 - VII. Failure to accurately report non-compliance
 - VIII. Any other violation or group of violations, which may include a violation of best management practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

Enforcement Response Plan Examples

The following is an example of sampling, monitoring, and reporting Enforcement Response actions that will be taken when a violation is found to occur.

Non-Compliance	Circumstance	Range of Response
Failure to sample, monitor, or report	Isolated or infrequent	IFN, NOV
Failure to sample, monitor, report, and notify Utility and/or Control Authority	Frequent or user does not respond to NOV	IFN, NOV, AF, SNC
Failure to notify of effluent limit exceedance	Isolated or infrequent No effects known	IFN, NOV
Failure to notify of effluent limit exceedance	Frequent or continued violation	IFN, NOV, AF, SNC, CP
Failure to notify of effluent	Known environmental or	IFN, NOV, CD, AF, ES, SNC,

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limit exceedance or spill discharge	Utility damage	CP
Failure to submit renewal permit application 180 days prior to permit expiration	Number of days will be considered	IFN, NOV
Reporting false information	Any instance	CP, Criminal Investigation Request

Non-compliance detected through inspections or field investigations

Non-Compliance	Circumstance	Range of Response
Violation of analytical procedures	Any instance	IFN, NOV, AF (with continuing violation)
Violation of analytical procedures	Evidence of negligence or intent – SNC	IFN, NOV, AF, SNC, CP (possible criminal action)
Violation of permit conditions	Any instance	IFN, NOV, AF (with continuing violation)
Violation of permit conditions	Evidence of negligence or intent – SNC	IFN, NOV, CD, AF, ES, SNC, CP (possible criminal action)

Discharge Limitations

Non-Compliance	Circumstance	Range of Response
Exceedance of Effluent Limits (categorical, local, or prohibited)	Infrequent or isolated	IFN, NOV
Exceedance of Effluent Limits	Infrequent or isolated, excluding TRC Limits	IFN, NOV, CP (if environmental harm results)
Exceedance of Effluent Limits	Violation(s) which are SNC	IFN, NOV, AF, SNC, CP
Reported Spill Discharge	Isolated, accidental, no known damage	IFN, NOV
Reported Spill Discharge	Isolated, accidental with known interference, pass through, or damage	IFN, NOV, AF, CP
Reported Spill Discharge	Recurring – SNC	IFN, NOV, AF, SNC, CP
Discharge without permit or	One time, no known	IFN, NOV

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approval	damage	
Discharge without permit or approval	One time that results in damage	IFN, NOV, AF, CP, or request for criminal investigation
Discharge without permit or approval	Continuing violation with known damage	CD, CP, request for criminal investigation

Response Time Frames

- I. Initial Enforcement Action Responses involving contact with SIU and requesting information on corrective or preventative action will occur within fifteen (15) calendar days of becoming aware of the violation.
- II. Follow-up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a NOV with milestones or deadlines.
- III. Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- IV. All violations meeting the criteria for Significant Non-Compliance will be published and addressed with an enforceable order within thirty (30) days of the identification of the Significant Non-Compliance.

Administrative Fine Matrix

Any violations not specifically noted below may be penalized an amount up to and including \$2,500.00 per offense per day. Unless otherwise noted, subsequent violations may be charged no more than \$7,500.00 per day per violation. The number of offenses shall be based upon those accumulating within a twelve-month period, not each calendar year.

Offense	First Offense	Second Offense	Third and Subsequent Offense(s)
Discharges			
Discharging wastewater containing metals in excess of established limits per parameter causing:			
a. No Damage	\$0	\$1,000	\$2,500
b. Damage	\$1,000	\$2,500	\$7,500
Discharging substances which obstruct the sewer causing:			
a. No Damage	\$0	\$1,000	\$2,500
b. Damage	\$1,000	\$1,000	\$2,500
Discharging noxious or malodorous substance that:			
a. Creates a public nuisance	\$0	\$0	\$2,500

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Offense	First Offense	Second Offense	Third and Subsequent Offense(s)
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b. Prevents entry into the sewer	\$0	\$1,000	\$2,500
Discharging explosive or flammable substances causing:			
a. No Damage	\$0	\$1,000	\$2,500
b. Damage	\$1,000	\$2,500	\$7,500
Discharging wastewater with a pH in excess of established limits causing:			
a. No Damage	\$0	\$1,000	\$2,500
b. Damage	\$1,000	\$2,500	\$7,500
Discharging wastewater containing pollutants that pass through or interferes with the POTW	\$1,000	\$2,500	\$7,500
Process			
Failure to calibrate flow meter	\$0	\$1,000	\$2,500
Refusal to allow Utility to inspect User's facility/premises	\$0	\$2,500	\$7,500
Failure to provide, properly operate, or maintain pretreatment facilities	\$0	\$1,000	\$2,500
Failure to report a slug discharge or spill causing:			
a. No Damage	\$0	\$1,000	\$2,500
b. Damage	\$1,000	\$2,500	\$7,500
Providing false information	\$1,000	\$2,500	\$7,500
Tampering with samples, sampling equipment, or measuring devices	\$0	\$1,000	\$2,500

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Administrative			
Failure to conduct required self-monitoring	\$0	\$1,000	\$2,500
Failure to respond to Notice of Violation	\$0	\$1,000	\$2,500
Failure to report significant changes in operation, pretreatment facilities, wastewater constituents or characteristics	\$0	\$1,000	\$2,500
Failure to submit self-monitoring report, resulting in SNC	\$0	\$1,000	\$2,500
Failure to obtain an Industrial Wastewater Discharge Permit, when required, before connecting to or discharging into the POTW (one-time penalty per connection)	1000	-	-
Failure to obtain a Special Waste Discharge Permit, when required, before discharging into the POTW	1000	-	-
Failure to maintain monitoring records*	1000	-	-

*Only one penalty for any specified time period

Adopted this _____ day of _____, 2024.

TOWN COUNCIL OF THE TOWN OF BRISTOL, INDIANA

By: _____

Jeff Beachy, President

ATTEST:

By: _____

Cathy Antonelli, Bristol Clerk-Treasurer