

# Attachment A-6

## Pretreatment Program

*TPDES Pretreatment Program Recommendations to the Enforcement Division for Categorization of EPA's Violation Review Action Criteria (VRAC) Guidelines*

The **VRAC** for the TPDES pretreatment program document is part of the 1998 Memorandum of Agreement between EPA and TNRCC and the application for the TPDES program. The VRAC specifies the enforcement response or consequence based on the circumstance and severity of the noncompliance or problem. The VRAC contains criteria to determine SNC, criteria that warrant automatic initiation of formal enforcement action, and timeframes for demonstrating compliance.

Note: *The VRAC should be compared to the EIC to identify the most stringent enforcement response and timeframe for corrective action. The most stringent enforcement response and timeframe for demonstrating compliance should be used.*

f. TPDES Pretreatment Program and Significant Industrial Users

### ***I. Violations by Significant Industrial Users***

<b>TNRCC Category</b>	<b>Violations</b>	<b>Criteria</b>
A	Violations causing interference or pass through (SNC)	Any violation
A	Violations causing imminent and substantial danger to human health or the environment or causing the POTW to exercise its emergency authority (SNC)	Any violation

### ***II. Violations of Reporting Requirements in Permits, Pretreatment Regulations, Administrative Orders and Temporary/Emergency Orders***

<b>TNRCC Category</b>	<b>Violations</b>	<b>Criteria</b>
	Discharge Monitoring Reports (DMRs)	30 days overdue, incomplete, illegible or incorrect
A - SNC for >30 days C - Other	Pretreatment Reports (by POTWs)	30 days overdue, incomplete, illegible or incorrect

<b>TNRCC Category</b>	<b>Violations</b>	<b>Criteria</b>
A - SNC for >45 days C - Other	Pretreatment Reports (by Industrial Users)	45 days overdue, incomplete, illegible or incorrect
C	Failure to provide "24-hour" notice of violation as required	Any violation
A - SNC for >45 days C - Other	Compliance Schedule Reports (final progress/quarterly reports) by Industrial Users	45 days overdue, incomplete, illegible or incorrect
C	Failure to file required report on a violation as required	More than 1 time during a 12-month period
C	Failure to report slug loading (pretreatment report)	Any violation
C	Failure to file required report on biological testing and/or corrective action relating to whole effluent toxicity requirements	30 days overdue, incomplete, illegible or incorrect
C	All additional reports	30 days overdue, incomplete, illegible or incorrect

### ***III. Violations of Other Requirements***

<b>TNRCC Category</b>	<b>Violations</b>	<b>Criteria</b>
A	POTW Pretreatment Programs	Any uncorrected failure to implement an approved pretreatment program which meets the requirements for being reported on the QNCR.
B	General Permit Conditions  a. Record Keeping, Operation and Maintenance (O&M)  b. Best Management Practices (BMPs)	Any violation of the narrative requirements (i.e., inaccurate record keeping, inadequate treatment plant O&M)  Any failure to follow BMPS (e.g., requirement to develop SPCC plans and implement BMPs)

TNRCC Category	Violations	Criteria
B	Administrative Order (Any other requirements cited in the Administrative Order)	Any violations during the review period
B or A (see ERG)	Discrepancies found in the course of inspections, audits or during the review of Annual Compliance Inspections (ACIs)	Any violation
B	<b>Complete</b> failure to enforce against dilution from Industrial Users	Any violation
C	Other Violations	Violation for which a formal enforcement action is recommended by the Enforcement Response Guide

**Enforcement Response Guidelines:** For all B and C categories formal enforcement action may be taken for repeated violations (See Criteria for Initiation of Formal Enforcement Action)

#### ***IV. Pretreatment: Industrial Users; Commission as the Control Authority***

TNRCC Category	Noncompliance/Problem	Circumstances/Severity	Response/Consequence
C	Non-submittal of baseline monitoring reports and other required pretreatment reports	Up to 45 days late	Receives written or verbal notification of the violation(s)
A	Non-submittal of baseline monitoring reports and other required pretreatment reports	Greater than 45 days late (SNC)	Automatic initiation of formal enforcement action
C	Failure to properly sample and/or analyze	Isolated or infrequent	Receives written or verbal notification of the violation(s)
B	Failure to properly sample and/or analyze	Frequent or continued	Given opportunity to comply with specified timeframe (compliance schedule)

<b>TNRCC Category</b>	<b>Noncompliance/Problem</b>	<b>Circumstances/Severity</b>	<b>Response/Consequence</b>
B	Failure to give proper notification of slug loading	Any incident	Given opportunity to comply with specified timeframe (compliance schedule)
B	Unauthorized discharge of slug load into collection system	Any discharge but corrective action takes <6 months to complete	Given opportunity to comply with specified timeframe (compliance schedule)
A	Unauthorized discharge of slug load into collection system with documented impact on environment, human health or safety	Any discharge	Automatic initiation of formal enforcement action
C	Failure to maintain and have records available	Isolated or infrequent	Receives written or verbal notification of the violation(s)
B	Failure to maintain or have records available	Frequent or continued	Given opportunity to comply with specified timeframe (compliance schedule)
B	Failure to meet compliance schedule requirements	Violation due to <i>force majeure</i>	Given opportunity to comply with specified timeframe (compliance schedule)
C	Failure to meet compliance schedule requirements	Missed interim date; will not affect final date	Receives written or verbal notification of the violation(s)
B	Failure to meet compliance schedule requirements	Missed final date; Less than 90 days	Given opportunity to comply with specified timeframe (compliance schedule)
A	Failure to meet compliance schedule requirements	Missed final date by 90 days or more; no good or valid cause (SNC)	Automatic initiation of formal enforcement action

<b>TNRCC Category</b>	<b>Noncompliance/Problem</b>	<b>Circumstances/Severity</b>	<b>Response/Consequence</b>
C	Violation of general or specific standard or local limit	Minor or infrequent; no known harm	Receives written or verbal notification of the violation(s)
A	Violation of general or specific standard or local limit	Frequent violations or known harm (SNC)	Automatic initiation of formal enforcement action
A	Violation of general or specific standard or local limit	Causes interference or pass through (SNC)	Automatic initiation of formal enforcement action
C	Violation of Categorical Limits	Infrequent or isolated minor violations	Receives written or verbal notification of the violation(s)
B	Violation of Categorical Limits	Infrequent or isolated major violations single effluent limit	Given opportunity to comply with specified timeframe (compliance schedule)
A	Violation of Categorical Limits	Frequent violations of effluent limits	Automatic initiation of formal enforcement action
A	Failure to accurately report noncompliance	Any violation (SNC)	Automatic initiation of formal enforcement action
B	Dilution as a substitute for pretreatment	Any violation	Given opportunity to comply with specified timeframe (compliance schedule)
A	Any noncompliance defined as SNC in 40 CFR Part 403.8 (f)(2)(viii) A-H	Significantly non-compliant	Annual publishing of IU's violation in local newspaper

## ***Significant Noncompliance (SNC Criteria)***

1. Effluent Violations of the Daily Maximum or Average Limits
  - a. TRC Violations

Violations in which 33% or more of all of the measurements for each pollutant parameter 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.

TRC = 1.4 For BOD, TSS, fats, oils and grease

TRC = 1.2 For all other pollutants except pH

- b. Chronic Violations

Violations in which 66% 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.

## ***V. Pretreatment: Industrial Users; POTW as Control Authority***

When the Commission chooses to take direct enforcement action against an Industrial User (IU) and/or a POTW, and there is an approved local program, the Commission will notify the POTW of its activities and may issue a NOV letter. The range of appropriate formal enforcement response for these IUs would be the same for IUs where the Commission is the control authority, with the exception that the Commission may join the POTW as a defendant in a judicial action under the Texas Water Code §26.121(c).

<b>TNRCC Category</b>	<b>Noncompliance/ Problem</b>	<b>Circumstances/Severity</b>	<b>Response/Consequence</b>
C	Non-submittal of required pretreatment reports	Late (less than 45 days)	Receives written or verbal notification of the violation(s)
A	Non-submittal of required pretreatment reports	Continued/recurring non-submittal after notification (more than 45 days) (SNC)	Automatic initiation of formal enforcement action

<b>TNRCC Category</b>	<b>Noncompliance/ Problem</b>	<b>Circumstances/Severity</b>	<b>Response/Consequence</b>
C	Failure to issue/reissue SIU control mechanisms as required by approved program	Late, but corrected	Receives written or verbal notification of the violation(s)
B	Failure to issue/reissue SIU mechanisms as required by approved program	Continued/recurring violation after notification	Given opportunity to comply with specified timeframe (compliance schedule)
C	Failure to sample/inspect SIUs as required by program	Isolated or infrequent	Receives written or verbal notification of the violation(s)
B	Failure to sample/inspect SIUs as required by program	Continued/recurring	Given opportunity to comply with specified timeframe (compliance schedule)
C	Failure to establish and enforce SIU self-monitoring requirement	Isolated or infrequent	Receives written or verbal notification of the violation(s)
B	Failure to establish and enforce SIU self-monitoring requirement	Continued/recurring	Given opportunity to comply with specified timeframe (compliance schedule)

TNRCC Category	Noncompliance/ Problem	Circumstances/Severity	Response/Consequence
C	Failure to appropriately enforce pretreatment standards (categorical standards and local limits)	Isolated or infrequent	Receives written or verbal notification of the violation(s)
B	Failure to appropriately enforce pretreatment standards (categorical standards and local limits)	Continued/recurring non-enforcement against one or more SIUs	Given opportunity to comply with specified timeframe (compliance schedule)
B	<b>Partial</b> failure to enforce against instances of pass-through or interference	Any instance	Given opportunity to comply with specified timeframe (compliance schedule)
A	<b>Complete</b> failure to enforce against instances of pass-through or interference	Any instance	Automatic initiation of formal enforcement action
C	Failure to publish list of significant IUs in significant noncompliance with requirements	Late	Receives written or verbal notification of the violation(s)
B	Failure to publish list of significant IUs in significant noncompliance with requirements	Continued/recurring	Given opportunity to comply with specified timeframe (compliance schedule)

<b>TNRCC Category</b>	<b>Noncompliance/ Problem</b>	<b>Circumstances/Severity</b>	<b>Response/Consequence</b>
C	Failure to comply with compliance schedule	Milestone date missed by less than 90 days	Receives written or verbal notification of the violation(s)
A	Failure to comply with compliance schedule	Milestone date missed by 90 days or more (SNC)	Automatic initiation of formal enforcement action
C	<b>Partial</b> failure to maintain and update IU inventory	Isolated or infrequent	Receives written or verbal notification of the violation(s)
B	<b>Complete</b> failure to maintain and update IU inventory	Continued/recurring	Given opportunity to comply with specified timeframe (compliance schedule)
B	<b>Partial</b> failure to investigate instances of reported or alleged non-compliance by IUs	Isolated or infrequent with no known harm Continued/recurring violation or single violation with harm	Given opportunity to comply with specified timeframe (compliance schedule)
A	<b>Complete</b> failure to investigate instances of noncompliance by IUs	Isolated or infrequent, continued/recurring violation or single violation with harm	Automatic initiation of formal enforcement action
C	<b>Partial</b> failure to implement Enforcement Response Plan procedures	Isolated	Receives written or verbal notification of the violation(s)
A	<b>Complete</b> failure to implement Enforcement Response Plan Procedures	Continued	Automatic initiation of formal enforcement action

## ***VI. Obtaining Program Approval***

<b>Category</b>	<b>Noncompliance /Problem</b>	<b>Circumstances/Severity</b>	<b>Response/Consequence</b>
B	Failure to submit an approvable program	First occurrence <90 days late	Given opportunity to comply with specified timeframe (compliance schedule)
A	Failure to submit an approvable program	Continued violations >90 days late	Automatic initiation of formal enforcement action