

**STATE OF NEW JERSEY**



**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER QUALITY  
BUREAU OF PRETREATMENT AND RESIDUALS**

**GUIDANCE  
FOR  
PRETREATMENT PROGRAMS  
DURING EMERGENCY SITUATIONS**



**APRIL 2016**

## **Purpose**

The New Jersey Department of Environmental Protection (the Department) has issued this guidance to assist delegated and non-delegated Local Agencies and indirect users that discharge to these Local Agencies in meeting the objectives of the Pretreatment Program during emergency situations. It is intended as a resource that could be used by Local Agencies and indirect users to understand their authority and responsibilities to require and implement emergency plans for emergency situations they may encounter.

The objectives of the Pretreatment Program are to prevent the introduction of pollutants into a local agency's treatment works which may:

- interfere with the operation of the treatment works;
- pass through or otherwise be incompatible with the treatment works; or
- interfere with the local agency's chosen method of sludge management.

In emergency situations, local agencies and their users have an obligation to take action to minimize discharges that would frustrate these objectives.

For purposes of this guidance document, an emergency is an event, whether natural or man-made, that diminishes the ability of a treatment works to convey and/or treat wastewater and presents or may present imminent endangerment to public health or the environment. Each potential emergency situation will need to be determined on a case-by-case basis since not every state of emergency declared by the Governor will affect each treatment works, and conversely, the Governor will not declare a state of emergency for every emergency that affects each treatment works. Therefore, emergencies must be determined by the owner/operator of the treatment works that conveys or treats the wastewater. A Regulatory Appendix is provided as a reference at the end of this document with applicable summaries of both State and federal statutes and regulations.

The term "Local Agency", when used alone, refers to the owner or operator of a POTW whether delegated or not.

## **Background and Authority**

The Federal General Pretreatment Regulations (40 CFR 403) establish the mechanism to regulate discharges to Publicly Owned Treatment Works (POTWs). The Department has been delegated the responsibility for the pretreatment program from the USEPA. In turn, the Department has approved several POTWs to operate as Delegated Local Agencies (DLAs) that implement local pretreatment programs with Department oversight.(click here for the [DLA list](#)). The Department

coordinates the implementation of the pretreatment program in partnership with the remaining POTWs (non-delegated Local Agencies or non-DLAs) in areas of the state not served by a DLA.

The Department has established requirements under [N.J.A.C. 7:14A-21](#) for entities that discharge into POTWs. These dischargers are known as Indirect Users (IUs) that are subject to local requirements developed by Local Agencies, including the development and implementation of emergency plans. Some IUs may be classified as Significant Indirect Users (SIUs) that are required to obtain a New Jersey Pollutant Discharge Elimination System (NJPDES) permit. In the non-DLA areas, the Department issues the NJPDES permits to the SIUs that discharge into those treatment works. In DLA areas (click here for the [DLA list](#)) with approved local pretreatment programs, Industrial Pretreatment Program (IPP) permits are issued by the DLAs to the SIUs that discharge into their treatment works. An IPP permit issued by a DLA is considered by the Department to be a NJPDES permit as per at N.J.A.C. 7:14A-2.1(c).

Authority of Local Agencies to take emergency action is described in the:

1. Federal General Pretreatment Regulations, [40 CFR 403](#) incorporated by reference at [N.J.A.C. 7:14A-19.1\(b\)](#) and [21.1\(b\)](#), specifically 40 CFR 403.8(f)(1)(vi)(B);
2. New Jersey Pretreatment Standards for Sewerage Act at [N.J.S.A.58:11-49](#) to 58, specifically [N.J.S.A. 58:11-56](#) and rules promulgated pursuant thereto, N.J.A.C. 7:14A-19 and 21;
3. New Jersey Water Pollution Control Act (WPCA), N.J.S.A. 58:10A-1 et seq, specifically [N.J.S.A. 58:10A-5\(a\), 6\(f\), 6\(h\), \(6\)i](#) and the rules promulgated pursuant thereto, N.J.A.C. 7:14A;
4. “[Guidance for Developing Control Authority Enforcement Response Plans](#), specifically Section 5.6.2 When to Terminate Service” (USEPA, Office of Water September 1989).
5. The Sewerage Authorities Act at [N.J.S.A. 40:14A](#)-1 et seq, specifically N.J.S.A. 40:14A-2(5)
6. Municipal and County Utilities Authorities Act at [N.J.S.A. 40:14B](#) 1 et seq, specifically N.J.S.A. 40:14B-2(5)

Further regulatory references are included in the Regulatory Appendix at the end of this document.

Local Agencies have broad powers under the WPCA to ensure compliance with state and federal water pollution control regulations. The WPCA (N.J.S.A. 58:10A-6(i)) authorizes Local Agencies to “prescribe terms and conditions, upon which pollutants may be introduced into such works, and to exercise the same right of entry, inspection, sampling, and copying with respect to users of such works” as are available to the Department to enforce state and federal water pollution control requirements. Under this statutory authority, for instance, Local Agencies can require their indirect users to maintain proper Operation and Maintenance of their systems and to include the necessary components of an Emergency Plan as noted in this document below.

The Pretreatment Standards for Sewerage Act, N.J.S.A. 58:11-49 et seq., gives broad authority to all Local Agencies to implement pretreatment programs. Although not specifically required to

implement all elements contained in this guidance, Non-DLAs are encouraged to adopt ordinances and rules and responsibilities consistent with this guidance.

### **General Responsibilities in an Emergency**

During anticipated or unexpected emergencies, it may be necessary for Local Agencies and/or IUs to implement their emergency plans when a treatment works' conveyance and/or treatment capacity has been or may be diminished. Local Agencies and the IUs need to respond quickly and efficiently in order to reduce or prevent adverse impacts to public health and the environment. The steps taken should be the result of advanced planning and good communication. In extreme emergencies as an option of last resort, Local Agencies have the authority to require IUs to reduce or cease discharge until such time as normal treatment works operations are restored. During these extreme emergencies, under the requirements of the approved Pretreatment Programs, the DLAs are responsible to enforce this authority as the need arises in accordance with the General Pretreatment Regulations at 40 CFR 403.8(f)(1)(vi)(B). Enforcement of these same regulatory provisions in non-DLA areas is accomplished by coordinated efforts between the Department and non-DLAs. However, the Department is also available to provide whatever assistance it can to DLAs during these circumstances.

Emergency events must be reported to the Department Hot Line at 1-877-927-6337 in accordance with the procedures at N.J.A.C. 7:14A-6.10 as noted above.

### **Specific Responsibilities of Local Agencies**

#### 1. Establishment of Authority

Each DLA has sewer use ordinances or rules and regulations that incorporate appropriate legal authority (described above) to control and/or limit discharges of pollutants before, during, and after an emergency situation.

Each Non-DLA is also encouraged to review its sewer use ordinances or rules and regulations to determine if it has incorporated references to the appropriate legal authority (described above) to control and/or limit discharges of pollutants before, during, and after an emergency situation. If not, the non-DLA should initiate procedures to modify its sewer use ordinances or rules and regulations.

#### 2. Development of Emergency Plan

All permitted Local Agencies responsible for the conveyance and/or treatment of wastewater must prepare and maintain as part of their Operation and Maintenance manual an up-to-date Emergency Plan specifically intended to reduce/limit discharges to its treatment works during emergency situations (see [N.J.A.C. 7:14A-6.12](#)). Although it is recognized that the requirements for development of these Plans need to be flexible to address specific local variations, Plans should, at a minimum, include the following components:

- a) Identify and Prioritize SIUs: To implement N.J.A.C. 7:14A-6.12(d)3ii and reduce adverse health and environmental impacts during emergencies, the Local Agency should develop and maintain a prioritized list of its SIUs. It is recommended that the list be prioritized by volume, with users with high loading, and/or toxic pollutants highlighted. The list should also include location relative to critical conveyance infrastructure (e.g. pumping stations, Combined Sewer Overflow (CSO) outfalls, and CSO regulators). This information and the nature of the emergency will allow the Local Agency to focus its communications on specific SIUs, as appropriate. For example, if treatment plant capability is diminished, the local agency may concentrate on SIUs with a greater loading of toxic pollutants. Alternately, if conveyance capacity is diminished, the local agency may target SIUs with greater flow. If conveyance capacity is diminished only in certain areas of the collection system, then the Local Agency may address only SIUs contributing to those affected areas. SIUs that are considered critical infrastructure or provide essential services (e.g. hospitals, airports, water purveyors and energy suppliers) should be highlighted on all lists since their ability to reduce operations during an emergency may be limited.
- b) Map the Location of all SIUs: Local Agencies should map the location of all SIUs and their relationship to pump stations, CSO outfalls/regulators, and other critical conveyance infrastructure. Local Agencies may use information as it currently exists regarding the location of each SIU, and from that information map the SIU in relation to critical infrastructure or they may request their contributing municipalities to perform the mapping in their areas.

Ideally, over time as information becomes available, each Local Agency should begin to develop and maintain this information on maps in a GIS or other electronic mapping format. For those collection systems that are not owned by the permitted Local Agency, it is recommended that the Local Agency coordinate with the municipalities that own the collection systems to extend coverage to those areas. Maps developed or maintained in a GIS or other electronic format should be consistent with the following:

- i. Mapping should be in the form of digital Geographic Information Systems (GIS) data, at a minimum scale of 1:12,000. Digital mapping should conform to the “New Jersey Department of Environmental Protection Mapping: Mapping and Digital Data Standards,” in N.J.A.C. 7:1D, Appendix A;
- ii. Guidance related to the [Mapping and Digital Data Standards](#) is available at the Department’s website;
- iii. The Department will provide available GIS theme coverages, associated metadata and digital data transfer standards, as established at N.J.A.C. 7:1D, Appendix A, upon request.

- c) Develop Emergency Notification Plans: Local Agencies should develop and maintain a protocol designed to efficiently broadcast emergency messages to all users and to specifically contact SIUs. The protocol should include strategies to:
- i. Widely disseminate alerts and requests for action to all users (e.g. broadcast media, reverse 911 systems, web site banner);
  - ii. Individually contact each SIU via multiple pathways (e.g. landline telephone, cellular phone, email, messenger);
  - iii. Develop and maintain 24/7 contact information for primary and secondary emergency response personnel and after-hours, on-site personnel (if different from emergency response personnel) for each SIU;
  - iv. Test and update this information at least annually and also in anticipation of predictable emergencies;
  - v. If discharge reductions are needed, provide users with as much notice as possible in order to allow for safe and efficient reduction of operations;
  - vi. Readily communicate the nature of the emergency to all users and the response needed (e.g. emergency preparedness; water conservation and/or discharge reduction);
  - vii. Readily communicate the nature of the emergency to each SIU and the response needed (e.g. implementation of each SIU's emergency discharge limitation plan (see below) and whether SIUs are expected to terminate discharges, if possible);
  - viii. Maintain the emergency plan in accordance N.J.A.C. 7:14A-6.12.

### 3. DLA Review of SIU Emergency Discharge Limitation Plans

DLAs should review SIU emergency discharge limitation plans (see below) during the annual SIU inspection and provide the SIU with feedback where plan deficiencies are noted.

### **Responsibilities of Significant Indirect Users**

Each SIU is required to prepare and maintain an up-to-date plan specifically intended to limit discharges to the POTW during an emergency to mitigate damage to waters of the State arising from an emergency (N.J.A.C. 7:14A-6.12). At a minimum, SIUs should consider the following elements in the development of their emergency discharge limitation plans. Some options may not be appropriate for an SIU to implement.

1. **Water Conservation**: Water conservation that results in reduction of wastewater discharges to the POTW should be a routine part of normal operations and must be maximized during an emergency.
2. **Alterations or Reduction of Operations**: Temporary alteration or reduction of facility operations that result in reduction of wastewater discharges to the POTW should be implemented during an emergency. For example, an SIU could submit NJPDES permit applications for alternate disposal options for non-contact cooling water, with or without comingled stormwater, by obtaining a [General Permit Authorization for Non-contact cooling](#)

[water only, commingled Non-contact cooling water and storm water](#), or for other eligible wastewaters under the [other General Permits](#) in accordance with N.J.A.C. 7:14A-1 et seq.

3. On-site Storage: Identify existing capacity to safely store wastewater until the emergency passes. Existing in-house wastewater storage capacity should be maximized prior to the onset of a predictable emergency. Addition of new storage capacity should be considered to support operations during an emergency. Any wastewater voided from storage to make room for emergency purposes, or wastewater discharged following the emergency, must be discharged at rates and at times that comply with the SIU's indirect discharge permit. Generators of wastewater that is deemed to be hazardous waste are responsible for on-site accumulation time limit requirements under the RCRA Regulations, 40 CFR 262, for small quantity generators and large quantity generators, and 40 CFR 261.5 for conditionally exempt small quantity generators, adopted by reference by the NJDEP in N.J.A.C. 7:26G-6.1 et seq. See [Hazardous Waste Generators and Transporters and Facilities - Inspection Checklists](#) and [Compliance Assistance Packet for Hazardous Waste Generators](#)
4. Hauling: Identify the practicality of hauling wastewater to a facility unaffected by the emergency. The SIU will need to develop and maintain standing approvals for trucking and off-site receiving facility approval for disposal of wastewater. Wastewater must be discharged at rates and at times that comply with the SIU's existing indirect discharge permit, unless otherwise directed by the Department or by the receiving facility. A wastewater, which would be deemed to exhibit a characteristic of a hazardous waste, or which is a listed hazardous waste under N.J.A.C. 7:26G, would necessitate special hauling and disposal requirements.
5. Cessation of Operations: In an extreme emergency, when specifically notified by the Department or the Local Agency (in accordance with the Emergency Notification Plan above), SIUs should, as an option of last resort, plan for the safe and efficient reduction or cessation of operations to the maximum practicable extent.
6. Preparedness: SIUs must include preparedness planning as part of the emergency discharge limitation plan. In addition to the strategies as already noted above, preparedness planning should include, at a minimum:
  - a) Develop and maintain 24/7 contact information for primary and secondary emergency response personnel and after-hours, on-site personnel (if different from emergency response personnel) and supply the same to your local agency;
  - b) Develop and maintain contact information for all vendors necessary to support discharge reduction (example: trucking companies; potential receiving sites);
  - c) Implement the appropriate components of the preparedness plan when forecasts predict a potential emergency (e.g. flooding rains, damaging winds, crippling snows) and, specifically, if notified of an emergency by the Department or the Local Agency.

Each SIU should prioritize the components of its emergency discharge limitation plan to reflect its critical business operations. SIUs should be prepared to implement the emergency discharge limitation plans in whole or in part upon receiving notification from a Local Agency or the Department of either an anticipated or unexpected emergency.

### **General Pretreatment Information**

The Department maintains a Pretreatment program website at: [www.nj.gov/dep/dwq/bpr.htm](http://www.nj.gov/dep/dwq/bpr.htm) which can be useful when planning for or during both anticipated and unexpected emergencies. Questions about New Jersey's Pretreatment program can be directed to the Department's Bureau of Pretreatment and Residuals at (609) 984-4428.



## REGULATORY APPENDIX

### 1. Federal Regulations

- **40 CFR Part 403 – General Pretreatment Regulations for Existing and New Sources of Pollution**
- **40 CFR 403.8(f)(1)(vi)(B): General Pretreatment Regulations**

The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW...

### 2. State Statutes and Regulations

- **N.J.A.C. 7:14A-2.1(c)**

This chapter sets forth the rules concerning implementation and operation of the New Jersey Pollutant Discharge Elimination System (NJPDES) permit program and the Treatment Works Approval (TWA) program. Each delegated local agency (DLA) shall issue and administer permits in accordance with an approved industrial pretreatment program, and the requirements of N.J.A.C. 7:14A-19 and applicable sections of N.J.A.C. 7:14A-21.

- **N.J.A.C. 7:14A-19: Pretreatment Program Requirements for Local Agencies**
- **N.J.A.C. 7:14A-21: Requirements for Indirect Users**
- **N.J.A.C. 7:14A-19.1(b) and N.J.A.C. 7:14A-21.1(b)**

The Department adopts and incorporates herein by reference the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, as amended and supplemented.

- **N.J.A.C. 7:14A-6.12(d) Operation, Maintenance, and Emergency Conditions.**

An emergency plan shall be included as part of the operation and maintenance manual.

- **N.J.S.A. 58:11-49 et seq.: New Jersey Pretreatment Standards for Sewerage Act**
- **N.J.S.A. 58:11-56: Violations; Closing off of use of Sewerage Connections**

If any county, municipality, authority, commission, or other public body or agency owning, operating or controlling, separately or jointly, a public sewage treatment plant or the department finds that any person, corporation or municipality is discharging sewage into a public sewage treatment plant in violation of the provisions of this act or regulations promulgated thereunder, the said county, municipality, authority, commission, or other public body or agency, and the department, may in addition to any remedies provided under sections 6 and 7 of this act, take such steps as may be necessary to seal or close off such sewerage connections from the public sewage treatment plant

until it is satisfied that adequate measures have been taken to prevent the recurrence of such violation.

- **N.J.S.A. 58:10A-1 et seq.: New Jersey Water Pollution Control Act**

- **N.J.S.A. 58:10A-5(a): Powers of Department**

The Department is empowered to exercise general supervision of the administration and enforcement of this act and all rules, regulations and orders promulgated hereunder

- **N.J.S.A. 58:10A-6(f)**

A permit issued by the department or a delegated local agency, under this act, shall require the empowered to:

- (1) To achieve effluent limitations based upon guidelines or standards established pursuant to the Federal Act or this act, together with such further discharge restrictions and safeguards against unauthorized discharge as may be necessary to meet water quality standards, areawide plans adopted pursuant to law, or other legally applicable requirements;
- (2) Where appropriate, to meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance;
- (3) To insure that all discharges are consistent at all times with the terms and conditions of the permit and that no pollutant will be discharged more frequently than authorized or at a level in excess of that which is authorized by the permit;
- (4) To submit application for a new permit in the event of any contemplated facility expansion or process modification that would result in new or increased discharges or, if these would not violate effluent limitations or other restrictions specified in the permit, to notify the commissioner, or delegated local agency, of such new or increased discharges;
- (5) To install, use and maintain such monitoring equipment and methods, to sample in accordance with such methods, to maintain and retain such records of information from monitoring activities, and to submit to the commissioner, or to the delegated local agency, reports of monitoring results for surface waters, as may be stipulated in the permit, or required by the commissioner or delegated local agency pursuant to paragraph (9) of this subsection, or as the commissioner or the delegated local agency may prescribe for ground water. Significant indirect users, major industrial dischargers, and local agencies, other than those discharging only stormwater or noncontact cooling water, shall, however, report their monitoring results for discharges to surface waters monthly to the commissioner, or the delegated local agency. Discharge monitoring reports for discharges to surface waters shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, who may, in his absence, authorize another responsible high ranking official to sign a monthly monitoring report if a report is required to be filed during that period of time. The highest ranking official shall, however, be liable in all instances for the accuracy of all the information provided in the monitoring report; provided, however, that the highest ranking official may file, within seven days of his return, amendments to the monitoring report to which he was not a signatory. The highest ranking official having day-to-day

managerial and operational responsibilities for the discharging facility of a local agency shall be the highest ranking licensed operator of the municipal treatment works in those instances where a licensed operator is required by law to operate the facility. In those instances where a local agency has contracted with another entity to operate a municipal treatment works, the highest ranking official who signs the discharge monitoring report shall be an employee of the contract operator and not of the local agency. Notwithstanding that an employee of a contract operator is the official who signs the discharge monitoring report, the local agency, as the permittee, shall remain liable for compliance with all permit conditions. In those instances where the highest ranking official having day-to-day managerial and operational responsibilities for a discharging facility of a local agency does not have the responsibility to authorize capital expenditures and hire personnel, a person having that responsibility, or a person designated by that person, shall submit to the department, along with the discharge monitoring report, a certification that that person has received and reviewed the discharge monitoring report. The person submitting the certification to the department shall not be liable for the accuracy of the information on the discharge monitoring report due to the submittal of the certification. Whenever a local agency has contracted with another entity to operate the municipal treatment works, the person submitting the certification shall be an employee of the permittee and not of the contract operator. The filing of amendments to a monitoring report in accordance with this paragraph shall not be considered a late filing of a report for purposes of subsection d. of section 6 of P.L.1990, c.28 (C.58:10A-10.1), or for purposes of determining a significant noncomplier;

- (6) At all times, to maintain in good working order and operate as effectively as possible, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit;
- (7) To limit concentrations of heavy metal, pesticides, organic chemicals and other contaminants in the sludge in conformance with the land-based sludge management criteria established by the department in the Statewide Sludge Management Plan adopted pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or established pursuant to the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. s.1251 et seq.), or any regulations adopted pursuant thereto;
- (8) To report to the department or delegated local agency, as appropriate, any exceedance of an effluent limitation that causes injury to persons, or damage to the environment, or poses a threat to human health or the environment, within two hours of its occurrence, or of the permittee becoming aware of the occurrence. Within 24 hours thereof, or of an exceedance, or of becoming aware of an exceedance, of an effluent limitation for a toxic pollutant, a permittee shall provide the department or delegated local agency with such additional information on the discharge as may be required by the department or delegated local agency, including an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken, or being taken, to remediate the problem and any damage to the environment, and to avoid a repetition of the problem;

- (9) Notwithstanding the reporting requirements stipulated in a permit for discharges to surface waters, a permittee shall be required to file monthly reports with the commissioner or delegated local agency if the permittee:
- (a) in any month commits a serious violation or fails to submit a completed discharge monitoring report and does not contest, or unsuccessfully contests, the assessment of a civil administrative penalty therefor; or
  - (b) exceeds an effluent limitation for the same pollutant at the same discharge point source by any amount for four out of six consecutive months.

The commissioner or delegated local agency may restore the reporting requirements stipulated in the permit if the permittee has not committed any of the violations identified in this paragraph for six consecutive months;

- (10) To report to the department or delegated local agency, as appropriate, any serious violation within 30 days of the violation, together with a statement indicating that the permittee understands the civil administrative penalties required to be assessed for serious violations, and explaining the nature of the serious violation and the measures taken to remedy the cause or prevent a recurrence of the serious violation.

- **N.J.S.A. 58:10A-6(h)**

In addition, any permit issued for a discharge from a municipal treatment works shall require the permittee:

- (1) To notify the commissioner or local agency in advance of the quality and quantity of all new introductions of pollutants into a facility and of any substantial change in the pollutants introduced into a facility by an existing user of the facility, except for such introductions of nonindustrial pollutants as the commissioner or local agency may exempt from this notification requirement when ample capacity remains in the facility to accommodate new inflows. The notification shall estimate the effects of the changes on the effluents to be discharged into the facility.
- (2) To establish an effective regulatory program, alone or in conjunction with the operators of sewage collection systems, that will assure compliance and monitor progress toward compliance by industrial users of the facilities with user charge and cost recovery requirements of the Federal Act or State law and toxicity standards adopted pursuant to P.L.1977, c.74 and pretreatment standards.
- (3) As actual flows to the facility approach design flow or design loading limits, to submit to the commissioner or local agency for approval, a program which the permittee and the persons responsible for building and maintaining the contributory collection system shall pursue in order to prevent overload of the facilities.

3. Guidance for Developing Control Authority Enforcement Response Plans (USEPA, Office of Water, September 1989; see [www.epa.gov/npdes/pubs/owm0015.pdf](http://www.epa.gov/npdes/pubs/owm0015.pdf))

- **Section 5.6.2:**

Termination of service is an appropriate response to industries which have not responded adequately to previous enforcement responses. When the Control Authority must act immediately to halt or prevent a discharge which presents a threat to human health, the environment or the POTW, cease and desist orders and termination of service are the only appropriate responses. Unlike civil and criminal proceedings, termination of sewer service is an administrative response which can be implemented directly by the Control Authority. For example, a facility manufacturing bleach in Phoenix, Arizona, discharged wastewater with high concentrations of chlorine residual into the collection system. The chlorine fumes were noticed immediately and forced evacuation of the treatment plant and collection system. Sampling detected a chlorine residual concentration of 10,000 parts per million (ppm) while the City's standard for chlorine residual was only 1 ppm. The situation was declared an imminent hazard and service was terminated immediately. Once the danger had passed, service was restored within a week. This situation illustrated the importance of the Control Authority's ability to terminate service to an industrial user. This power should be available regardless of the user's compliance status ( e.g., when a sewer line is broken or destroyed).

The decision to terminate service requires careful consideration of its legal and procedural consequences. It is likely that forcing an industrial user to halt production will damage the industry's economic position. Nonetheless, this drastic measure is sometimes necessary to address emergency situations or industries resistant to previous enforcement measures. Service termination is sometimes used as an initial response to noncompliance which causes or threatens to cause an emergency situation. However, it is more frequently used as an escalated response to a significant violation when other enforcement responses fail to bring the industrial user into compliance.

Assuming other enforcement responses are unsuccessful, the types of violations warranting termination of service are:

- Unpermitted discharge(s) which violate the POTW's NPDES permit or which create a dangerous situation threatening human health, the environment, or the treatment plant
- Discharge(s) that exceed local or categorical discharge limits and result in damage to the environment
- Slug loads causing interference, pass through, or damage to human health, the environment, or the treatment plant
- Failure of the industrial user to notify the Control Authority of effluent limit violations or slug discharge which resulted in environmental or POTW damage
- Complete failure of the industrial user to sample, monitor, or report as required by an AO
- Failure of the industrial user to install required monitoring equipment per the condition of an AO
- Major violation of a permit condition or AO accompanied by evidence of negligence or intent.

Several Control Authorities have used termination of service in response to industrial noncompliance. For example, an electroplater in Boise, Idaho, was cited for violating reporting, compliance schedule, and discharge requirements; failure to perform self-

monitoring as required; and falsification of data. Initially, the industry was issued a NOV. However, when noncompliance persisted, an AO was issued to force the industry to achieve consistent compliance. Finally, sewer service was terminated.

Another example where termination of service was used as a last resort to achieve compliance was in San Diego, California. An oil refining company was issued an NOV for exceeding its phenol and zinc limits. Because it failed to come into compliance, a show cause hearing was scheduled and a 90-day compliance order issued. At the end of the 90-day period, the company was still out of compliance for phenol and zinc. A notice of intent to terminate service was issued and two weeks later the City plugged this industry's sewer connection.

These two cases illustrate how a Control Authority should escalate its administrative enforcement response to effectively address persistent noncompliance. In Kansas City, Missouri, a Control Authority used termination of service in conjunction with criminal prosecution. An electroplating industrial user was taken to court for ongoing violations of cyanide discharge limits. The judge delayed the proceedings because the user had contacted a contractor about installing a pretreatment system to eliminate the illegal discharge. However, the industry then began discharging even greater quantities of cyanide into the sewer. The Control Authority deemed the increased illegal discharges a health hazard, issued a notice of immediate sewer service termination, and then plugged the industry's sewer connection.

In addition to being an effective remedy for past or continuing noncompliance, the prospect of termination of service deters unauthorized or illegal discharges. For users whose service is terminated, two alternatives to local sewer service exist: (1) having wastewater hauled away; or (2) obtaining a direct discharge (NPDES) permit. If these alternatives are not feasible for an industry, it has a strong incentive to avoid termination of sewer service and remain in compliance. For example, a Sanitary District in Fremont, California, threatened to terminate service to an industrial user which failed to submit a baseline monitoring report. The report was submitted shortly after the notice of termination. Similar success has been enjoyed by Denton, Texas. When the regulated community is aware that this enforcement response is available and likely to be used as an escalated response, industrial users generally respond more quickly to preliminary (less severe) enforcement measures.