

**CITY OF PHOENIX  
INDUSTRIAL PRETREATMENT  
COMPLIANCE ACADEMY**



**Enforcement**

**WELCOME TO  
THE CITY OF PHOENIX  
INDUSTRIAL PRETREATMENT  
PROGRAM  
2020 COMPLIANCE ACADEMY**

**ENFORCEMENT CLASS**

**City of Phoenix**



- **Next Class: Pollution Prevention (P2)**
- **Date: September 23, 2020**
- **Starting Time: 9:00 am**
- **Location: Online (Microsoft Teams - Webinar)**
- **Make sure the registrar (Jesse Flores) has your email for enrollment information**

- **Request class registration using our website:**

*<https://www.phoenix.gov/waterservices/envservices/indpretreatmentprog>*

JOIN US IN SEPTEMBER...

**City of Phoenix**

Industrial Pretreatment Program  
Instructors:

- Chase Torrence, Water Quality Inspector
- Julie Gentry, Senior Water Quality Inspector

ENFORCEMENT CLASS  
INSTRUCTORS

City of Phoenix

**IPP Section:**

Supervisor – Inspectors:

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1. Acronyms and definitions
2. Types of Violations
3. Enforcement Response Plan
4. Possible Enforcement Actions
5. Notice of Violation (NOV)
6. NOV Response



SYLLABUS

City of Phoenix

7. Show Cause Meeting  
8. Civil Penalty Policy  
9. Significant Noncompliance (SNC)  
10. Potential consequences  
11. Additional compliance

**QUIZ**

SYLLABUS

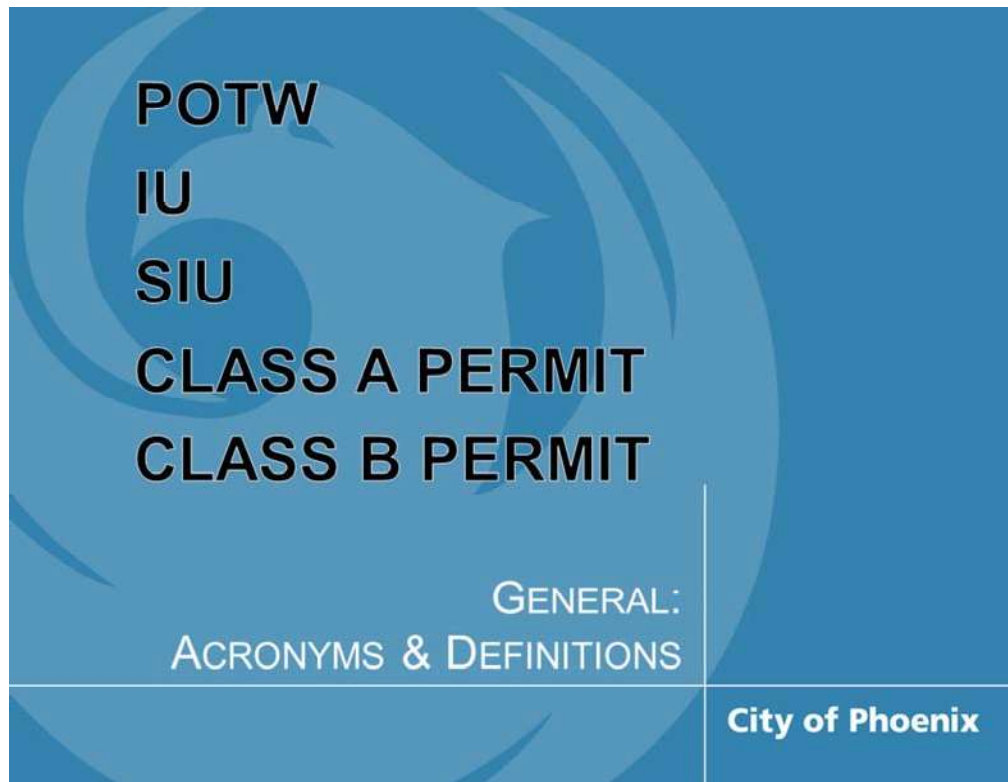
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**NOTES:**

Show Cause Meeting – What it is and why you should avoid it.

Civil Penalty Policy –Based on the Civil Penalty Policy.

Significant Noncompliance (SNC) - What it is and why you want to avoid SNC status.



### **POTW – Publicly Owned Treatment Works**

The treatment plants and connecting sewer collection system which are owned and/or operated, in whole or in part, by the City and which provide the City with wastewater collection and treatment services.

### **IU - Industrial User**

1. A source of industrial discharge; or
2. A nonresidential user which discharges more than the equivalent strength of 25,000 gpd of domestic wastes;
3. Any Significant Industrial User (SIU);
4. Has control over the disposal of a waste described in 1, 2, or 3 above;
5. Has the right of possession and control over any property which produces a waste as described in 1, 2, 3, or 4 above.

### **SIU - Significant Industrial User**

Any user of the City sanitary sewer system who meets the following standards:

1. Is a Categorical Industrial User.
2. Discharges more than 25,000 gpd of process wastewater.
3. Wastewater is 5% or more of the hydraulic organic capacity of the POTW.
4. Has a reasonable potential for adversely affecting the POTW's operation.

### **Class A Wastewater Discharge Permit**

A Permit issued by the City to an SIU

### **Class B Wastewater Discharge Permit**

A Permit issued by the City to an IU or an SIU that:

1. Is a zero process discharge user.
2. Discharges equivalent strength of twenty-five thousand gallons per day of domestic waste as measured by BOD and TSS.
3. Discharges polluted groundwater.
4. Has a reasonable potential to adversely affect the POTW's operation.

# CFR ERP NOV TISM

## ACRONYMS & DEFINITIONS (1<sup>ST</sup> HALF)

City of Phoenix

### NOTES:

#### **CFR – Code of Federal Regulation**

Specifically, 40 CFR 136 to 149; 400 to 699, discusses in detail the requirements and regulations on wastewater treatment to include requirements of the POTW and IU classification.

#### **ERP – Enforcement Response Plan**

Is a written document that describes violations which can occur and the City's response to them. The ERP applies to Class 'A' and Class 'B' Permit users (currently in revision)

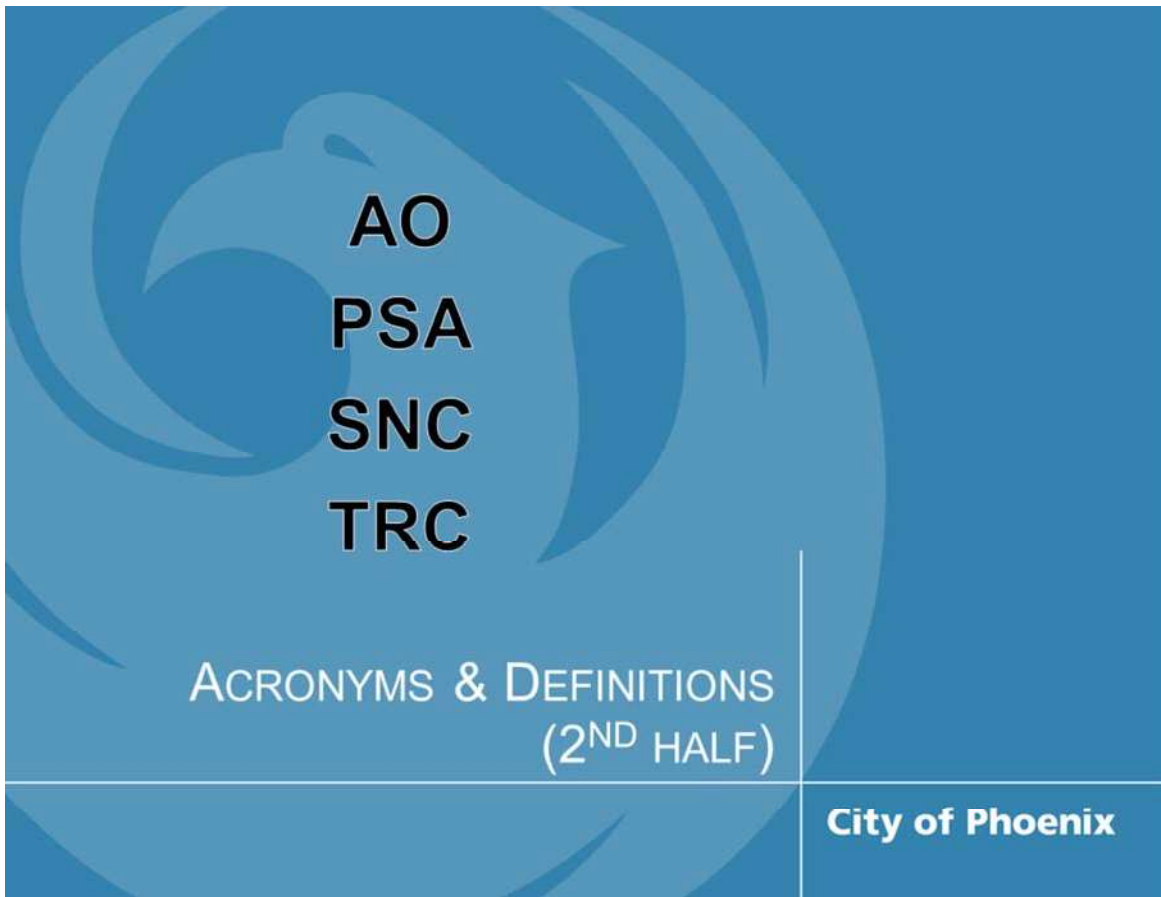
#### **NOV - Notice of Violation**

Is a written notice that the IU has violated a permit requirement.

#### **TISM - Temporary Increase in Self-Monitoring**

Is a requirement for additional sampling as a result of an effluent violation.





NOTES:

**AO – Administrative Order**

An issued document that is used to place an IU on an enforceable compliance schedule so that user will comply with pretreatment standards.

**PSA - Pretreatment Settlement Agreement**

Is the written document that formalizes the agreement reached by the City and the IU to resolve pretreatment violations.

**SNC - Significant NonCompliance**

Is a compliance status defined by EPA and Phoenix City Code. SNC status results in the IU being published as a violator in the newspaper.

**TRC – Technical Review Criteria**

A method used to determine the qualifications of an IU being placed in SNC status is appropriate or not appropriate to the current violation(s).

Types of violations an IU can be cited for:

- Effluent Limit(s)
- Reporting
- Permit Condition(s)
- City Code(s)

**NON-COMPLIANCE**

VIOLATIONS

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NOTES:

There are several ways for a Permit Condition Violation to occur . We'll explore them in more in the next slides of this presentation.

An Effluent Limit Violation (ELV) occurs when an Industrial User (IU)'s discharge exceeds a Permit defined parameter.

Parameters are defined in the ***Discharge Limits and Sampling Requirements***, usually page 2 of your Facility's Permit

- Federal Regulations (40 CFR Categorical limits)
- Chapter 28 of Phoenix City Code (Local limits)
- AZPDES/NPDES Permits

EFFLUENT LIMIT VIOLATION

City of Phoenix

The Discharge Limits and Sampling Requirements page of the Permit (usually page 2) is also referred to as the Limits Table or Parameter Table.

EXAMPLE of an Effluent Limit Violation:

The parameter pH is limited to measurements between 5.0 – 10.5 Standard Units (SU). This means that pH must remain between 5.0 SU and 10.5 SU, or it is an effluent violation. A grab sample collected at the compliance sampling point, analyzed / measured in less than 15-minutes using a properly calibrated pH meter would be a compliance sample. If measured pH was 4.0 SU, this would be less than 5, and would be a low pH effluent limit violation. If the pH measured at 11 SU, this would be more than 10.5 and would be a high pH effluent limit violation.

A Monthly Average (MAV) may be derived from one analytical result

- Therefore it may be to the IU's benefit to sample more often than required in case one event has a high MAV
- MAV limit is usually lower than Daily Maximum

The calculated MAV for IU monitoring results and City monitoring results cannot be combined. This applies to the Daily Maximum measurements also.

## EFFLUENT LIMIT VIOLATION DAILY VS. MONTHLY AVERAGE

City of Phoenix

Permit Standard Conditions – A. Standard Definitions – 15 & 16

### **Monthly Average Effluent Limitation**

“The maximum allowable average of daily discharge values collected from a specific compliance sampling point over a calendar month; calculated as the sum of all daily discharge results measured during a calendar month, divided by the number of days for which monitoring was performed and valid data from analytical results were obtained. The monthly average result may be derived from a single analytical result. Because the control authority must independently determine industrial user compliance, measurements from self-monitoring and measurements from City of Phoenix monitoring shall not be combined to arithmetically determine compliance with Average Monthly Discharge Limitations.”

### **Daily Maximum Effluent Limitation**

“The maximum allowable daily discharge of a pollutant. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken over a sampling day. Because the control authority must independently determine industrial user compliance, measurements from self-monitoring and measurements from City of Phoenix monitoring shall not be combined to arithmetically determine compliance with Daily Maximum Limitations.”

A reporting violation occurs when any requested document required by the City is submitted either late, incomplete, or not at all.

These documents may include:

- Reports
- Response Letters
- Schematics
- Data collections
- SMRs



## REPORTING VIOLATION

City of Phoenix

Additional example of a reporting violation:

- Quarterly sampling performed in December 2017 that is reported as a part of sampling period January 1, 2018 to January 31, 2018.

### A COMPLETE SELF MONITORING REPORT MUST INCLUDE:

Date and time of sampling	Sampling method
Preservative and preservation method	Date sample was analyzed
Sample analysis method	Chain-of Custody record

Note: Split Sample results submitted more than 45 days after the sample collection date are no longer considered a violation – split samples are only to be used to contest City sample results.

EXAMPLES

- Self-Monitoring Reports (SMRs) received or postmarked after the 28<sup>th</sup> of the month
- Failure to notify the City within 24 hours of a known or suspected effluent violation
- Late submittal of any sample result
- Late submittal of a required response or document (i.e. Slug Control Plan)

REPORTING VIOLATION

City of Phoenix

Other examples of reporting violations are:

- The October 2018 SMR (with September 2018 results) is not received until November 15, 2018.
- Not reporting a known or *suspected* effluent discharge. Remember to contact your inspector if there is a *suspicion* that the effluent may be in violation of the permit.

<u>SAMPLE</u>	<u>COLLECTION</u>	<u>PRESERVATION</u>	<u>CHAIN of CUSTODY</u>
Parameter Name	Date	Preservative	Name, Date, and time
Parameter Type	Time	Method	of each change
	Method		
	Person		

Permit Condition Violations are failure to perform Sampling, Monitoring, Reporting, or Other requirements of:

- An Wastewater Discharge Permit
- Permit Standard Conditions
- Temporary Discharge Permit
- An Inspection
- An Administrative Order



PERMIT CONDITION VIOLATION

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A Permit Condition Violation occurs when the Industrial User fails to meet a permit condition. This also includes requirements from:

- Inspections, including:
  - Annual Unannounced Compliance Inspections
  - Demand Inspections
  - Other
- Notices, including
  - Notices of Violation
  - Review Meetings
  - Show Cause Meetings
  - Pretreatment Settlement Agreements
  - Other

- Denying authorized City employees access
- Not measuring flow/not measuring correctly
- Not documenting pH meter calibrations and/or flow meter checks and QC checks
- Not meeting analytical method QA/QC criteria for compliance reporting
- Failure to properly operate pretreatment system
- Failure to sample
- Submitting incomplete reports



PERMIT CONDITION VIOLATION

City of Phoenix

### **SAMPLING**

- Failure to sample
- Missed Sample
- **Failure to use proper:**
  - Sample Location (not taken from Compliance Sampling Point)
  - Sample Collection Method
  - Analytical Method
  - Sample Preservation Method

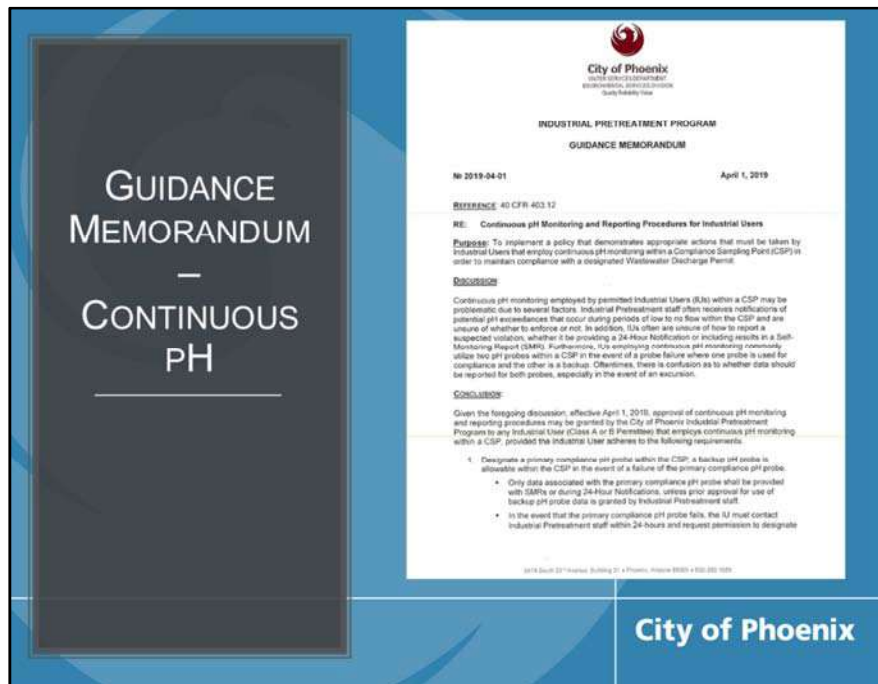
### **UNLAWFUL DISCHARGE**

### **FAILURE TO OBTAIN A PERMIT**

### **MONITORING**

- **Failure to Maintain:**
  - Pretreatment System
  - Adequate records
- **Failure to Notify City of Changes to:**
  - Pretreatment System
  - Processes & Operations





- Only send backup probe data if compliance/enforcement inspector indicates that it is necessary. Only send designated pH probe data
- If a pH probe fails, once you are aware, request permission to use the backup pH probe data w/in 24 hours
- When including information with SMRs (later on), do not include data that is below the flow accuracy of the equipment. However, when providing initial violation data, include 15 minutes before and after violation.

GUIDANCE  
MEMORANDUM  
—  
CONTINUOUS  
PH

No 2019-04-01

April 1, 2019

- the backup probe as the primary compliance pH probe.
- Failure to notify Industrial Pretreatment staff of pH probe failure and request designation of a backup probe may result in enforcement action.
2. Provide information regarding pH probe placement and height relative to the CSP.
    - This may include the distance from the bottom of the CSP to the level of wastewater at which the pH probe will properly measure the pH of the wastewater when submersed. This may be similar to the distance between the bottom of the CSP and the tip of the probe.
  3. Determine at what flow rate (in gallons per minute) the CSP pH probe will no longer be submersed or allow for accurate readings (i.e. low flow conditions).
  4. Determine at what flow rate (in gallons per minute) the CSP flow meter cannot accurately measure flow (i.e. low flow conditions).
    - The manufacturer may provide a margin of error for low flow instances.
  5. Discontinue continuous pH measurement during discharge events with flow rates specified above.
    - This includes time periods with no wastewater discharge through the CSP.
    - Document when and why continuous pH measurements are discontinued.
  6. Report all excursions, known or suspected, to Industrial Pretreatment staff within 24-hours of the event.
    - Flow and pH data must be provided for each excursion, including fifteen minutes prior to and after the excursion event.
  7. Suspected excursions which occurred during events with flow rates specified above that were properly reported and verified by Industrial Pretreatment staff are not considered true excursions and will not be subject to enforcement.
    - Suspected excursions that are not considered true excursions should not be included in the SMR.

This policy is effective April 1, 2019.

Approved Jennifer Colles  
Jennifer Colles, Deputy Water Services Director

Date 3/13/2019

City of Phoenix

# GUIDANCE MEMORANDUM – pH WAIVERS



## INDUSTRIAL PRETREATMENT PROGRAM GUIDANCE MEMORANDUM

No 2019-11-01 (Revision replaces No 14-01-31) November 1, 2019

REFERENCE: 40 CFR 401.17

RE: Waivers for pH excursions greater than 10.5 S.U. and less than 12.5 S.U.

**Purpose:** To implement an enforcement policy allowing waivers for pH excursions similar to those that apply to direct discharges in 40 CFR 401.17(a)(1) & (2) for Industrial Users (IUs) that employ continuous pH monitoring within a compliance sampling point designated in a Wastewater Discharge Permit.

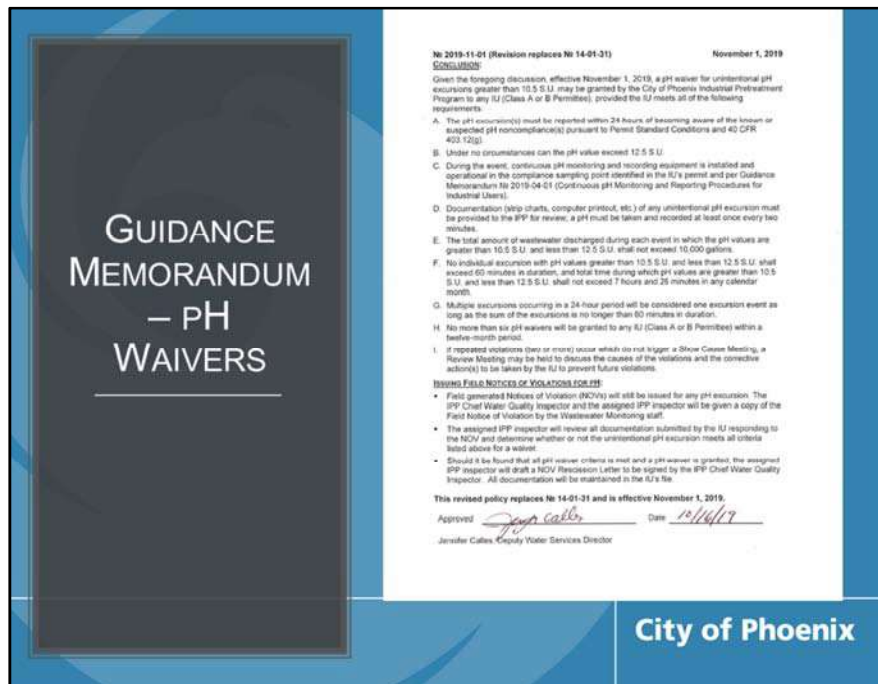
### Discussion:

A letter dated May 13, 1993, from Cynthia C. Dougherty, Director, Permits Division of the United States Environmental Protection Agency (USEPA) states that a policy could be applied to discharges to Publicly Owned Treatment Works (POTW) which is analogous to 40 CFR 401.17 for National Pollutant Discharge Elimination System (NPDES) direct discharges, subject to these restrictions:

1. An excursion is defined in Title 40, Part 401, Sec. 401.17 (40 CFR 401.17) as "An unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the applicable effluent limitations guidelines".
2. Federal pretreatment regulations contain a specific prohibition against discharges with a pH below 5.0 S.U., from which no waivers are allowed unless the treatment works is specifically designed to accommodate such discharges (40 CFR 403.109(c)).
3. While federal pretreatment regulations do not include an upper pH limit applicable to all discharges, some categorical pretreatment standards do so. Waivers from those categorical standards would not be allowed unless expressly permitted by the standards themselves.
4. A POTW may not grant a waiver from a local limit if such waiver would cause pass-through or interference. Since local limits are based on considerations at each POTW, it would not be appropriate to institute a waiver of local limits that applies Citywide regardless of conditions at individual POTWs.

In summary, so long as POTWs act consistently with their obligations to not allow pass-through or interference they may implement the same waivers for pH that apply to direct discharges in 40 CFR 401.17(a)(1) & (2).

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### Revision in Process (tentative changes)


- Changing total time to 60 minutes per day or 120 minutes per month duration (instead of 1% of discharge time)
- Decreased continuous pH monitoring requirement to once every 2 minutes
- Revised allowance for total percentage of time discharged per exceedance to an amount of gallons discharged (<10,000)
- Increased number of waivers (6 instead of 4)
- Review Meeting may be held if 2+ effluent waivers given (in lieu of NOVs and Show Cause)
- New reference to 2015 Permit Standard Conditions and to previous Guidance Memo on Continuous pH Monitoring & Reporting

## GUIDANCE MEMORANDUM – pH WAIVERS

**Appendix D**  
**Changes Narrative**


The following changes have been incorporated into this revision:

Location	Description
Pages 1 and 2	Revised Guidance Memorandum № 14-01-31 has been changed to Guidance Memorandum № 2019-11-01. Title is updated from "Waivers for pH excursions greater than 10.5 S.U." to "Waivers for pH excursions greater than 10.5 S.U. and less than 12.5 S.U."
Pages 1 and 2	Clarified that only excursions greater than 10.5 and less than 12.5 S.U. are eligible for waivers.
Page 2	Combined line items referring to discharge time and replaced percentage requirement with total monthly allowance for ease of calculation.
Page 2	Decreased continuous pH monitoring requirement to once every 2 minutes.
Page 2	Added allowance for multiple excursions in a 24-hour period to be considered one excursion if under 60 minutes' total duration.
Page 2	Added a stipulation per exceedance to cap the amount of gallons discharged.
Page 2	Increased number of allowable waivers to 6 annually.
Page 2	Added Review Meeting policy.
Page 2	Policy effective date has been changed from February 1, 2014 to November 1, 2019.
Appendix G	Except of Section G - Notification of Noncompliance from July 30, 2015 - City of Phoenix Wastewater Discharge Permit Standard Conditions has been added as a reference.



Changes made to the pH Waivers Guidance Memo since the 2019 Compliance Academy

## GUIDANCE MEMORANDUM – TIME/GRAB COMPOSITE SAMPLING



**City of Phoenix**  
CITY OF PHOENIX DEPARTMENT  
INDUSTRIAL SERVICES DIVISION  
Quality. Reliability. Value.

**INDUSTRIAL PRETREATMENT PROGRAM**  
GUIDANCE MEMORANDUM

**№ 2020-06-01** June 1, 2020

**BACKGROUND:** 40 CFR 403 – Appendix E (Sampling Procedures), Permit Standard Conditions

**RE:** **Time Composite and Grab Composite Sampling Procedures for Industrial Users**

**Purpose:** To implement a policy that demonstrates appropriate actions that will be taken by Industrial Users (IUs) and/or Wastewater Monitoring personnel during sampling events at a designated Compliance Sampling Point (CSP) in order to maintain compliance with a designated Wastewater Discharge Permit and ensure standard procedures for IUs and/or Wastewater Monitoring personnel.


**DISCUSSION:**

As stated in 40 CFR 403 – Appendix E, “it is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.”

While 24-hour flow proportional composite sample collection is the preferred method to be conducted by permitted IUs and Wastewater Monitoring staff within a CSP, it may be problematic due to several factors. During periods of erratic or low flow, or batch discharges within a CSP, it can be difficult to obtain flow proportional composite samples. According to Permit Standard Conditions, a representative sample must be collected during monitoring events at the compliance sampling point(s). However, the Water Services Department Director or authorized representative (Director) may allow or conduct composite sampling by time-proportional techniques, or composite or average one or more grab samples during a batch discharge when written permission is given specifying the alternate technique.

**CONCLUSION:**

Given the foregoing discussion, effective June 1, 2020, time composite samples or batch discharge grab sample composites may be allowed or collected by the City of Phoenix Industrial Pretreatment Program and/or Wastewater Monitoring for sampling within a designated CSP, provided the following requirements are met:



Please note that this is a draft policy.

## GUIDANCE MEMORANDUM – TIME/GRAB COMPOSITE SAMPLING

Nr 2020-06-01

June 1, 2020

1. The IU can demonstrate through business operations or processes conducted onsite that there is/are:
  - Abnormally erratic or low flows
  - Non-continuous batch discharges
  - Significant (temporary) changes in flow
  - Unknown flows due to lack of historical data (new IU)
2. The IU can demonstrate that collection of flow proportional composite samples causes undue burden or is otherwise prohibitive or unreasonable.
3. If employing manual compositing, the individual sample portions (aliquots) must consist of equal volumes obtained from the beginning, middle and end of the thoroughly mixed batch employing a constant flow rate. The individual sample aliquots must be poured into the designated composite container and preserved at the time of sample collection.
4. If employing time compositing, the individual sample aliquots must consist of equal volumes collected at constant time intervals. The individual sample aliquots must be poured into the designated composite container and preserved at the time of sample collection.
5. The IU and/or Wastewater Monitoring staff must submit a written request for use of time composite (time-proportional composite sampling) or batch discharge grab composite (compositing or averaging or one or more grab samples) using the approved form as applicable.
6. The Director will review all requests for alternate sampling, and provide written approval when conditions are in compliance with this guidance memorandum.

This policy is effective June 1, 2020.

Approved *Jennifer Calles*  
Jennifer Calles, Deputy Water Services Director

Date 5/7/2020

City of Phoenix

Please note that this is a draft policy.

The Enforcement Response plan:

- An EPA requirement of the City of Phoenix
- Describes enforcement actions that can be taken for violations

The Enforcement Response plan also:

- Ensures a consistent city response
- Provides guidance
- Ensures transparency (public scrutiny)

ENFORCEMENT RESPONSE PLAN

City of Phoenix

The City of Phoenix's Enforcement Response Plan (ERP) was approved by the EPA on December 5, 1991.

The Enforcement Response Plan is intended to provide metrics to ensure consistent, impartial response to violations of the Wastewater Discharge Permit and Chapter 28 of Phoenix City Code.

The ERP is currently being reviewed and revised, as needed, to reflect current practices.



- Enforcement Response Plan and Phoenix City Code Chapter 28 have updates pending City Council Approval
- Anticipating City Council Approval on both documents before the end of the calendar year
- May experience delays due to COVID-19 Pandemic
- Changes being implemented are intended to add flexibility for IPP Inspectors with regards to enforcement action

ENFORCEMENT RESPONSE PLAN  
(UPDATES)

**City of Phoenix**

Generally speaking, changes will make enforcement actions less stringent for IU's. Impacted facilities will be updated accordingly pending approval of the documents.

### Informal (no \$\$\$):

- Courtesy phone call or e-mail (may be followed by an NOV)
- Notice of Concern
- Notice of Violation (NOV) + Temporary Increase In Self-monitoring
- Demand inspection
- Review meeting

## ENFORCEMENT ACTIONS

City of Phoenix

- Industrial Users are informed of almost all violations by phone call or email, followed by an NOV.
- An NOV is generally issued for all violations, but may depend on the situation, compliance status, length of permitting, etc.
- A Temporary Increase in Self Monitoring (TISM) is issued for almost all parameter violations. The TISM requires additional samples to be taken, usually one sample per week for four consecutive weeks. These additional samples are separate from and in addition to any samples required by the Permit.
- An inspection will be performed if a TISM cannot be done. The company may be charged for the cost of this inspection.
- Review meetings can be held to discuss an inadequate NOV response or continuing noncompliance. The purpose of the meeting is to stress the importance of correcting situations that may lead to SNC, or to other elevated enforcement actions. No monetary penalties are assessed at review meetings.
- Notice of Concern - A notice to make the IU aware that they are beginning to stray from compliance and ensure they are aware of an issue or concern. They are meant to be preemptive to a NOV.

Formal (\$\$\$):

- Show Cause Meeting
  - Pretreatment settlement agreement
- Administrative Order (AO)
- Civil penalties

ENFORCEMENT ACTIONS


City of Phoenix

The graphic features a blue background with a large, faint circular pattern. A white rectangular stamp with the word "FINED!" in red, slanted text is positioned in the upper right. The text "ENFORCEMENT ACTIONS" is centered at the bottom, and "City of Phoenix" is in the bottom right corner.

- An Administrative Order (AO) is used if immediate enforcement is required, such as a Cease and Desist Order; may be initiated after a Show Cause Meeting(SCM)
- A SCM is a formal enforcement action at which City and Permittee representatives discuss violations listed in a Notice to Show Cause. Penalties are usually assessed (Civil Penalties), and results are finalized with a Pretreatment Settlement Agreement (PSA).

Other types of enforcement actions:

- Suspend or revoke permit
- Termination of water and/or sewer service
- Civil lawsuit
- Criminal prosecution



EXTREME CASES OF  
ENFORCEMENT ACTIONS

City of Phoenix

**The City has the option to take enforcement action without a Show Cause Meeting, including discontinuing sewer service.**

- Reasons to suspend or revoke a Permit are found in the Permit Standard Conditions.
- The City has authority to halt any actual or threatened discharge to the Publicly Owned Treatment Works (POTW) that may represent a danger to the public, the environment, or the POTW, upon notifying the Industrial User.
- The City has authority to file a civil lawsuit against alleged violators of pretreatment standards. The City can seek injunctive relief, mandated compliance, civil penalties, and damages. Civil penalties may not exceed \$25,000 per day, per violation. For continuing violations, each day may constitute a separate violation.
- The City Prosecutor is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes a false statement regarding any report, application, record, or other document required by the General Pretreatment Regulations and City Code.

The city will issue a Notice of Violation (NOV) generally for every violation.

An NOV :

- Is hand delivered or sent by certified mail
- Requires a written response
- Will include due dates for required actions

NOTICE OF VIOLATION

**City of Phoenix**



**City of Phoenix**  
 WATER SERVICES DEPARTMENT  
 ENVIRONMENTAL SERVICES DIVISION  
 Quality Reliability Value

July 29, 2015

Ms. Rosey Outlook  
 Wastewater Supervisor  
 My Imaginary Metal Finishing  
 12345 High Street  
 Phoenix, Arizona 85000-9999

**Certified Mail**

**Return Receipt Requested**

**NOTICE OF VIOLATION**

RE: Effluent Limits (City-Monitoring)

*Wastewater Discharge Permit No 1407-98765.  
 Phoenix City Code Section 28-45  
 40 CFR 403.5 (d) Local Limit*

The discharge to sewer from My Imaginary Metal Finishing exceeded the maximum allowable concentration for the parameter Cadmium as established in Wastewater Discharge Permit No 1407-98765 on the days indicated in the table below. The City of Phoenix verified that sample collection and analysis met all QA/QC criteria for these results on July 24, 2015.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
06/15/2015	Cadmium	0.048 mg/L	0.047 mg/L (D)
06/17/2015	Cadmium	0.362 mg/L	0.047 mg/L (D)

\* D = Daily Maximum    MAV = Monthly Average    I = Instantaneous Limit    P = Prohibited

**Requirements**

1. **My Imaginary Metal Finishing is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than August 12, 2015, outlining the reason(s) the exceedance occurred and the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:**

**Requirements (continued)**

- A. Names and positions of all people involved with the investigation into why the violation occurred.
  - B. A summary of the events of the investigation, including dates and amount of time expended on the investigation.
  - C. The conclusions reached.
  - D. The corrective action(s) taken or to be taken and date(s), including completion date(s).
  - E. How this action(s) will prevent future violations from occurring.
2. Automatic 30-day resampling and analysis are not required by the Permittee where the City of Phoenix has performed the sampling and analysis in lieu of the Permittee. The City of Phoenix will perform the 30-day resampling and analysis unless it notifies the Permittee of the violation AND requires the Permittee to perform the 30-day resampling and analysis.

**The City of Phoenix collected the 30-day resample on August 12, 2015; therefore, My Imaginary Metal Finishing is not required to do so.**

Failure to comply with the requirements of this letter will subject My Imaginary Metal Finishing to further enforcement action(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to the City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at (602) 495-5925. My office hours are 6:30 a.m. to 5:00 p.m., Monday through Thursday.

Sincerely,

*Fred Mashburn*

Fred Mashburn  
Senior Water Quality Inspector

Enclosures: Temporary Increase in Self-Monitoring (TISM) Letter  
30-Day Resample & TISM Sample Reporting Forms

e-copy: Susan Kinkade, PE  
Marji Dukowitz  
Andrea Cooper



**City of Phoenix**  
WATER SERVICES DEPARTMENT  
ENVIRONMENTAL SERVICES DIVISION  
Quality Reliability Value

July 29, 2015

Ms. Rosey Outlook  
Wastewater Supervisor  
My Imaginary Metal Finishing  
12345 High Street  
Phoenix, Arizona 85000-9999

Enclosure to NOV

Dated July 29, 2015

Dear Ms. Outlook:

**RE: Temporary Increase in Self-Monitoring (TISM) For Cadmium**

As detailed in the preceding Notice of Violation dated July 29, 2015, My Imaginary Metal Finishing exceeded the maximum allowable limit for Cadmium on June 15, 2015 and June 17, 2015, as established in Wastewater Discharge Permit № 1407-98765.

**REQUIREMENTS**

As a result of these violations, My Imaginary Metal Finishing is required to **sample for Cadmium for four (4) consecutive weeks, to begin the week of August 3, 2015.**

- a. All samples must be collected as flow proportional composite samples and analyzed both in accordance with Permit Standard Conditions Section B and D.
- b. This sampling is separate from any other sampling required under the Permit.
- c. Written results of each TISM sample must be received by the City of Phoenix Industrial Pretreatment Program within five (5) days from the contracted laboratory report date, and in no case more than 30-days from the TISM sampling date.
- d. Twenty four (24) hour notification shall be made to the City of Phoenix Industrial Pretreatment Program for any additional known or suspected violations resulting from the TISM.

Failure to comply with the requirements of this letter will subject My Imaginary Metal Finishing to further enforcement action(s). Furthermore, the requested action does not preclude the City from taking additional action under Chapter 28 of the Phoenix City Code.

Should you have any questions regarding this notice, please contact me at (602) 495-5925. My office hours are 6:00 a.m. to 4:30 p.m., Monday through Thursday.

Sincerely,

*Fred Mashburn*

Fred Mashburn  
Senior Water Quality Inspector

Enclosures: 30-Day Resample & TISM Sample Reporting Forms



**ADDITIONAL SAMPLING SUMMARY AND CERTIFICATION**

Company Name: My Imaginary Metal Finishing  
Address: 12345 High Street  
Phoenix, Arizona 85000-9999  
Compliance Sampling Point: 98765.01  
Parameter(s) Sampled: Cadmium  
**Sample required for:** (circle one) 30 Day Resample or TISM No.    **1**    **2**    **3**    **4**  
Sample Result: \_\_\_\_\_  
Date / Time Samples Collected: \_\_\_\_\_  
Flow / Volume (gallons per day): \_\_\_\_\_  
Sample Type: \_\_\_\_\_  
Preservative(s): \_\_\_\_\_  
Name of Person Sampling: \_\_\_\_\_  
Date Results Received From Laboratory: \_\_\_\_\_

---

*I certify under penalty of law that the analysis for any parameters included with this report was performed by a laboratory licensed by the State of Arizona to perform such analysis, and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

---

SIGNATURE OF RESPONSIBLE COMPANY OFFICIAL \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

---

**Note:** Submit this form with *EACH* TISM sample you submit. Circle the TISM sample you are submitting. Submit laboratory analysis data sheets with your TISM results, if applicable. If you are submitting thirty day resample information, circle 30-day resample and submit with your lab data.

**REMINDER:** TISM results are **due within five days of becoming aware of the results** but in no event, no more than 30 days from the date of sampling.

- The response should answer the questions of the violation:



- This is the industrial user's opportunity to present any facts about the violation the city should consider
- All NOVs Responses must be submitted in hard copy form and have original signature of an Authorized Signatory

## RESPONDING TO AN NOV

City of Phoenix

The date that the response is due will be indicated in the Notice of Violation.

A response to an NOV that does not address the who, what, when, why, where, and how of the violation will be deemed insufficient. An insufficient response to an NOV will be returned ONE time for correction.

The response must include:

- Names and titles of all people involved in the investigation
- A summary of events, including dates and amount of time spent investigating
- Conclusions reached
- Corrective actions taken or to be taken
- How these actions will prevent future violations

RESPONDING TO AN NOV



City of Phoenix

The NOV Response Report should address each required item. A good way to organize the NOV Response Report is to copy each NOV requirement, and then state your response to the requirement.

## Example...

- Violation: Notareal Company discharged industrial wastewater that measured 4.0 S.U. pH.

RESPONDING TO AN NOV

**City of Phoenix**

## Sufficient Response...

- Notareal Company's president, Mr. John Doe, investigated for 2 hours, and found out that at 4 PM on Tuesday, July 13, 2017, Notareal Company's maintenance man, Ms. Jane Doe (not related), dumped a barrel of sulfuric acid down a floor sink.

RESPONDING TO AN NOV

City of Phoenix

- A. Names and positions of all people involved with the investigation into why the violation occurred
- B. A summary of the events of the investigation, including dates and amount of time expended on the investigation
- C. The conclusions reached.

- Notareal Company has permanently blocked the floor sink drain in the acid barrel room with cement, and has installed a pH adjustment and monitoring system to prevent future violations.
- Blocking the drain will stop barrel dumping, and the pH monitoring and adjustment system will detect and neutralize any high or low pH discharge before it reaches the sewer.

RESPONDING TO AN NOV

City of Phoenix

D. The corrective actions taken or to be taken and dates, including completion dates.

E. How this action, or actions, will prevent future violations from occurring. Please include additional training plans too.

Note: a real NOV response must include more documentation, and details of the corrective actions.

Submittal of copies of maintenance logs, calibration logs, in-process analysis, and other data are important to document the investigation and response.

The NOV response should be:

- Thorough
- Written (signed hard copy)
- Explain what caused the violation
- Describe measures implemented to prevent a repeat violation



RESPONDING TO AN NOV

City of Phoenix

The response allows the City to:

Determine if the Industrial User understands why and how the violation occurred.

Evaluate the effectiveness of corrective actions.

Evaluate if the Industrial User has successfully returned to compliance.

Contacting the inspector assigned to monitor your facility to ask questions **is not** a burden; it is encouraged that you inquire if there is something that is not clear.

5-10 minutes



BREAK TIME

City of Phoenix



- Includes City Attorney and pretreatment officials
- Requires facility representatives to appear
- An opportunity to present facts and any mitigating circumstances regarding violations
- Almost always results in specific corrective actions and time frames
- Includes assessment of civil penalties



## SHOW CAUSE MEETINGS

**City of Phoenix**

Assistant City of Phoenix Attorney IV – Stephen Wetherell

Circumstances that will lead to a Show Cause Meeting include:

- Two or more effluent violations within 90 days
- Two or more reporting violations within 180 days
- Significant noncompliance (SNC)

SHOW CAUSE HEARINGS

City of Phoenix

The ERP is currently under revision and may allow Review Meetings in lieu of Show Cause Meetings in some situations

The Civil Penalty Policy is:

- A guideline for assessing monetary penalties
- Intended to insure consistent enforcement
- Uses a defined calculation to determine penalties



CIVIL PENALTY POLICY

City of Phoenix

In general, the more serious the violation, the higher the penalty.

Penalties are calculated using monetary multipliers that increase based on weighting factors.

Penalty = monetary multiplier x (1 + a + b + c + d)

Weighting factors are:

- A. Violation significance (% over or under limit)
- B. Health and environmental harm or potential harm (volume)
- C. Number of violations (per month)
- D. Duration of noncompliance (penalty period)

## EFFLUENT VIOLATION CIVIL PENALTY

City of Phoenix

Base amount:

- Daily limit violations for Copper and Lead = \$600.
- Daily for all other parameters = \$300.
- Monthly average violations for Copper and Lead = \$100 x number of production days per month.
- Monthly average violations for all other parameters = \$50 x number of production days per month.
- Repeat offenders = double the above base amounts.

Reporting violation calculations are based on how late the report was and whether there was an effluent violation being reported

- Late reports with an effluent violation range from \$60 to \$800
- Late reports without an effluent violation range from \$30 to \$400

## REPORTING VIOLATION CIVIL PENALTY CALCULATION

**City of Phoenix**



Date

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Mr./Mrs. First Name Last Name  
Title  
Company Name, Inc.  
Address Avenue  
Phoenix, Arizona Zip Code +4

### NOTICE TO SHOW CAUSE

Company Name, Inc. has been previously notified of **effluent limit and reporting** violations. In light of the pretreatment violations identified in the attached notices, and in this Notice to Show Cause, the City of Phoenix acting as the Control Authority under legal authorizations established by Title 40, Code of Federal Regulations, Part 403, and acting in accordance with Chapter 28 of the Phoenix City Code hereby notifies **Company Name, Inc.** of its intent to utilize all appropriate remedies to address these pretreatment violations. These remedies include monetary penalties.

Representatives from **Company Name, Inc.** are required to attend a Show Cause Meeting to be held in the Water Services Building Conference Room at:

Place: City of Phoenix 23<sup>rd</sup> Avenue WWTP  
Environmental Services Division  
2474 South 22<sup>nd</sup> Avenue, Building 31  
Phoenix, Arizona 85009

Date: **Date XX, 2019**

Time: **9:00 AM**

During the Show Cause Meeting, **Company Name, Inc.** will be given the opportunity to respond to the allegations stated below, and will be asked to show cause why the City should not initiate legal action and seek the maximum penalty allowed under Phoenix City Code Sections 28-82 and/or 28-83.

During the time period of **Date 1, 2019 to Date X, 2019**, **Company Name, Inc.:**

- **Discharged in violation of applicable limitations on at least five occasions.**
- **Submitted one report a total of one day late**

Mr. First Last Name

Date

Page 2

**REQUIREMENT**

Company Name, Inc. is required to have in attendance at this meeting, persons knowledgeable about the matters alleged in this Notice, as well as persons having financial decision-making authority. Representatives for Company Name, Inc. may be accompanied by their legal counsel if desired. A representative from the City's Law Department will be present at the meeting.

**In order for any written response to this Notice to Show Cause to be considered, it must be received by the Environmental Services Division on or before Monday, Deadline Date.**

A copy of the latest edition of the City's Civil Penalty Policy is enclosed.

Your failure to appear will mean that the City of Phoenix must take all appropriate enforcement action it deems necessary based on the facts as outlined in this Notice and attachments.

If you have any questions regarding this Notice, please contact the Environmental Services Division at 602-262-1859. Our office hours are 8:00 a.m. to 4:00 p.m., Monday through Friday.

Sincerely,

Linda Palumbo  
Environmental Programs Coordinator

Enclosures: List of Violations  
Penalty Calculations  
NOV dated Date 1, 2019 - Reporting  
NOV dated Date 2, 2019 - Copper  
NOV dated Date 3, 2019 - Copper  
NOV dated Date 4, 2019 – Silver x 2  
NOV dated Date 5, 2019 – Silver  
Civil Penalty Policy

e-copy: Micah Alexander  
Linda Palumbo  
Chelsey Weaver  
Jesse Flores  
Compliance/Enforcement Inspector

**LIST OF VIOLATIONS FOR:**

Anytime Metals Company  
Regulated Under 40 CFR 433 and  
Chapter 28 City of Phoenix City Code

**CITY MONITORING VIOLATIONS**

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
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**SELF MONITORING VIOLATIONS**

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
01/06/2015	Copper	1.6 mg/L	1.5 mg/L
02/24/2015	pH	3.9 S.U.	5.0 – 10.5 SU

**REPORTING VIOLATIONS**

<u>Report</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
24-Hour Notification	02/25/2015	03/14/2015	17 days

**PERMIT CONDITION VIOLATIONS**

<u>Date</u>	<u>Violation</u>
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**CITY CODE VIOLATIONS**

<u>Date</u>	<u>Violation</u>
-------------	------------------

\* D = Daily Maximum    MAV = Monthly Average    I = Instantaneous Limit    P = Prohibited



After penalty calculations, the control authority considers other factors which may increase or decrease penalties:

- Seriousness of the violation
- Economic benefit
- Good faith effort
- Degree of culpability and recalcitrance
- Compliance history
- Need for deterrence
- Ability to pay

**CIVIL PENALTY POLICY**

**City of Phoenix**

1. Penalties should be large enough to deter noncompliance, both by the violator and others similarly situated.
2. Penalties should help ensure a level playing field by making certain that violators do not obtain an economic advantage over others who have complied in a timely fashion.
3. Penalties should generally be consistent across industrial pretreatment programs to promote fair and equitable treatment of the regulated community.
4. Settlement penalties should be based on a fair and logical calculation methodology to promote expeditious resolution of enforcement actions and their underlying violations.

The agreement reached by both parties is documented in a Pretreatment Settlement Agreement (PSA) and may include:

- Civil penalties
- Compliance schedule or other requirements (see administrative order)
- Penalties to be paid for failure to meet compliance schedule deadlines
- Newspaper publication fee

## PRETREATMENT SETTLEMENT AGREEMENT

City of Phoenix

- Was there danger to life and health?
- What, if anything, did the IU gain from the violation as opposed to others in compliance?
- Did the IU take action to improve compliance only after a decision was made adverse to its interests, or the issuance of the Notice to Show Cause?
- Was the IU negligent, reckless, have intent, have knowledge of requirements but ignore them?
- Was there unjustified delay in preventing, mitigating, or remedying the violation in question?
- Is the IU a chronic offender, or is this a one time instance?
- Is it necessary to send a specific and/or general deterrence message for the violations at issue to the regulated community?
- Were any corrective actions taken to mitigate future violations?
- What effect will the fine have on the company? Documentation may be needed to ascertain the violator's financial condition. Any statements of financial condition should be appropriately certified.

Before a PSA is finalized, a proposed pretreatment settlement agreement notice is advertised in the *Arizona Republic*.

Arizona Revised Statute (ARS) section 49-391 requires a 30 day public review and comment period for all proposed pretreatment violation settlement agreements.

## PRETREATMENT SETTLEMENT AGREEMENT

Text of Ad: 05/15/2019

### NOTICE OF PROPOSED PRETREATMENT SETTLEMENT AGREEMENT

In accordance with PHOENIX CITY CODE § 28-46(h) and ARIZ. REV. STAT. § 49-391(C), notice is hereby given that the City of Phoenix proposes to enter into a pretreatment settlement agreement with [REDACTED]

[REDACTED] conducting business of [REDACTED] in Phoenix, Arizona [REDACTED]. The proposed agreement resolves the claims alleged in the show-cause meeting held on [REDACTED] for violations of PHOENIX CITY CODE ch. 28.

Under the terms of the proposed pretreatment settlement agreement, [REDACTED] has agreed to pay a civil penalty of \$18,144.23 in full settlement of the alleged violations. For a period of 30 days from the date of this publication, the City of Phoenix will receive comments regarding the proposed agreement. Comments should be addressed to: Micah Roy Alexander, Assistant City Attorney, City of Phoenix Law Department, 200 W. Washington, 13th Floor, Phoenix, Arizona 85003.

The proposed pretreatment settlement agreement may be examined at the following City of Phoenix Office: Phoenix City Clerk, 200 W. Washington, 13th Floor, Phoenix, Arizona 85003. The proposed agreement is also posted for examination on the City of Phoenix Water Services Department's Environmental Services Division website at: [www.phoenix.gov/waterservices/envservices/indpr/pretreatmentproag/pretreatment-settlement-agreements](http://www.phoenix.gov/waterservices/envservices/indpr/pretreatmentproag/pretreatment-settlement-agreements).

After close of the 30-day public comment period, Phoenix will execute the proposed pretreatment settlement agreement or take whatever action it deems appropriate based on the public comments received.

Pub: May 17, 2019

City of Phoenix

The PSA is advertised in the paper for public review and comment. It will state the company name, that they were in violation of their wastewater discharge permit, and the amount owed to the city.

Pretreatment Settlement Agreements are listed on the City of Phoenix Industrial Pretreatment Program website:

<https://www.Phoenix.Gov/waterservices/envservices/indpretreatmentprog/pretreatment-settlement-agreements>

## PRETREATMENT SETTLEMENT AGREEMENT

**City of Phoenix**

- Often contains a compliance schedule
- Require compliance with pretreatment standards and requirements under Phoenix City Code
- Used to place an IU on an enforceable compliance schedule so they will comply with standards
  - Submit plans for a pretreatment system
  - Install pretreatment system
  - Operate and maintain facilities



## ADMINISTRATIVE ORDER (AO)

**City of Phoenix**

- May be issued within a Pretreatment Settlement Agreement
- The City Attorney's Office generally prepares AOs

- Significant noncompliance (SNC) applies to Significant Industrial Users (SIUs) and Industrial Users (IUs)
  - Class A, Class B & Class B Zero Discharge
- EPA has established three levels of compliance:
  - Compliant
  - Inconsistently compliant
  - Significantly noncompliant (SNC)
- SNC is a compliance status not an enforcement action

SIGNIFICANT NONCOMPLIANCE

City of Phoenix

From 40 CFR 403.8 (f)(2)(vii):

For the purposes of this provision, a significant industrial user or any industrial user which violates paragraphs (f)(2)(viii)(c), (d), or (h) of this section is in significant noncompliance if its violation meets one or more of the following criteria:

## DEFINITION OF SIGNIFICANT NONCOMPLIANCE

**City of Phoenix**

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all the measurements taken during a six month period exceeded (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter. (Combine City and SIU sampling data)

For any parameter: **if 66% or more of all measurements are violations = SNC**

## CHRONIC SIGNIFICANT NONCOMPLIANCE CRITERIA

**City of Phoenix**

Remember that all measurements include a combination of City sample results and those results from Self Monitoring.



B. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceeded the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH). (City and SIU sampling data are combined)

**If 33% or more of all measurements of a parameter are over the TRC limit = SNC**

TECHNICAL REVIEW SIGNIFICANT  
NONCOMPLIANCE CRITERIA

City of Phoenix

For metals:

Permit limit of  $1.7 \times 1.2$  TRC factor = 2.0 TRC Limit

For Total Petroleum Hydrocarbons (TPH) or total oil and grease:

Permit limit of  $100 \times 1.4$  TRC factor = 140 TRC Limit

C. Failure to provide within 30 days of the due date, required reports such as baseline monitoring reports, 90-day compliance reports, and reports regarding compliance with compliance schedules.

**Any required report more than 30 days late = SNC**



## REPORTING SIGNIFICANT NONCOMPLIANCE CRITERIA

**City of Phoenix**

This includes Self-Monitoring Reports (SMRs) and associated lab reports!

- D. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the director has determined has caused, alone or in combination with other dischargers, interference or pass through (including endangering the health of the POTW personnel or the general public).
- E. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

**SIGNIFICANT NONCOMPLIANCE  
CRITERIA**

**City of Phoenix**

F. Failure to meet within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or an enforcement order for starting construction, completing construction, or attaining final compliance.

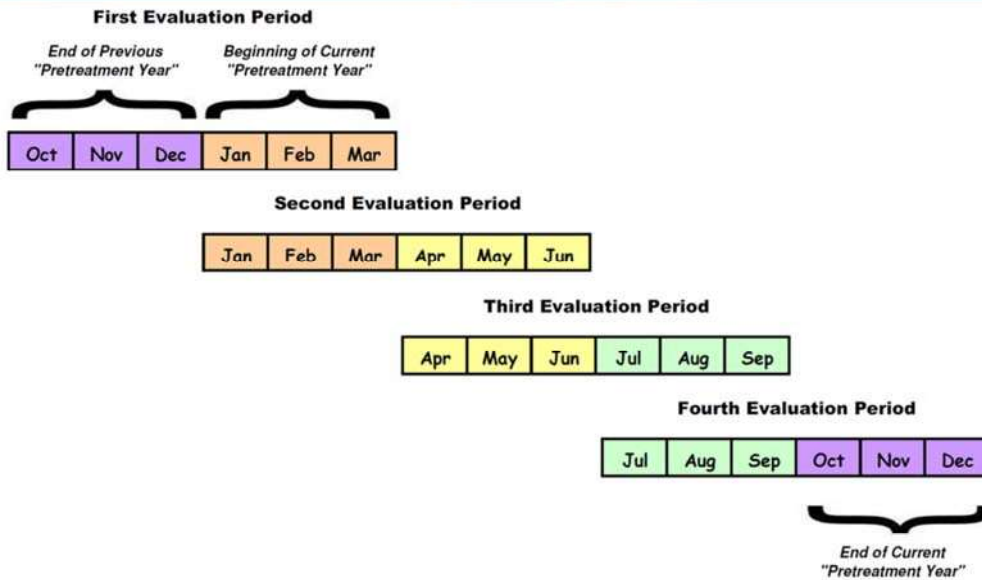
G. Failure to accurately report noncompliance.

H. Any other violation or group of violations which the director determines will adversely affect the operation or implementation of the local pretreatment program.

## SIGNIFICANT NONCOMPLIANCE CRITERIA

**City of Phoenix**

# CHRONIC AND TECHNICAL REVIEW SIGNIFICANT NONCOMPLIANCE CRITERIA



1. The POTW (in conjunction with its Approval Authority) must establish its "Pretreatment Year."
2. At the end of each quarter, POTWs and States should determine IU compliance status for the two criteria which are evaluated on a "rolling quarters." Rolling quarters are a six month time-frame for the A and B criteria detailed in 40CFR 403.8 (f)(2)(vii)(A) and (B) as illustrated above. The example assumes a "Pretreatment Year" equal to the calendar year.
3. At the end of the first quarter (March 30<sup>th</sup> in this example), the POTW must evaluate the data from and Industrial User for the previous six months (e.g., beginning with October 1 of the previous "Pretreatment Year" as in our example). Likewise, the POTW must evaluate six months of data at the end of each subsequent quarter (e.g., June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>.)
4. At the end of the "Pretreatment Year," the POTW must summarize the compliance status of its Industrial Users over the reporting period and report on the compliance status to the Approval Authority. The POTW must publish all IUs which were identified in SNC during the "Pretreatment Year," unless the IU was previously published for violations which occurred solely in the last quarter of the previous "Pretreatment Year."

**Industrial Users in Significant Noncompliance with Applicable Pretreatment Requirements in 2018**

The Cities of Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Towns of Gilbert, Arizona are responsible for implementing and operating industrial wastewater control (pretreatment) programs in each of their communities. Each program is designed to protect the wastewater treatment plants (POTW), the safety of personnel operating the wastewater collection system, and the environment from adverse impacts that could occur when toxic wastes are discharged into a wastewater collection system. Each municipality issues wastewater discharge permits to Industrial Users (Users) in their communities and the Users are responsible for ensuring that they comply with respective local ordinances and federal regulations.

In accordance with the Federal Clean Water Act and the public participation requirements of 40 CFR Part 25 in the enforcement of the National Pretreatment Standards as defined by 40 CFR 403.8(f)(2)(vii), the Cities of Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Towns of Gilbert, Arizona are hereby publishing the following list of Users in Significant Noncompliance (SNC) with applicable pretreatment requirements. This notice covers the period from January 1, 2018 through December 31, 2018.

An Industrial User is in a state of SNC when violations meet one or more of the following:

- Chronic violations (CSNC) of wastewater discharge limits defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- Technical Review Criteria violations (TRC/SNC), defined here as those in which thirty-three percent or more of all of the measurements taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC – 1.4 for Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), fats, oil and grease; and 1.2 for all other pollutants except pH.
- Any other violation of a pretreatment effluent limit (daily maximum or long term average) that the POTW determines has caused alone or in combination with other discharges interference or pass through (including endangering the health of POTW personnel or the general public).
- Any discharge of a pollutant that has caused imminent endangerment of human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- Failure to provide within 30 days after the due date the required report such as a Baseline Monitoring Report, a 90-day compliance report, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- Failure to accurately report non-compliance; or
- Any other violation or group of violations, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

**Public participation and cooperation are important to a successful industrial pretreatment program. If you have comments or witness a situation that you believe may involve an illegal discharge of pollutants or hazardous material into a municipality's sewer system, please immediately notify the appropriate municipality: Gilbert (480) 503-6411, Glendale (623) 930-4758, Mesa (480) 644-2131, Phoenix (602) 496-6026, Scottsdale (480) 391-5667, or Tempe (480) 356-2878.**

Industrial User	Nature of Violation/Type of Pollutant	Date of Last Non-Compliance	Has User Returned to Compliance Status as of 12/31/2018?	Number of Times Published	Nature of Enforcement Action(s)	Comments
<b>Glendale</b> No Users in SNC						
<b>Mesa</b> No Users in SNC						
<b>Phoenix</b> Mesa Metal Finishing, LLC Mesa Metal Finishing, LLC	Monthly Average TRC for 3rd Quarter - Zinc 3508 East Columbia Avenue	08/05/2017	Yes	3	Notice of Violation Temporary Increase Self-Monitoring (TISM) SNC Notification Three Course Hearing Monetary Penalty	SNC Notification was provided in March 2018; therefore, it was not included for publication. A Show Cause Hearing imposing monetary penalties took place during the 2nd Quarter of 2018. Violations in addition to zinc effluent violations include failure to sample for Total Iron; Organics (TIC).
Upper Creek Bakery 3733 West Washington Street Phoenix, Arizona 85009-4729	1-hr Reporting - 74-hour Notification Program submitted greater than 30-days late during 3rd Quarter	01/24/2019	No	1	Notice of Violation SNC Notification	Violations other than late reporting include: condensate pH effluent violations and failure to sample. A Review Meeting for condensate pH violations took place during the 4th Quarter of 2018. A Show Cause will take place in the 2nd Quarter of 2019.
MWR Group of Companies 233 South 49th Avenue Phoenix, Arizona 85034-3805	1-hr Reporting - LSS results for Self-Monitoring Reporting (SMR) Report submitted greater than 30 days late	01/02/2019	No	3	Notice of Violation SNC Notification	There were no violations other than late reporting; the User returned to compliance as of 01/22/2019.
APS Building, Inc. 2235 South Central Avenue Phoenix, Arizona 85004-2909	Monthly Average (MAV) Chrome 6 TRC for 1st Quarter - Arizona; Monthly Average Chrome for 3rd Quarter	12/05/2018	Yes	1	Notice of Violation TISM Review Meeting SNC Notification	Violations other than chrome MAVs include permit violation - failure to notify of pretreatment changes; failure to sample; and pH excursions. A Review Meeting took place during the 3rd Quarter of 2018.
Liquid Environmental Solutions of Arizona, LLC 21 1st Street West, Queen Street Phoenix, Arizona 85043-3720 AA Aqua Humana Services	Monthly Average TRC for 2nd Quarter - Copper	1/29/2019	No	2	Notice of Violation TISM Review Meeting SNC Notification	A Review Meeting for copper MAVs took place during the 2nd Quarter of 2018. A Show Cause will take place in the 2nd Quarter of 2019.
2833 South 7th Avenue Phoenix, Arizona 85032-4302 Fountain Creek 3018 East Wood Street Phoenix, Arizona 85040-1823 Aurion Chemical Solutions, Inc. 3320 East Phoenix Road Phoenix, Arizona 85040-3869	Daily TRC TRC 107 4th Quarter - Mercury	11/27/2018	Yes	1	Notice of Violation SNC Notification	There were no violations other than the mercury excursions; the User returned to compliance as of 12/26/2018.
Phoenix, Arizona 85032-4302 Fountain Creek 3018 East Wood Street Phoenix, Arizona 85040-1823 Aurion Chemical Solutions, Inc. 3320 East Phoenix Road Phoenix, Arizona 85040-3869	Monthly Average TRC for 4th Quarter - Chromium	11/29/2018	No	1	Notice of Violation SNC Notification	A Review Meeting will take place in the 1st Quarter of 2019.
Phoenix, Arizona 85040-1823 Aurion Chemical Solutions, Inc. 3320 East Phoenix Road Phoenix, Arizona 85040-3869	Monthly Average TRC for 4th Quarter - Mercury	12/17/2018	No	1	Notice of Violation TISM SNC Notification	A Review Meeting will take place in the 1st Quarter of 2019.
<b>Scottsdale</b> No Users in SNC						
<b>Tempe</b> Advanced Circuits 279 South Clark Street Tempe, AZ 85281	Monthly Copper TRC	3/29/2018	Yes	1	NO/Administrative Order (AO) Press & Pretreatment Settlement Agreement (PPSA)	User entered into a PISA with the City that resulted in \$48,911.95 spent on pretreatment system upgrades in 2018, and a plan to spend up to an additional \$281,474 if the violations reappear or recur. The user has returned to full compliance.
<b>Town of Gilbert</b> No Users in SNC						

This example of an published SNC statement covers 2018 and was published in the 2<sup>nd</sup> quarter of 2019 (April 11, 2019 in The Arizona Republic). Within the statement, reasons for the SNC are documented and cover the entire past calendar year. There is no cost to the Industrial User for this publication. The Industrial User is also reported in the City of Phoenix Industrial Pretreatment Annual Report.

Information the publication includes:

- The name and address of the company
- Nature of the violation
- Date of last non compliance
- Current compliance status
- Number of times the company has been published
- Nature of the enforcement action
- Any comments about the situation ( upgraded pretreatment system, changed reporting procedure, changed discharging procedures, etc.)



POTENTIAL CONSEQUENCES

City of Phoenix

## **U.S. EPA reaches agreement with Herzog Wine Cellars to prevent unlawful wastewater discharges**

SAN FRANCISCO CA (6/19/2018) - The U.S. Environmental Protection Agency has announced an agreement with Herzog Wine Cellars over violations of the Federal Clean Water Act. The settlement requires the company to pay a \$70,000 penalty after an EPA inspection found the company was discharging wastewater that violated local and federal standards from its production operations into the City of Oxnard's Sanitary Sewer.

FEDERAL  
ENFORCEMENT CASE

City of Phoenix

“To protect the environment, industrial facilities must treat their wastewater before they discharge it to local sewer systems,” said EPA Pacific Southwest Regional Administrator Mike Stoker. “Discharges that exceed standards can harm downstream water quality, put plant workers at risk and jeopardize the treatment facility operations.”

Herzog Wine Cellars, also known as Royal Wine Corporation, produces kosher wine at its Ventura County facility. An EPA inspection in 2015 found that wastewater from cleaning and sterilizing operations exceeded the limits for total suspended solids. The facility also discharged acidic wastewater to the city of Oxnard’s sanitary sewer, which eventually enters the Pacific Ocean.

As part of a prior 2016 agreement with EPA, Herzog Wine Cellars upgraded its on-site wastewater treatment system to comply with the company's industrial wastewater discharge permit requirements and prevent pretreatment violations. The company has since achieved consistent compliance with the applicable pretreatment standards.

Industrial wastewater discharges must meet CWA standards for pH (acidity). Low pH wastewater is corrosive and can compromise the integrity of the wastewater collection system pipes, leading to potential leakage. Both low and high pH can damage bacteria and micro-organisms that effectively treat sewage.

Source: <https://www.epa.gov/newsreleases/us-epa-reaches-agreement-herzog-wine-cellars-prevent-unlawful-wastewater-discharges>



## **Dickson-Based Grease Hauling Company And Its President Plead Guilty To Violating The Clean Water Act**

Memphis TN (06/09/2015) - Southern Grease Company, a grease hauling company based in Dickson, Tennessee, and its president, George Butterworth, 75, of Dickson, pleaded guilty today to charges arising from the illegal disposal of waste grease into municipal sewer systems, announced David Rivera, United States Attorney for the Middle District of Tennessee. Specifically, Southern Grease and Butterworth pleaded guilty to violating the Clean Water Act, conspiring to violate the Clean Water Act, and making false statements to agents with the Environmental Protection Agency. Southern Grease Company also pleaded guilty to one count of mail fraud, arising from its fraudulent promises to customers and municipalities regarding the disposal of waste grease.

FEDERAL  
ENFORCEMENT CASE

**City of Phoenix**

## **Environmental Lab Operator Found Guilty of Falsifying Records on Industrial Wastewater**

Mississippi (Jun 13, 2013) – Tennie White, owner, operator and manager of Mississippi Environmental Analytical Laboratories Inc., was charged in a three-count felony indictment with two false statements counts and one count of obstructing proceedings. The jury found White guilty of all counts after an eight day trial before U.S. District Judge Henry T. Wingate at the federal courthouse in Jackson, Miss. Sentencing of White is scheduled for Aug. 8 in federal court in Jackson. For the false statements charges, the defendant is facing a maximum sentence of 5 years in prison and a \$250,000 fine per count. The obstructing proceedings charge carries a maximum sentence of 20 years in prison and a \$250,000 fine.

FEDERAL  
ENFORCEMENT CASE

**City of Phoenix**

As describe in the indictment, White was hired to perform laboratory testing of a manufacturer's industrial process wastewater samples and then to use those results to complete monthly discharge monitoring reports for submission to the Mississippi Department of Environmental Quality. The indictment alleged that from October to December 2008, White created three discharge monitoring reports (DMRs) that falsely represented that laboratory testing had been performed on samples when, in fact, such testing had not been done.

The indictment further alleged that White created a fictitious laboratory report and presented it to her client for use in preparing another DMR for January 2009. The indictment also alleged that White made false statements to a federal agent during a subsequent criminal investigation.

## **Attorney General Koster Obtains Settlement with Crawford County Business for Clean-Water Violations**

Jefferson City, MO (06/09/2015) - A Crawford County business has agreed to pay the state **\$175,000** to resolve allegations that the company violated Missouri's Clean Water Law, Attorney General Chris Koster announced today. Koster alleged that in December 2011, Ozark Mountain Technologies, a metal-finishing company, discharged untreated or improperly treated wastewater in the city of Cuba's water treatment facility. Koster said Ozark Mountain will pay **\$90,000** in civil penalties and another **\$82,948.87** for the state's Natural Resources Damage program, a state program to remediate contaminated sites for public use. The remaining **\$2,051.13** will go to reimburse the Department of Natural Resources for investigative costs.

STATE  
ENFORCEMENT CASE

**City of Phoenix**

- Education
- Communication



## OTHER WAYS THE CITY ENCOURAGES COMPLIANCE

**City of Phoenix**

- 1) Compliance academy, work with inspector
- 2) Talk with your inspector
- 3) Reduce pollution



# QUIZ

City of Phoenix

1. The City will respond to every violation with an NOV.

True

False

QUIZ

City of Phoenix

2. If your report is more than 30 days late you will:

- A. Get an NOV
- B. Be OK, if you are nice to your inspector
- C. Be published in the newspaper for SNC

QUIZ

City of Phoenix

- 
3. If your report is 10 days late, you will:
- A. Get an NOV
  - B. Be in SNC
  - C. Be fined

QUIZ

**City of Phoenix**



- 
4. What type of violations are in the City's enforcement response plan?
- A. Effluent
  - B. Reporting
  - C. Permit condition (other)
  - D. Air quality

QUIZ

**City of Phoenix**

5. Your Permit limit for arsenic is 0.13 mg/L and you must sample monthly.

The compliance sample that you sent to your lab for arsenic analysis in June came back with a result of  $<0.20$  mg/L. Would this be considered a valid result under the Permit limits?

Yes

No

QUIZ

City of Phoenix

6. An SMR postmarked on January 29 is on time and no NOV will be issued.

True

False

QUIZ

City of Phoenix

7. Responses to NOVs should include:

- A. Participants in the investigation
- B. Summary of events
- C. Payroll records
- D. Conclusions reached
- E. Corrective actions taken or to be taken
- F. How this will prevent future violations.

QUIZ

**City of Phoenix**

8. Six (6) out of ten (10) measurements in a six (6) month period are violations. Does this meet the chronic criteria for SNC.

Yes

No

QUIZ

City of Phoenix

9. The purpose of a Show Cause meeting is to:
- A. Discuss circumstances of the violations.
  - B. Consider new information.
  - C. Encourage compliance.
  - D. Discuss corrective actions taken or to be taken.
  - E. Determine out-of-court settlement of civil penalties.
  - F. Foster animosity between regulator and permittee.
  - G. Resolve the enforcement action for the penalty period.

QUIZ

**City of Phoenix**

**ANY  
QUESTIONS**



**City of Phoenix**



**City of Phoenix**

Water Services Department  
Environmental Services Division  
[www.phoenix.gov/ESD](http://www.phoenix.gov/ESD)  
602-262-1859 (Front Desk)  
602-261-8000 (WSD After Hours Emergency Contact)