

GREEN BAY METROPOLITAN  
SEWERAGE DISTRICT  
PRETREATMENT ENFORCEMENT  
RESPONSE PLAN  
(January 1, 2017)

## **INTENT**

Federal and state regulations require the Green Bay Metropolitan Sewerage District (GBMSD) to develop and operate an industrial pretreatment program. Under this program GBMSD is also required by NR 211.23((1)(g) to develop and implement an Enforcement Response Plan. At minimum this plan will:

1. Describe how GBMSD will investigate instances of noncompliance,
2. Describe the types of escalating enforcement responses GBMSD will take in response to all anticipated types of industrial discharger violations and the time periods within which responses will take place,
3. Identify by title the officials responsible for each type of response, and
4. Adequately reflect GBMSD's primary responsibility to enforce all applicable pretreatment requirements and standards as outlined in NR 211.22, NR 211.23 and NR 211.235.

## **INTRODUCTION**

The GBMSD Enforcement Response Plan (ERP) describes violations and indicates a range of appropriate enforcement options. This ERP serves two functions:

1. Defines the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors.
2. Promotes consistent and timely use of enforcement remedies. In addition to eliminating uncertainty and confusion concerning enforcement, this consistency lessens the likelihood of a successful legal challenge based on charges of "selective enforcement" or harassment.

This ERP is a guide to provide consistent enforcement options for GBMSD to use when pretreatment requirements are not followed. GBMSD may initially rely on informal actions such as telephone calls, e-mails or facility meetings. Formal actions such as Notices of Noncompliance (NONs) and Notices of Violations (NOVs) will be used when violations are more substantial and/or significant in nature. If a discharger fails to return to compliance following the initial enforcement response, GBMSD will escalate its enforcement response with more stringent action. The magnitude and duration of violations as well as compliance history will be used by GBMSD when selecting enforcement action options.

If a discharger has committed several types of violations, GBMSD's response will address each violation in enforcement action.

GBMSD will consider the following criteria when determining the proper ERP action:

1. Magnitude of the violation
2. Duration of the violation
3. Effect of the violation on the receiving water
4. Effect of the violation on GBMSD
5. Compliance history of the discharger
6. Good faith of the discharger
7. History of addressing past ERP actions

## **ENFORCEMENT AUTHORITY**

GBMSD is organized under Wisconsin Statute 200.45. Enforcement policies available to GBMSD are defined in State Statute 200.11 and 200.45. This section grants GBMSD the authority to prohibit discharges into the sewerage system, to prescribe conditions under which waste may be discharged, and to prescribe standards for sewer design, construction, and operation. This section also provides the authority for the issuance of special orders for seeking of injunctive relief, for initiating civil suits, and for collecting forfeitures of up to \$10,000 per day for each violation. Discharges to the sewerage system are regulated under the GBMSD Sewer Use Ordinance.

## **ENFORCEMENT PROCEDURES**

GBMSD has the responsibility to enforce all applicable requirements and standards of the Pretreatment Program (40 CFR 403 and NR 211) and of the GBMSD Sewer Use Ordinance. The Pretreatment Program Coordinator is responsible for maintaining records on the industries in the pretreatment program and for ensuring that each industry is in compliance with its control document.

In the event an industry violates any of the requirements of its control document, it is the responsibility of the Pretreatment Program Coordinator to contact the industrial discharger. If the violation is of such magnitude to require a formal response, the Pretreatment Program Coordinator will recommend to GBMSD's Executive Director the type and severity of the action. Although not listed in this ERP as an enforcement option, informal compliance meetings with the industrial discharger to resolve a noncompliance issue may be held. Such meetings may occur at any time prior to initiation of civil action. While the Pretreatment Program Coordinator will be involved in all such meetings, involvement of other GBMSD staff and/or legal counsel will depend on each specific noncompliance situation.

If an NOV is recommended, the Pretreatment Program Coordinator will prepare such a notice for signature by the Executive Director. The Executive Director also has the authority to suspend sewerage service in the event of an emergency condition involving actual or threatened imminent or substantial danger to the health or welfare of persons, the environment, or GBMSD.

All other special orders will be issued by GBMSD's Commission. Such special orders will be recommended by the Executive Director. GBMSD's authority to recover forfeiture of monies can be either through Commission action or by civil action. The decision to initiate civil action will be made by the Commission.

GBMSD's ERP is based on the response guidance contained in EPA Manual Guidance for Developing Control Authority Enforcement Response Plans. This ERP indicates the response or range of responses for specific violations. Also included in this ERP is the title of the official or officials at GBMSD who are responsible for taking that action. The time period within which the action must be taken is also specified. ***The ERP is a guidance document. GBMSD may and will take such enforcement actions as are appropriate, whether or not the actions are in accordance with the ERP.***

The following are terms and abbreviations used in the ERP:

AO: Administrative Order

Civil Order: Civil litigation against the industrial discharger seeking equitable relief, monetary penalties and actual damages

Fine: Forfeiture obtained through Commission action

PPC: Pretreatment Program Coordinator

NON: Notice of Noncompliance

NOV: Notice of Violation

ED: Executive Director

COM: Commission

SV: Significant Violation

Show Cause Hearing: Formal meeting requiring the discharger to appear and demonstrate why GBMSD should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

Termination: Sewerage service stopped

### UNAUTHORIZED DISCHARGE (NO PERMIT)

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
1. Unpermitted discharge	Discharger unaware of requirement; no harm to GBMSD/environment	Phone call NON with application form	PPC
	Discharger unaware of requirement; harm to GBMSD	NOV AO Fine	ED ED COM
	Discharger aware of requirement with or without harm to GBMSD	AO Terminate Fine or Civil Order	ED COM COM
	Failure to apply for permit continues after notice by GBMSD	AO Terminate Fine or Civil Order	EDCOM COM
2. Failure to Renew	Discharger has not renewed permit within 10 days after due date	NON with late payment fee	PPC

### DISCHARGE LIMIT VIOLATION

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
1. Exceedance of any permit limit, local or categorical	Isolated, not significant	NON and resample 2X	PPC
	Isolated, significant (no harm to GBMSD)	NOV AO to develop spill prevention plan	ED ED
	Isolated, harm to GBMSD/environment	AO Show Cause Hearing with Fine	EDCOM
	Recurring; no harm to GBMSD/environment	NOV AO Show Cause Hearing Fine	ED COM COM COM
	Recurring; significant harm to GBMSD	AO Terminate Show Cause Hearing Civil Order Fine	ED COM COM COM COM

### MONITORING AND REPORTING VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
1. Reporting Violation	Report improperly signed or certified or incomplete	Phone Call	PPC
	Report improperly signed or certified or incomplete after notice by GBMSD	NON Show Cause Hearing	PPC COM
	Isolated, not significant (e.g. 10 days late)	Phone Call NON	PPC PPC

	Significant (e.g. more than 45 days late)	NOV Publish as SV	ED ED
	Report habitually late or no report at all	AO Show Cause Hearing Publish as SV Fine or Civil Order	ED COM ED COM
	Failure to report spill or changed discharge (No Harm)	Phone Call NON	PPC PPC
	Failure to report spill or changed discharge (results in harm)	AO - Fine Show Cause Hearing Publish as SV Fine Civil Order Terminate	ED/COM COM ED COM COM COM
	Repeated failure to report spills	Show Cause Hearing Publish as SV Fine Civil Order Terminate	COM ED COM COM COM
	Falsification	AO – Fine Show Cause Hearing Publish as SV Fine Terminate Civil Order	ED/COM COM ED COM COM COM
2. Failure to Monitor Correctly	Failure to monitor all pollutants required by permit – isolated	NOV Publish as SV	ED ED
	Failure to monitor all pollutants required by permit – recurring	AO – Fine Show Cause Hearing Fine	ED/COM COM COM
3. Improper Sampling	No evidence of intent, before end of monitoring period	Phone Call and Resample	PPC
	No evidence of intent, after end of monitoring period	NOV Publish as SV	ED ED
	Evidence of intent	Show Cause Hearing Fine Civil Order Terminate	COM COM COM COM
4. Failure to Install Proper Monitoring Equipment	Delay of less than 30 days	NON	PPC
	Delay of more than 90 days	NOV Publish as SV	ED ED
	Recurring	AO Terminate Civil Order	ED COM COM
5. Compliance Schedules (In Permit)	Missed milestone by less than 30 days or will not affect final milestone	NOV	ED

	Missed milestone by more than 30 days or will affect final milestone (good cause delay)	NOV AO Show Cause Hearing Fine	ED ED COM COM
	Missed milestone by more than 30 days or will affect final milestone (no good cause for delay)	AO Show Cause Hearing Fine Terminate Civil Order	ED COM COM COM COM
	Recurring violation or violation of schedule in AO	AO Show Cause Hearing Fine Terminate	ED COM COM COM

### OTHER PERMIT VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT ACTION	PERSONNEL
1. Wastewater Diluted in Lieu of Treatment	Initial Violation	NOV AO	ED ED
	Recurring	Show Cause Hearing Terminate	COM COM
2. Failure to Correct Noncompliance or Halt Production	No Harm Results	NOV AO	ED ED
	Harm Results	AO – Fine Show Cause Hearing Terminate	ED/COM COM COM
3. Failure to Properly Operate and Maintain Pretreatment Facility	No Harm Results	NOV	ED
	Harm Results	AO Show Cause Hearing Civil Order	ED COM COM

### VIOLATIONS DETECTED DURING SITE VISIT

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT OPTIONS	PERSONNEL
1. Entry Denial	Entry denied or consent withdrawn copies of records denied	Obtain warrant and return to discharger	PPC/ED
2. Illegal Discharge	No harm to GBMSD or environment	NOV AO – Fine	ED ED/COM
	Harm done or evidence of intent/negligence	AO Show Cause Hearing Fine Civil Order	ED COM COM COM
	Recurring violations	Terminate	COM
3. Improper Sampling	Sampling at incorrect location – unintentional	NON – resample at correct location	PPC
	Incorrect sample type of technique unintentional	NON – resample	PPC

	Intentional sampling at incorrect location, intentional use of incorrect sample type, or intentional use of incorrect sample collection techniques	NOV AO – Fine Show Cause Hearing	ED ED/COM COM
4. Inadequate Recordkeeping	Files incomplete or missing – no evidence of intent	NON NOV	PPC ED
	Recurring or evidence of intent	NOV AO – Fine Show Cause Hearing	ED ED/COM COM
5. Failure to Report Additional Monitoring	Inspection finds additional files – first offense – no evidence of intent	NON	PPC
	Inspection finds additional files – recurring or evidence of intent	NOV Show Cause Hearing	ED COM



## TIME FRAMES FOR RESPONSES

- A. All violations will be identified and documented within five days of receiving compliance information.
- B. Initial enforcement responses (involving contact with the industrial user and requesting information on corrective or preventative action(s) will occur within 15 days of the violation detection).
- C. Follow up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response.
- D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed within 30 days of the identification of significant noncompliance.