



# Enforcement

# Enforcement Legal Authority

- ❖ 40 CFR § 403.8(f)(1)(vi)(A)
- ❖ Local Regulations
  - ❖ All violations must be actionable
  - ❖ Remedies must be non-exclusive



## Violations

- Unauthorized Discharges
- Prohibited Standards
- Permit Limits
- Monitoring Requirements
- Reporting Requirements
- Permit Conditions
- Compliance Schedule Deadlines
- Enforcement Orders/Actions

## Enforcement Actions

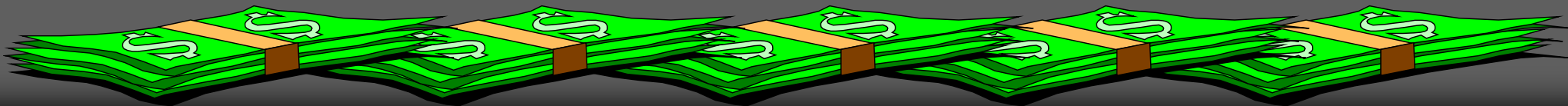
- Informal Notice
- Notice of Violations
- Administrative Fines
- Show Cause Orders
- Consent Orders
- Compliance Orders
- Cease and Desist Orders
- Injunctive Relief
  - Civil Penalties
- Criminal Prosecution
- Supplement Enforcement

# Notice of Violation

- ❖ Initial POTW response
- ❖ Official notice
- ❖ Provides IU opportunity to correct deficiency
- ❖ Provides consistency

# Administrative Fines

- ❖ Issued at POTW's discretion
- ❖ Punitive in nature
- ❖ Deterrent for future violations



# Administrative Orders

- ❖ Show cause orders
- ❖ Consent orders
- ❖ Compliance orders
- ❖ Cease and desist



# Civil Litigation

- ❖ Why?

- ❖ Remedies available:

  - ❖ Consent decree

  - ❖ Injunctions

  - ❖ Civil penalties & cost recovery



# Clean Water Act

*Strict Liability* - Users are held legally responsible for noncompliance, regardless of intent or negligence



# Criminal Prosecution

- ❖ Acted in violation of the law
- ❖ Criminal intent/negligence
- ❖ Results in fines and/or imprisonment
- ❖ Each violation, each day, a separate offense



# Supplemental Enforcement

- ❖ Public notice
- ❖ Water service severance
- ❖ Termination of sewer service
- ❖ Performance bond/liability insurance
- ❖ Increased monitoring/reporting

# Enforcement Response Plans

## [40 CFR § 403.8(f)(5)]

- ❖ Reflect POTW's responsibility to enforce pretreatment requirements & standards
- ❖ Identify how the POTW will investigate noncompliance
- ❖ Specifies officials responsible for each type of enforcement
- ❖ Specifies types of and time frames for taking escalating enforcement for anticipated types of violations



# Factors to Consider for Appropriate Enforcement Response

- ❖ Magnitude and duration of violation
- ❖ Effect on POTW
- ❖ Effect on receiving stream
- ❖ Pattern of past violations/success of previous enforcement actions
- ❖ Attitude of industrial user

# Timely Action



# Enforcement Data Management

- ❖ Specify reports required from IUs
- ❖ Notify IUs of untimely submittals
- ❖ Review reports received
- ❖ Notify users, **within specified timeframes**, of deficiencies in reports and any noncompliance issues
- ❖ Schedule IU responses
- ❖ Track IUs responses
- ❖ Escalate enforcement

# Indicators of an Effective ERP

- ❖ Ensure violators return to compliance ASAP
- ❖ Penalize noncompliant users for pretreatment violations
- ❖ Deter further noncompliance
- ❖ Recover additional expenses incurred by POTW attributable to noncompliance

