

City of Santa Rosa
Water Department

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Enforcement Response Plan

November 2022

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INTRODUCTION

The City of Santa Rosa's Enforcement Response Plan (ERP) outlines operational procedures and enforcement mechanisms intended to provide City of Santa Rosa staff the direction to address the discovery of non-compliant conditions and ensure that all discharges to the sanitary sewer system are in compliance with Santa Rosa City Code Title 15- Sewers and with the United States Environmental Protection Agency (USEPA) Pretreatment Regulations as found in 40 Code of Federal Regulations (CFR), Part 403. This ERP is primarily written to comply with US EPA Pretreatment regulations for Significant Industrial Users and Categorical Users. Other types of permit or user categories such as Commercial/Non-Residential and Residential are included in this ERP for completeness and to ensure uniform enforcement for all users.

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The ERP is implemented by the Environmental Compliance Section and the Local Operations Division of the City of Santa Rosa Water Department. The ERP specifies criteria by which Environmental Compliance and Local Operations personnel determine the enforcement action most appropriate to the nature of the violation.

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In accordance with the Commercial/Industrial Inspection Services Agreement with the Regional partners, each user agency is required to implement similar requirements for the USEPA pretreatment program in their respective sewer use ordinance (SUO) and/or ERP. The adoption of the Non-Residential/Commercial section of this ERP will be used for violations covered under the Commercial/Industrial Inspection Services Agreement with the Regional partners. Under the same agreement, the City of Santa Rosa is responsible for the implementation and enforcement of the user agencies' pretreatment program but each user agency may include more stringent requirements in its SUO and/or ERP.

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If any user or applicant for a permit disputes the interpretation or application of this ERP or accompanying policies, it may request a ruling within 10 days of the decision according to Santa Rosa City Code 15-06.190 Disputes —Request for Ruling. In addition, if the discharger or applicant for a permit is dissatisfied with the ruling, enforcement action, or determination made by the Director of Santa Rosa Water he or she may appeal in accordance with Santa Rosa City Code section 15-06.200 Appeals.

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Section 15-04.040, User Classifications of the Santa Rosa City Code classifies users as follows:

All users shall be classified for sewage collection and disposal purposes in accordance with the governing activity conducted on the premises, as determined by the Director of Santa Rosa Water. User classifications are as follows:

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- A. Residential - Users whose premises are primarily for residential purposes and have no significant producing or processing activity of a commercial or industrial nature.

- B. Nonresidential - Users whose premises are primarily for commercial, governmental, or other nonresidential activity, but excluding premises of industrial users. Incidental residential use is not precluded.
- C. Industrial - Industrial users are defined in Section 15-04.030(42), or as amended. This section defines an "Industrial User" as a source of indirect discharge including SIUs and other industry including hauled waste.

The ERP is divided into 3 major sections based primarily on the above user classification:

Industrial Dischargers/Users

40 Code of Federal Regulations (CFR) Part 403 promulgated pursuant to the Clean Water Act, State waste discharge requirements, and Title 15- Sewers provide the authority to the City to permit and track compliance of industrial wastewater dischargers to the sanitary sewer system and waste hauled into the Laguna Treatment Plant. Industrial Wastewater is defined in Santa Rosa City Code Title 15-04.030(43) as the waterborne waste and wastewater from any production, manufacturing, or processing operations where water is used for the removal of significant quantities of waste other than from human habitation of premises connected to the public sewers.

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Commercial/Non-Residential users includes commercial users and is defined in Santa Rosa City Code Section 15-04.030 (56) as users whose premises are primarily for commercial, or governmental or other non-residential activity but excluding premises of industrial users. In general, Commercial/Non-Residential and Residential Discharger/Users are not subject to U.S. EPA Pretreatment Regulations.

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Residential Dischargers/Users

Residential dischargers/users are defined in Santa Rosa City Code Section 15-04.030 (75) as users whose premises are primarily for residential purposes and have no significant producing or processing activity of a commercial or industrial nature. Residential dischargers/users are not subject to USEPA Pretreatment Regulations.

Section 1- General Pretreatment Program Responsibilities

The Environmental Compliance Section (ECS) administers the Pretreatment Program which regulates all Significant Industrial Users (SIUs) and Categorical Users that are connected to the Regional Wastewater Collection System. The ECS maintains a list of industrial users that is reported annually to EPA and the North Coast Regional Water Quality Control Board.

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SIUs, in accordance with the 40 CFR Section 403.3, are generally defined as:

- Any industrial users that are subject to Categorical Pretreatment Standards, or
- Any other user that has any one or more of the following characteristics:
 - Has an average discharge flow of equal to or greater than 25,000 gallons per day of process wastewater to the Wastewater Treatment Plant (WWTP);
 - Contributes a process waste stream which is five percent or more of the average dry weather hydraulic or organic capacity of the WWTP;
 - Has a reasonable potential to adversely affect the WWTP operations, or;
 - Violates any pretreatment standard or requirement (in accordance with 40 CFR 403.8 (f)(6)).

The Pretreatment Program consists of the permitting, inspecting, monitoring, and sampling of all applicable users to ensure compliance with the applicable local, state, and federal requirements. Commercial/Non-residential Dischargers/Users are not subject to the provisions of the USEPA Pretreatment Program but are subject to Santa Rosa City Code or other regulatory requirements.

The workings of the ECS are made up of standard operating procedures, policies, and the ERP. The Quality Assurance Manual is made up of standard operating procedures, policies, and the ERP. The BPU approves the ERP and the accompanying policies derived from code, State and Federal regulatory requirements and the EPA Guidance Manual.

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Section 2 - Enforcement Responsibilities Industrial and Commercial/Non-Residential Dischargers/Users

The purpose of this section is to establish general responsibilities for enforcement activities initiated by ECS staff. As of 2022, the ECS consists of the following staff:

Environmental Compliance Supervisor	(1 Full Time Equivalent (FTE))
Environmental Compliance Inspector I	(1 FTE -Sampling)
Environmental Compliance Inspector II	(2 FTE -Commercial/non-residential)
Environmental Compliance Inspector III	(<u>2</u> FTE -Industrial)
Environmental Services- Deputy Director	
<u>Department Application Specialist</u>	<u>(1FTE – Manage data base & reports)</u>
Environmental Crimes Detective	<u>(On an as needed basis)</u>
Director of <u>Santa Rosa Water</u>	
Board of Public Utilities	
Senior Administrative Assistant	(1 FTE)

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Environmental Compliance Supervisor

The Environmental Compliance Supervisor is responsible for implementation of pretreatment requirements. General responsibilities of the position include the following as needed:

- Review all violations
- Review all documents drafted by Environmental Compliance Inspector
- Recommend appropriate response(s) to noncompliance working with ECIs to draft Notices of Violation (NOV) , Administrative Orders and cover letters.
- Conduct compliance meetings
- Develop and oversee compliance monitoring schedules
- Track enforcement response times
- Approve compliance sampling schedules
- Initiate Administrative Orders and Compliance Schedules
- Assess penalties for noncompliance upon approval by the Deputy Director of Environmental Services
- Consult with City Attorney and County District Attorney on potential legal action and decisions to issue orders
- Coordinate enforcement with other County and State regulatory agencies

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Environmental Compliance Inspectors

Environmental Compliance Inspectors are responsible for conducting compliance monitoring and facility inspections. Inspectors generally perform the following duties as needed:

- Conduct outreach and educational activities with users
- Screen compliance monitoring data

- Determine compliance with permit conditions through on-site inspections and review of sampling results
- Issue user permits
- Prepare inspection reports
- Identify instances of noncompliance
- Promptly notify the Environmental Compliance Supervisor of noncompliance
- Develop draft compliance sampling schedules
- Provide compliance guidelines
- Provide technical assistance to Environmental Crimes Officer
- Participate in multi-agency activities
- Issue routine non-residential Notices of Violation
- Draft NOV and AOs
- Conduct spill response and investigation
- Communicate/notify other City staff during incidents

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Deputy Director of Environmental Services

The Deputy Director of Environmental Services is responsible for oversight of the Environmental Compliance Supervisor and will also ensure fair and consistent implementation of pretreatment requirements. Examples of duties include the following as needed:

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- Review assessed penalties for noncompliance
- Sign industrial user permits, waste hauler permits and groundwater remediation permits
- Sign staff prepared Notices of Violation letters, Wastewater Discharge Permits and Administrative Orders
- Initiate Termination of Services
- Oversee AO meetings

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Environmental Crimes Detective

The Water Department, on a as needed basis, shares an Environmental Crimes Detective to assist with criminal violations or discharge by users. In addition, the police department funds collateral positions to investigate in-progress environmental crimes and incidents. Typical duties of the Detective include the following:

- Investigate incidences of potential criminal violations
- Perform surveillance of potential criminal discharge violations
- Assist ECS staff and City Attorney with required follow-up documents

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Director of Santa Rosa Water

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- Set Enforcement Response Policy
- Approve assessment of administrative penalties
- Approve termination of water or wastewater services

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- Oversee “Request for Ruling” appeal hearing

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- Work on implementing the program in the Regional Partner’s City
- Work on implementing compliance schedules
- Partner in enforcement actions
- Oversee “Request for Ruling” appeal hearing in Partner City

Board of Public Utilities

- May hear “Appeals” of dischargers not satisfied with outcome of “Request for Ruling”

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Section 3- General Enforcement Guidelines

These General Enforcement Guidelines apply to Significant Industrial dischargers/uusers, Commercial/Non-residential dischargers/users and Residential dischargers/users.

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After an instance of noncompliance has been discovered and investigated, staff may initiate an enforcement action coordinated with the Environmental Crimes Detective when appropriate. Depending on the severity of the noncompliance, staff may use a progressive enforcement philosophy and will attempt to address the noncompliance at the lowest level with the least formality possible, beginning with compliance assistance. All enforcement actions, no matter how informal, must be documented in writing and submitted to the appropriate staff for review. All notices of enforcement originating in the office will be sent by a certification method with a return receipt requested or hand delivered by staff. Listed below are the levels of enforcement actions ranging from informal to formal:

- Compliance assistance
- Unannounced inspections or unscheduled monitoring
- Informal Notice (written or verbal warning)
- Increase of spot inspections
- Notice of Violation (NOV)
- Administrative Order
 - Show Cause Hearing
 - Cease and Desist
 - Consent Order
 - Compliance Order
- Administrative Fines and Reimbursement of Costs
- Termination or Suspension of Discharge
- Civil /Criminal Action

- Suspension or Revocation of Permit

The criteria used to determine the severity of violations is based upon the EPA Enforcement Response Plan guideline criteria which include:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the receiving water
- Effect of the violation on the collection system and Publicly Owned Treatment Works (POTW)
- Compliance History of the commercial/non-residential or industrial discharger/user
- Good faith of the commercial/non-residential or industrial discharger/user
- Degree of the commercial/non-residential/industrial discharger/user's responsibility for the violation

Response Time

Once noncompliance is determined, the enforcement action should be taken in a timely manner. By acting in a timely manner, the instance of noncompliance may be easier to address and future noncompliance may be lessened. City staff should attempt to initiate all enforcement actions within thirty (30) days of the date the noncompliance is discovered.

Section 4- Enforcement Response for Industrial Dischargers/Users

The Enforcement Response Policy, pertaining to this permit category details a specific range of responses to instances of noncompliance and allow staff to take into account circumstances related to the noncompliance.

The Enforcement Response Policy divides the violations typically into the following four (4) categories:

1. Permit violations
2. Reporting violations
3. Limit violations
4. Code violations

A violation is assigned a severity designation of minor, moderate and major as determined by the list of the criteria in Section 3 above. Within each severity designation there are increasing tiers of enforcement actions that include escalating enforcement for repeated violations so City staff may equitably deal with similar occurrences for different dischargers. Each policy document specifies the appropriate violation and gives a range of fines to recommend.

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In addition, there is an alternative administrative fine policy, for ongoing concentration limit violations, discharge violations and non-reporting violations. This policy is based on the Environmental Protection Agency guidance documents [Guidance Manual for Calculation of Economic Benefit of Noncompliance with Pretreatment Standards](#) and [Guidance for Developing Control Authority Enforcement Response Plans](#).

Section 5 Enforcement Response for Commercial/Non-Residential Dischargers/Users

The Commercial/Non-Residential classifications that are subject to this section include:

- Fats, Oils and Grease (FOG) Source Control Program which includes businesses within Food Service Industry
- Non-Residential including Automotive Service, Printers and Photo Developers, Dry Cleaning, and Dental
- Hauled/Trucked Waste
- Groundwater and One-Time Wastewater Discharge

The Enforcement Response Policies pertaining to this permit category detail a specific range of responses to instances of **noncompliance and** allow staff to **consider** circumstances related to the noncompliance.

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The Enforcement Response Policies typically divide the violations into the following two (2) categories:

1. Permit violations
2. Reporting violations

A violation is assigned a severity designation of minor, moderate, and major as determined by the list of the criteria in Section 3 above. Within each severity designation there are increasing tiers of enforcement actions that include escalating enforcement for repeated violations so City staff may equitably deal with similar occurrences for different dischargers. Each policy document specifies the appropriate violation and gives a range of fines to recommend.

Section 6- Enforcement Response for Residential Dischargers/Users

This section of the ERP addresses private sewer use violations generally occurring on or near residential parcels. These types of violations are typically discovered in several ways. One of the primary ways is via receipt of information through the [City of Santa Rosa Water](#) Department Call Center such as a visible overflow or smell of sewage. A service request is generated in Hansen, crews are dispatched and working with the homeowner, **and** the issue is resolved. **Follow-up** on repeat violations may be pursued and will be expanded upon in this ERP.

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Another way of discovering violations is as a result of preventative maintenance such as sewer cleaning, Closed Circuit Television (CCTV), or smoke testing of sewer mains. For example, during sewer cleaning, excessive amounts of rock and debris may be discovered and upon closer inspection can be sourced from a broken lateral which then allows debris to enter the sewer main. Another example would be upon visual observation, via CCTV, of root intrusion or excessive flow from a lateral.

1. Authority to Enforce

The following, but not limited to, sections of Title 15- Sewers provide the authority to pursue enforcement for violations by all dischargers/users to the system including residential:

Section 15-06.030 Administrative Fines- Civil Penalties

Section 15-04.035- Responsibilities

Section 15-04.045- Violation Unlawful

Section 15-08.070- Prohibited Discharge Standards

Section 15-16.021- Illegal Connections

2. Enforcement Response Guide

The table below entitled “Enforcement Response Guide” is used to determine the course of action to be taken in response to a code violation. The Enforcement Response Guide is intended to give a range of responses to a given violation but each violation’s level of severity, and therefore the response, is based on the following areas of consideration:

1. Duration of the violation: Violations that continue over prolonged periods of time should subject the user to escalated enforcement actions.
2. Effect on sewer system: Violations that could result in damage or harm to the sewer system infrastructure should subject users to escalated enforcement actions.
3. Effect on POTW: An example of this would be increased inflow and infiltration (I/I) to the treatment plant. In these cases, the level of enforcement would be gauged on the volume and duration of the I/I.
4. History of parcel/user: If the violation is of a repeat nature, the level of enforcement may be escalated. An example of this would be repeat sanitary sewer overflows (SSOs) or grease violations.
5. Cooperation of user: Cooperation of user may be defined as the user’s attempt(s) to remedy the violation. If a user in violation demonstrates cooperation, it should be a factor in determining the level of response to the violation.

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Local Operations staff uses a progressive enforcement philosophy that addresses the violation at the lowest level with less formality. Listed below are the levels of enforcement actions available ranging from informal to formal:

- Notification letter
- Informal Notice (written or verbal warning)
- Notice of Violation (NOV)
- Cease and Desist
- Order to Show Cause
- Administrative Order
- Administrative Fines and Reimbursement of Costs
- Termination of water or wastewater service
- Civil Action

3. Administrative Fines

An administrative fine is a monetary penalty assessed for sewer code violations. Administrative fines are recommended as an escalated enforcement response, particularly when NOVs or administrative orders have not brought about compliance. The use of administrative fines depends on the circumstances surrounding the violation. When considering an administrative fine, refer to the list of variables above to be considered when determining an appropriate response and fine amount.

Enforcement Response Guide

	Informal			Formal	
Enforcement Options	Written or Verbal Warning	Notice of Violation	Cease and Desist Order	Administrative Order, Penalty, Criminal or Civil Actions	
Staff Responsible	Utilities System Supervisor	Utilities System Supervisor	Utilities System Supervisor	Utilities System Supervisor or CD Code Compliance	
Section 15-04.035- Laterals with obstructed or blocked flow caused by or resulting in:					Range of Administrative Fines
Displaced joints	X				None
Root intrusion	X				None
Deterioration/crushed pipe	X				None
Damaged/defective cleanout	X				None
Improper pipe grade	X				None
Inflow (stormwater)	X				None
Infiltration (groundwater)	X				None
Failure to respond to warning letter		X	X	X	None
Failure to correct violation			X	X	\$50 to \$100 per month until corrected
If any of above violations causes health and safety threat			X	X	\$100 to \$500
Sanitary Sewer Overflow due to:					
Grease buildup	X				None
Paper buildup	X				None
Repeat SSO in 12 months		X			None

	Informal			Formal	
Enforcement Options	Written or Verbal Warning	Notice of Violation	Cease and Desist Order	Administrative Order, Penalty, Criminal or Civil Actions	
					Range of Administrative Fines
Failure to correct above violations		X	X	X	\$50 to \$100 per month until corrected
If any of above violations causes health and safety threat			X	X	\$100 to \$500
Illegal Connections- Section 15-16.021					
Fails smoke test	X				None
Illegal sump pump	X				None
Illegal roof drain	X				None
Illegal foundation drain	X				None
Illegal areaway drain	X				None
Failure to respond to warning letter		X	X	X	None
Failure to correct/remove connection		X	X	X	\$50 to \$100 per month until corrected
If any of above violations causes health and safety threat			X	X	\$100 to \$500