

**City of Sidney**  
**Wastewater Treatment Plant**  
**Industrial Pretreatment Program**  
**Enforcement Response Guide**

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## **General**

The Enforcement Response Guide (ERP) outlines the specific minimum enforcement responses that will be taken by the City of Sidney (City) following non-compliance actions with the City's Sewer Use Ordinance 913 or permit requirements by Industrial Users (IUs).

## **Introduction**

Pursuant to federal regulations, Title 40 of the Code of Federal Regulations (40 CFR) Part 403.8(f)(5), the following Enforcement Response Guide has been adopted and shall be followed for the purpose of protecting the City of Sidney's Publicly Owned Treatment Works (POTW) against blockages of, damage to, interference with or pass-through from the POTW, or any other damages that may be caused by non-residential discharges to the POTW. All non-residential users, discharging to the POTW, are subject to this Enforcement Response Guide. The Enforcement Response Guide outlines the procedures to be followed by the City in identifying, documenting, and responding to violations. Incorporated into this Enforcement Response Guide are specific criteria by which the City will use to determine the enforcement action most appropriate to the nature of the violation. In addition, this Enforcement Response Guide describes the duties of the City, methods used to determine compliance with applicable regulations and procedures to review compliance data. To facilitate easy reference, the accompanying enforcement guide lists, in a tabulated form, the most common types of non-compliance and enforcement actions. Authorities per the City of Sidney Code of Ordinances (913); the Utilities Director, the WWTP Superintendent, the Industrial Pretreatment Coordinator, or any designee thereof is appointed as the official responsible for each type of enforcement response described in this guide.

## **Enforcement Responsibilities**

### **Duties of the Utilities Director**

- Issue, modify, and revoke discharge permits.
- Approve Administrative Orders.
- Moderates compliance meetings with IUs.
- Authorizes sewer/water service terminations.
- Recommends civil/criminal penalties to City Manager and City Attorney.
- Prepares referrals with the City Attorney for criminal prosecution if warranted.

## Duties of the WWTP Superintendent / Assistant Superintendent

- Provides oversight of the Industrial Pretreatment Program, Coordinator, and activities.
- Ensures that compliance actions taken are consistent and timely.
- Reviews enforcement actions.
- Authorizes routine enforcement actions such as notices of violation (NOVs).
- Coordinates compliance meetings with Utilities Director and discharger.
- Negotiates Administrative Orders and Compliance Schedules with dischargers.

## Duties of the Industrial Pretreatment Program (IPP) Coordinator

- Conducts and/or directs monitoring activities/schedule of City monitoring schedule.
- Reviews monitoring results and identifies discharge violations.
- Reviews self-monitoring reports to verify discharge compliance.
- Ensures that compliance actions taken are consistent and timely.
- Prepares routine enforcement actions, Administrative Orders, Compliance Schedules, Notice of Violations, and makes recommendations to the WWTP Superintendent on non-compliance activities. Issues actions upon approval of the WWTP Superintendent.
- Maintains records of all enforcement actions.
- Publicizes SIUs that have been in significant non-compliance by having them listed in the newspaper.
- Notifies IUs of non-compliance by phone call or correspondence.

## **Protocol for Identifying, Monitoring and Investigating Non-Compliance**

Activities associated with identifying, monitoring, and investigating non-compliance include maintaining a list of Significant Industrial Users (SIUs) and Non Significant Industrial Users, monitoring and investigating non-compliance instances.

City staff is responsible for identifying industries discharging into the City sewer system, where they are located, and the nature and volume of the wastewater being discharged. This is established through a current inventory list of all IUs, Data Disclosure Forms submitted as required by the IUs and current discharge permits issued through the Industrial Pretreatment Program.

City staff will routinely and randomly collect samples to determine compliance with applicable pretreatment regulations, including compliance with discharge limitations and City of Sidney's, Sewer Use Ordinance 913. Staff will collect representative samples in accordance with appropriate sampling protocol, which includes using clean equipment, proper types of collection vessels, proper preservation, utilizing approved analytical methods and investigative techniques. A completed chain of custody form will accompany each sample. This form will follow the sample through the analytical process to ensure a legally binding link between the sample and the analytical data.

All SIUs are required to submit self-monitoring data reports at least bi-annually. These reports document the IUs compliance sampling during the bi-annual period. City staff will review submitted reports to verify compliance with applicable pretreatment standards.

## **Protocol For Identifying, Monitoring and Investigating Compliance (cont.)**

All SIUs are required to be inspected at least annually. Non-SIUs are inspected during their discharge permit renewal process. In both instances, the WWTP Superintendent approves the inspection report prepared by the IPP Coordinator that is sent to the IU. Scheduled inspections verify the accuracy of the Data Disclosure Form and identifies any potential problems or violations. Additional inspections or site visits may occur to track compliance schedule activities, verify compliance or process changes, maintain a regular presence or inspect locations for discharges that have the potential to negatively impact the POTW.

### **Compliance Decisions and Enforcement Protocol**

When violations are identified by City staff, they are evaluated and addressed according to the guidelines outlined in this Enforcement Response Guide. When determining an appropriate response, the specific procedures as outlined in the Enforcement Response Guide shall be followed. However, additional criteria may be considered, including:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the POTW receiving stream
- Effect of the violation on POTW processes and equipment
- Compliance history of the industrial user
- Pollutants of particular concern to the POTW

The majority of the enforcement actions begin with the issuance of a Notice of Violation (NOV) which describes the nature of the violation. Once the IU has been notified of a violation, they must acknowledge receipt of the NOV via email. Typically, an IU has 5 to 7 business days to respond to the specific violation in writing; the response will document the IU's explanation and planned corrective action(s).

## Industrial Pretreatment Administrative Fine Schedule

Administrative fines as defined in the table below are per event unless otherwise noted.

<b>Violation</b>	<b>Fine</b>
Deliberate discharge known to be in violation of local or categorical limits	\$1,000
Failure to submit a permit renewal application (\$25 per day for each day after due date)	\$500
Late Report (Any required report) (\$25 per day for each day after due date)	\$500
Missed permit milestone dates, including required reporting – Good Cause / No Cause	\$250 / \$500
Failure to report significant production / process change	\$250
Failure to monitor pollutants required by discharge permit (Per Parameter)	\$250
Falsifying reports or sampling data	\$1,000
Violation of an approved Best Management Practices (BMP's)	\$250
Failure to report slug load discharge	\$1,000
Slug load discharge which causes WWTP upset or requires modification to any process	\$1,000
Pass through which causes NPDES violation of POTW's effluent limits or interferes with POTW ability to treat and apply biosolids	\$1,000
Failure to operate pretreatment equipment / facility properly	\$250
Waste stream dilute in lieu of treatment	\$1,000
Failure to mitigate non-compliance	\$250
Failure to halt discharge after notification from the City	\$250
Denied or Delayed entry (greater than 5 minutes to obtain permission)	\$1,000
Improper or unapproved sampling techniques	\$250
Unauthorized discharge	\$1,000
Failure to report monitoring data	\$250
Failure to maintain records for three years	\$250
Failure to take City issued corrective actions	\$250
Failure to notify City of discharge violation within 24 hours of becoming aware	\$250
Improperly signed report	\$250
Violation of Administrative Orders	\$1,000
Violation of Compliance Schedules	\$1,000
Failure to notify of discharge (Permit Required)	\$250

**Industrial Pretreatment Administrative Fine Schedule (cont)**

Sampling results, which exceed local or categorical limits, will result in the assessment of an administrative penalty or penalties as defined by the table below:

<b>Exceed Permitted Limit By - Within Rolling 12 Month Period</b>					
	Less than 25%	25 to 49%	50 to 74%	75 to 100%	Greater than 100%
1 <sup>st</sup> Offense	Phone Call	NOV	NOV	\$250	\$350
2 <sup>nd</sup> Offense	NOV	\$250	\$300	\$500	\$700
3 <sup>rd</sup> Offense	\$400	\$450	\$500	\$800	\$900
4 <sup>th</sup> Offense	\$600	\$650	\$750	\$1,000	\$1,000
5 <sup>th</sup> Offense	\$800	\$850	\$1,000	\$1,000	\$1,000
6 <sup>th</sup> Offense	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000

After the 6<sup>th</sup> Offense the Administrative Penalty shall be \$1,000 per Offense

Sampling results, which are not within pH limits, will result in the assessment of an administrative penalty or penalties as defined by the table below:

<b>Permitted pH Limit – Within Rolling 12 Month Period</b>		
	2.0 – 5.4 & 10.6 -12.5 S.U.	Less than 2.0 or Greater than 12.5 S.U.
1 <sup>st</sup> Offense	NOV	NOV
2 <sup>nd</sup> Offense	\$200	\$350
3 <sup>rd</sup> Offense	\$400	\$700
4 <sup>th</sup> Offense	\$600	\$1,000
5 <sup>th</sup> Offense	\$800	\$1,000
6 <sup>th</sup> Offense	\$1,000	\$1,000

After the 6<sup>th</sup> Offense the Administrative Penalty shall be \$1,000 per Offense

**Notes:**

- Maximum administrative penalty per event is \$1,000. Fines may be levied by the courts in excess of these amounts.
- Administrative penalty range increments increase per event, not per day, for permitted industries.
- Any or all administrative penalties may be waived or modified per the discretion of the Utilities Director.

# Compliance Decisions and Enforcement Protocol

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## Unauthorized Discharge – No Discharge Permit

<u>Non-Compliance</u>	<u>Nature of Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Unauthorized Discharge	- IU unaware of requirement: no harm to POTW or Environment	Exhibit A Page 10
	- IU unaware of requirement: harm to POTW or Environment	Exhibit A Page 10
2. Failure to Renew Permit	- Failure to submit Data Disclosure Forms within 90 days of permit expiration	Exhibit B Page 11

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## Discharge Permit Limit Violation

<u>Non-Compliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Exceeding Permit Limit Or Categorical Standard	- Isolated (exceeds limit by <25%) No Harm to POTW	Exhibit C Page 12
	- Isolated (exceeds limit by >25%) No Harm to POTW	Exhibit C Page 12
	- Isolated (exceeds limit by >75%) No Harm to POTW	Exhibit C Page 12
	- Isolated (exceeds limit by >25%) Harm to POTW	Exhibit D Page 13
	- Recurring (exceeds limit by >25%) Harm to POTW	Exhibit D Page 13

## Compliance Decisions and Enforcement Protocol, cont.

### Monitoring and Reporting Violations

<u>Non-Compliance</u>	<u>Nature of Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Reporting Violations	- Falsification of reports	Exhibit E Page 14
	- Falsification of sampling data	Exhibit E Page 14
	- Improperly signed report	Exhibit E Page 14
	- Late Report (Bi-Annual Report, NOV Required Responses, Monitoring Data)	Exhibit E Page 14
	- Failure to report change in discharge (no harm to POTW)	Exhibit E Page 14
	- Failure to report slug load discharge	Exhibit E Page 14
	- Failure to notify City of discharge violation within 24 hrs. of exceedance	Exhibit E Page 14
	- Failure to notify of discharge (Permit Required)	Exhibit E Page 14
2. Failure to Monitor Correctly	- Failure to monitor all pollutants required by discharge permit	Exhibit E Page 14
	- Failure to install monitoring equipment	Exhibit E Page 15
3. Improper Sampling	- Evidence of intent	Exhibit E Page 14
	- Improper sampling techniques	Exhibit E Page 14

### Permit Issued Compliance Schedules

<u>Non-Compliance</u>	<u>Nature of Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Permit Issued Compliance Schedules	- Missed milestone date by < 45 days and will affect final date (documented good cause)	Exhibit F Page 15
	- Missed milestone date by <45 days and will not affect final milestone date	Exhibit F Page 15
	- Missed milestone date by >45 days and will affect final milestone date (no good cause for delay)	Exhibit F Page 15
	- Recurring violation or violation of schedule in Administrative Order	Exhibit F Page 15

## Compliance Decisions and Enforcement Protocol, cont.

### Other Permit And/Or Ordinance Violations

<u>Non-Compliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Wastewater Streams are Diluted in Lieu of Treatment	- Initial	Exhibit G Page 16
	- Recurring	Exhibit G Page 16
2. Failure to Mitigate Non-Compliance	- Does not result in harm	Exhibit G Page 16
	- Results in harm	Exhibit G Page 16
3. Failure to Halt Discharge	- Does not result in harm	Exhibit G Page 16
	- Results in harm	Exhibit G Page 16
4. Failure to Operate and Maintain Pretreatment Equipment / Facilities Properly	- Initial	Exhibit G Page 16
	- Recurring	Exhibit G Page 16
5. Violations of Administrative Orders	- Recurring	Exhibit G Page 16
5. Violation of BMP's	- Initial	Exhibit G Page 16
	- Recurring	Exhibit G Page 16
6. Discharge Violations	- Slug load which causes POTW upset or requires process modification	Exhibit G Page 16
	- Pass through which causes NPDES Violation of POTW's effluent limits or interferes with POTW's ability to treat and apply Biosolids	Exhibit G Page 16

## Compliance Decisions and Enforcement Protocol, cont.

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### Violations Detected During Site Visit Or Inspection

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<u>Non-Compliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Industrial User Denies/Delays Entry	- Denied/Delayed entry onto facility	Exhibit H Page 17
	- Denied copy of records	Exhibit H Page 17
2. Illegal Discharge	- No harm to POTW or Environment	Exhibit H Page 17
	- Discharge causes harm	Exhibit H Page 17
	- Evidence of intent or negligence	Exhibit H Page 17
	- Recurring violations	Exhibit H Page 17
3. Record Keeping	- Failure to maintain records for three years	Exhibit H Page 17

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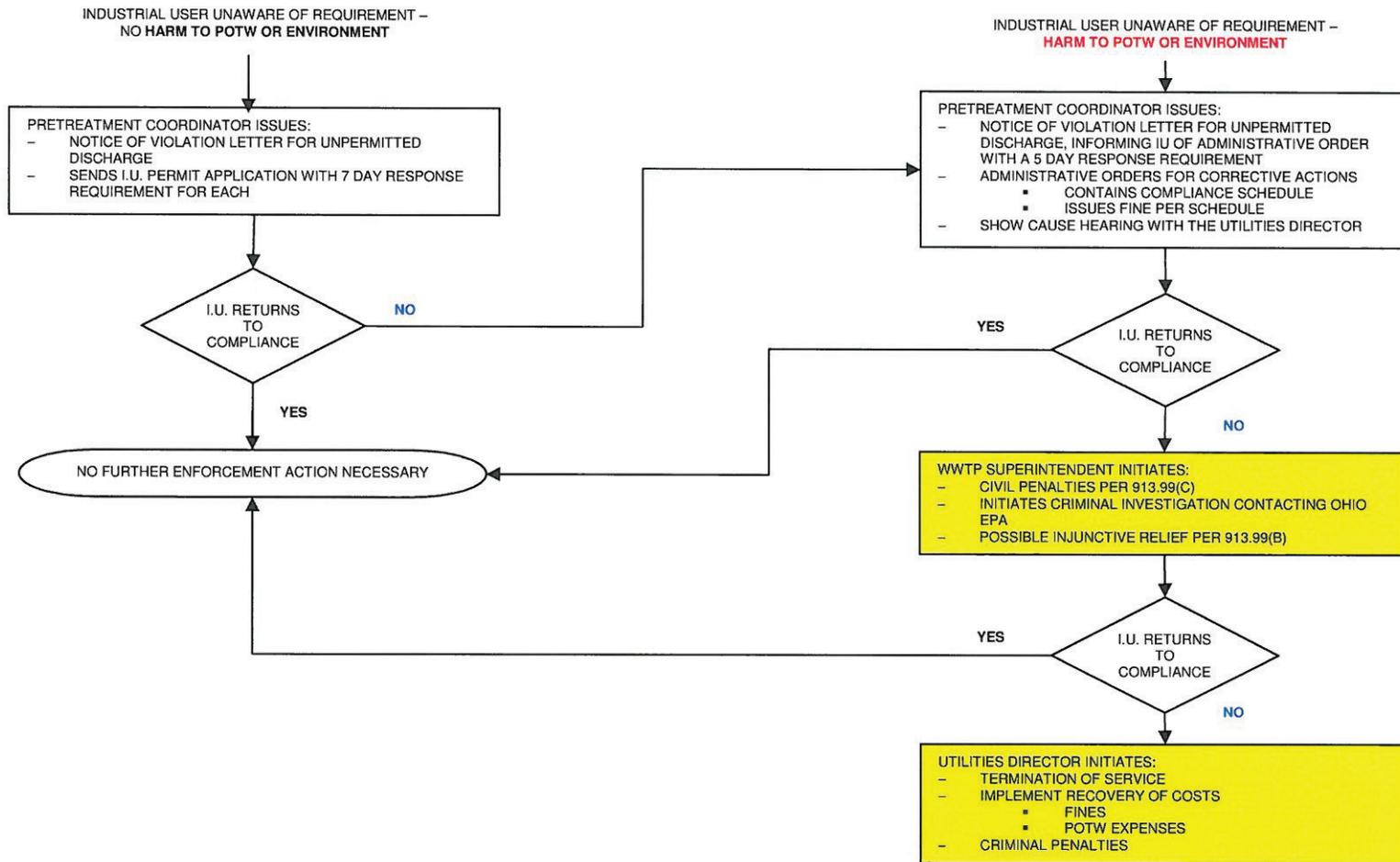
### Significant Non-Compliance (SNC)

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<u>Non-Compliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Exhibit Reference</u>
1. Industrial User (IU) Determined to be in Significant Non-Compliance	- Initial	Exhibit I Page 18
	- Recurring	Exhibit I Page 18
	- Failure to provide report within 45 days	Exhibit I Page 18

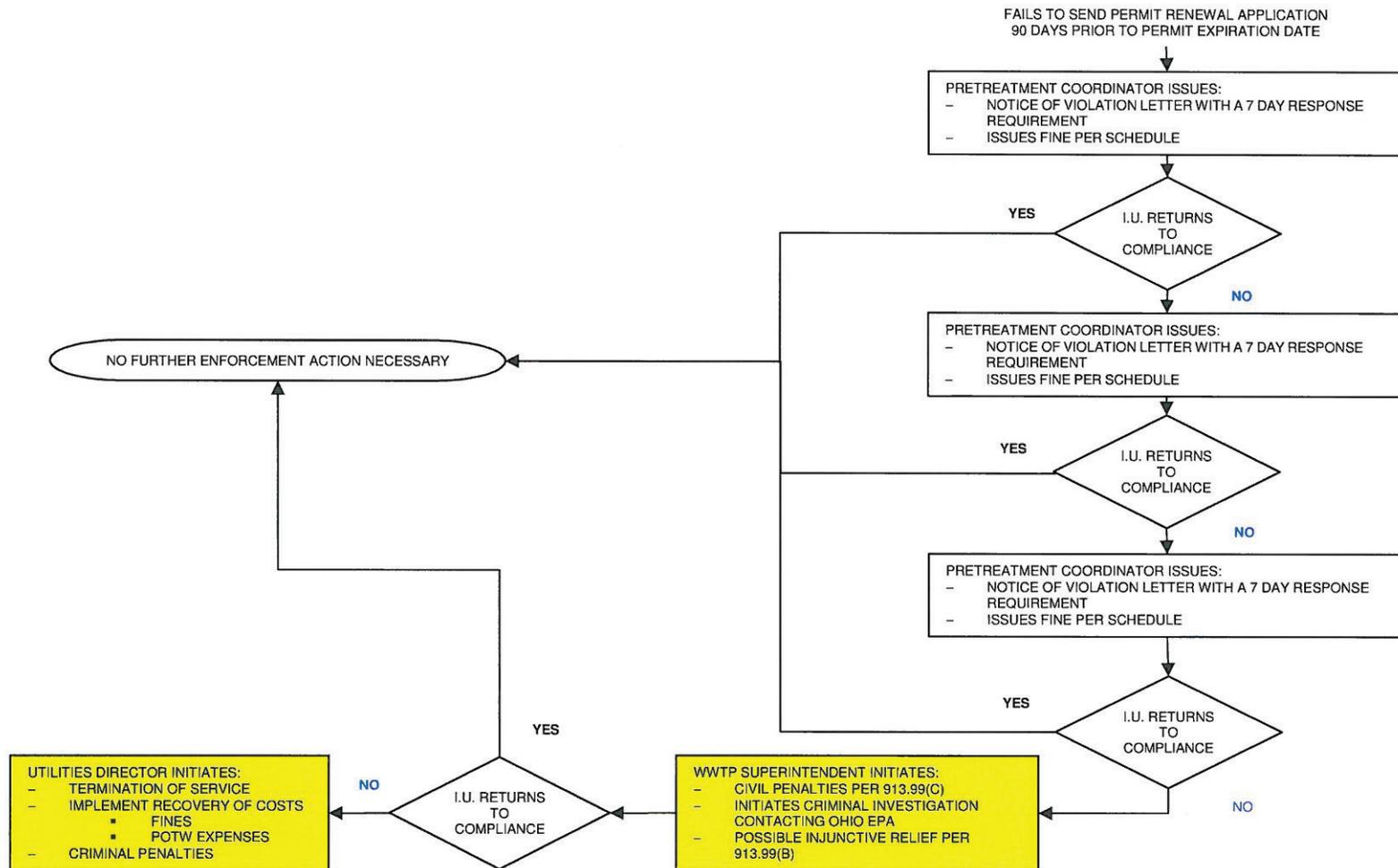
# NON COMPLIANCE EXHIBIT – A

## AN UNAUTHORIZED DISCHARGE NO INDUSTRIAL DISCHARGE PERMIT



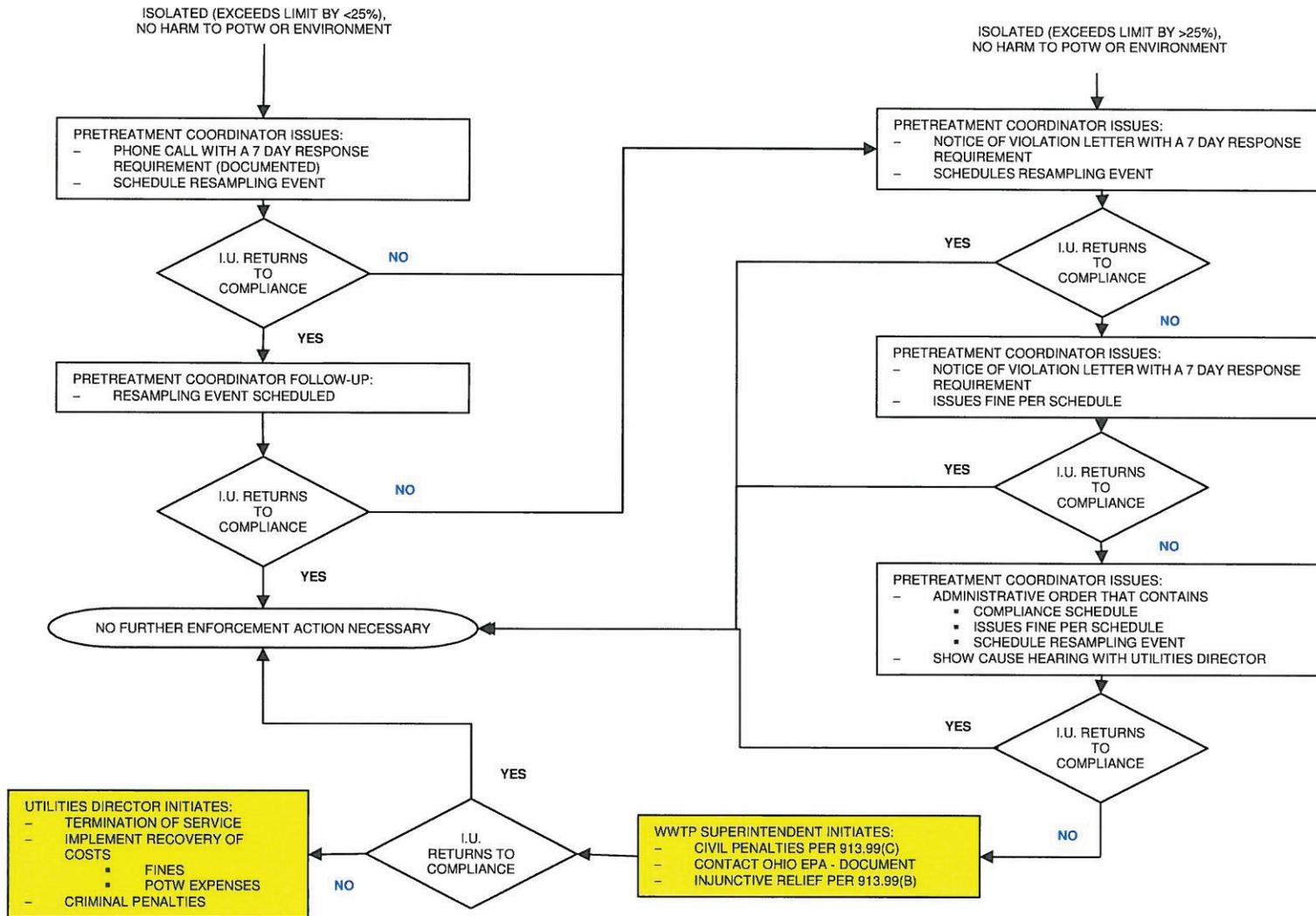
# NON COMPLIANCE EXHIBIT – B

## UNAUTHORIZED DISCHARGE – FAILURE TO RENEW INDUSTRIAL DISCHARGE PERMIT



# NON COMPLIANCE EXHIBIT – C

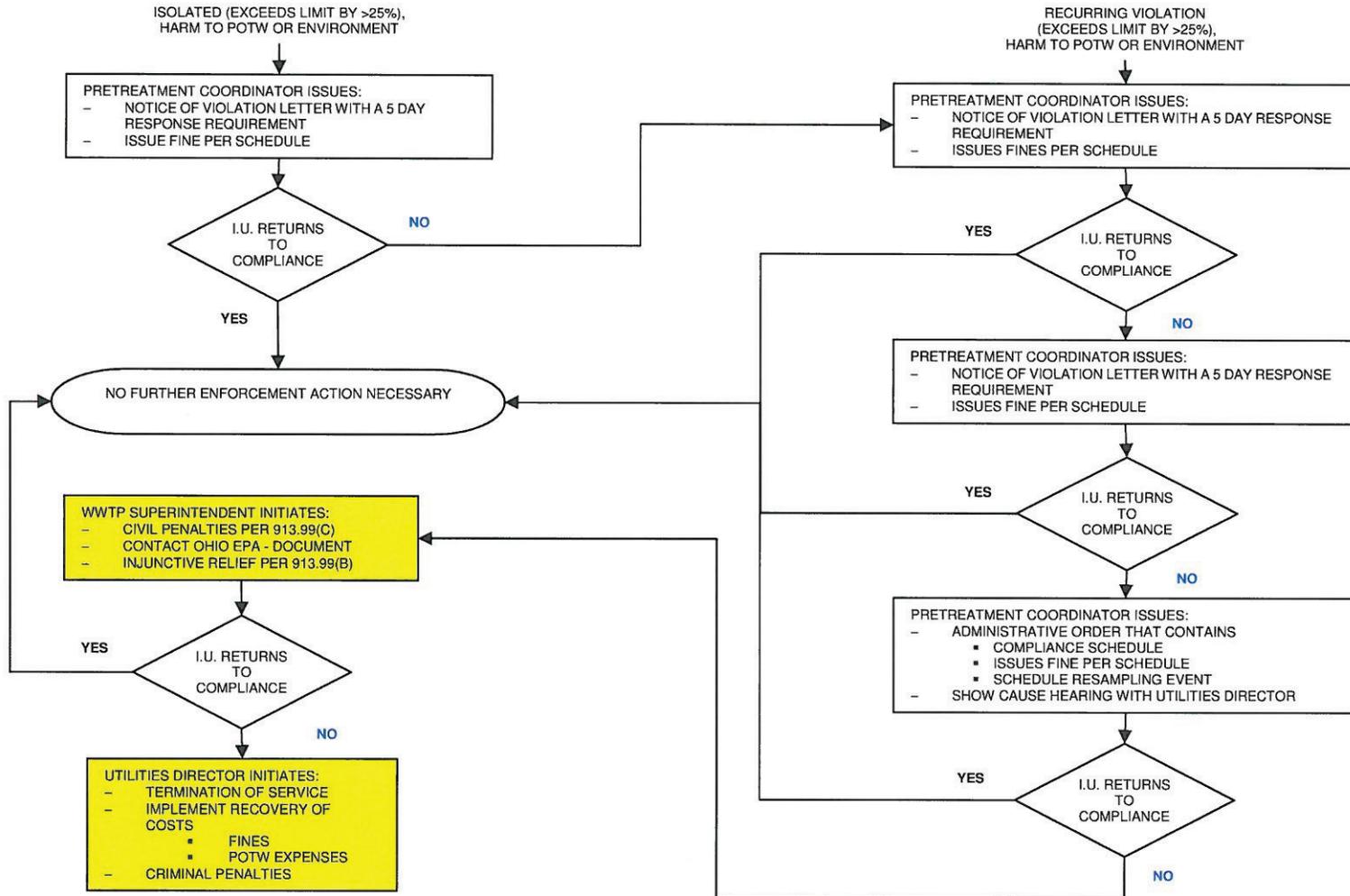
## DISCHARGE PERMIT VIOLATION – EXCEEDS LOCAL PERMIT LIMIT OR CATEGORICAL STANDARDS NO HARM TO POTW OR ENVIRONMENT



# NON COMPLIANCE EXHIBIT – D

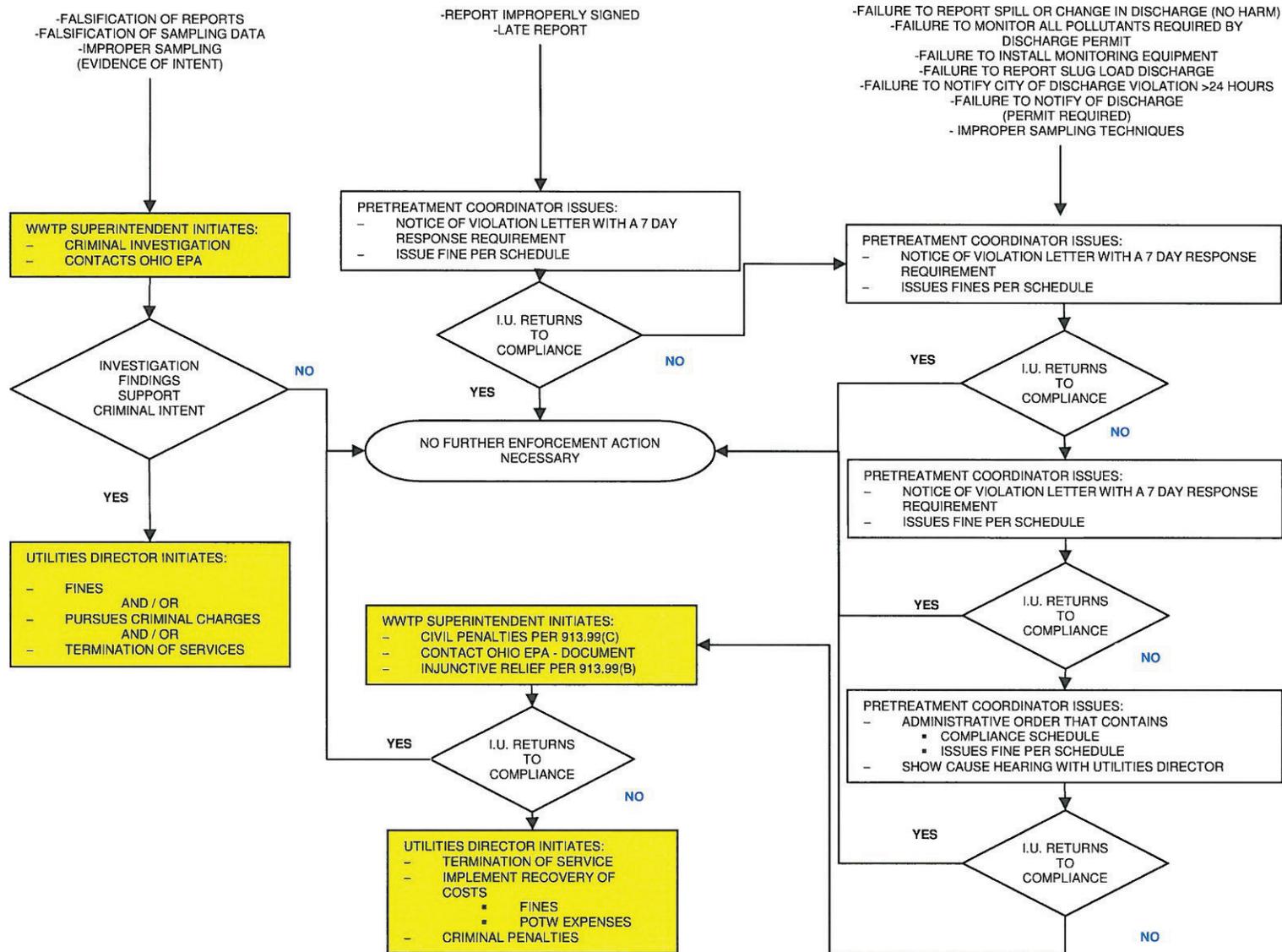
## DISCHARGE PERMIT VIOLATIONS – VIOLATES LOCAL PERMIT LIMIT OR CATEGORICAL STANDARD

### HARM TO POTW OR ENVIRONMENT



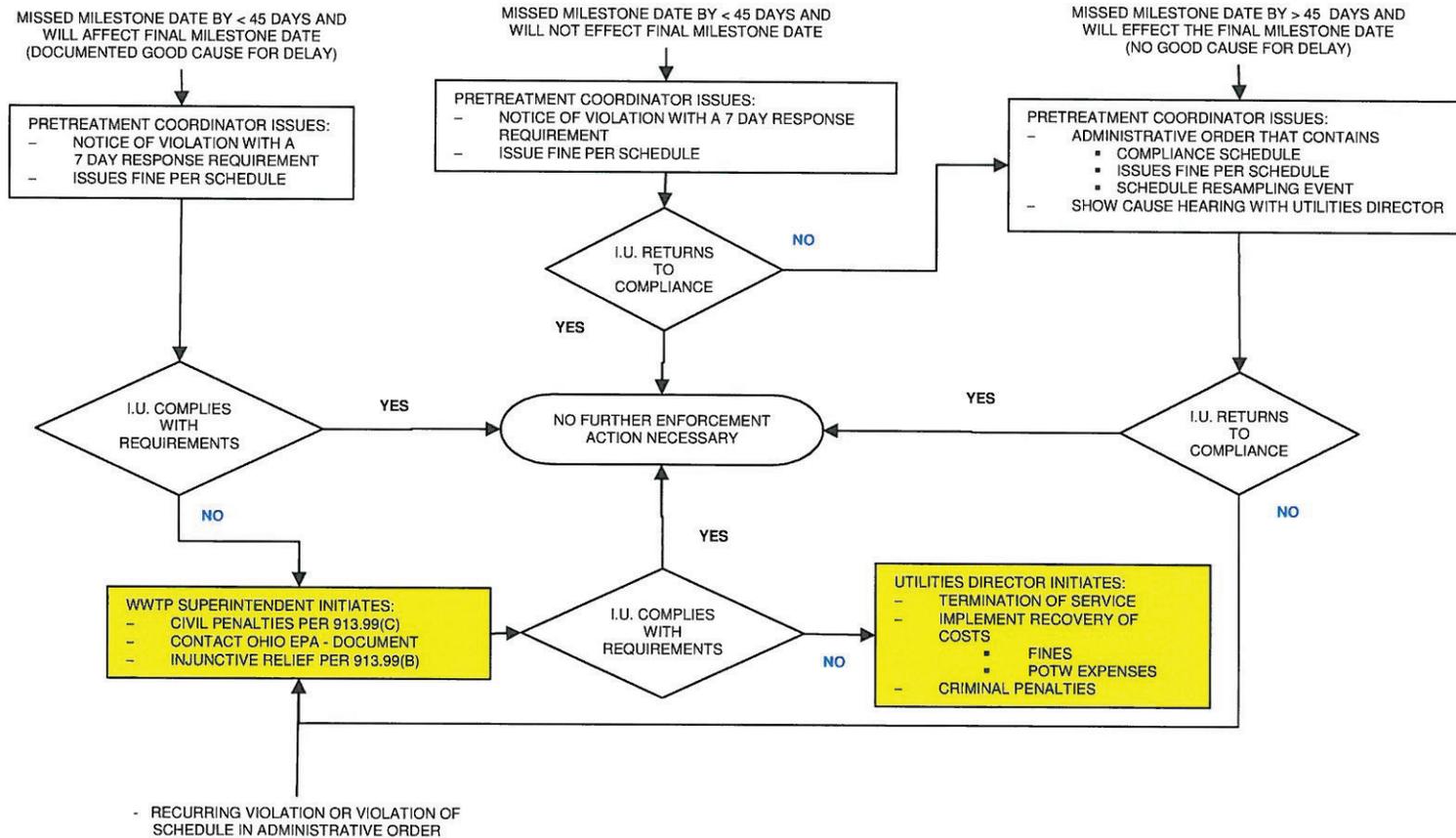
# NON COMPLIANCE EXHIBIT – E

## MONITORING AND REPORTING VIOLATIONS

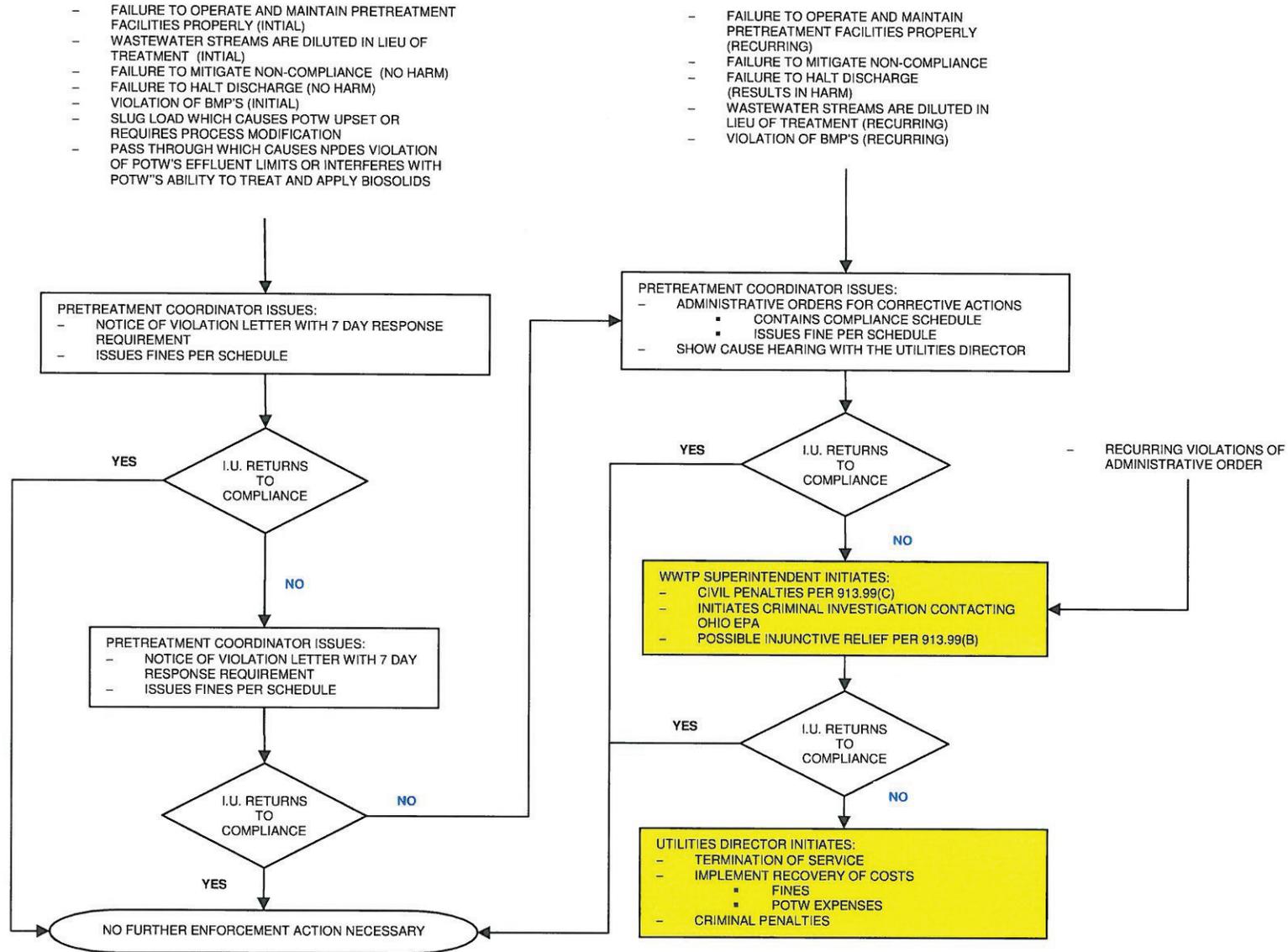


# NON COMPLIANCE EXHIBIT – F

## PERMIT ISSUED COMPLIANCE SCHEDULES

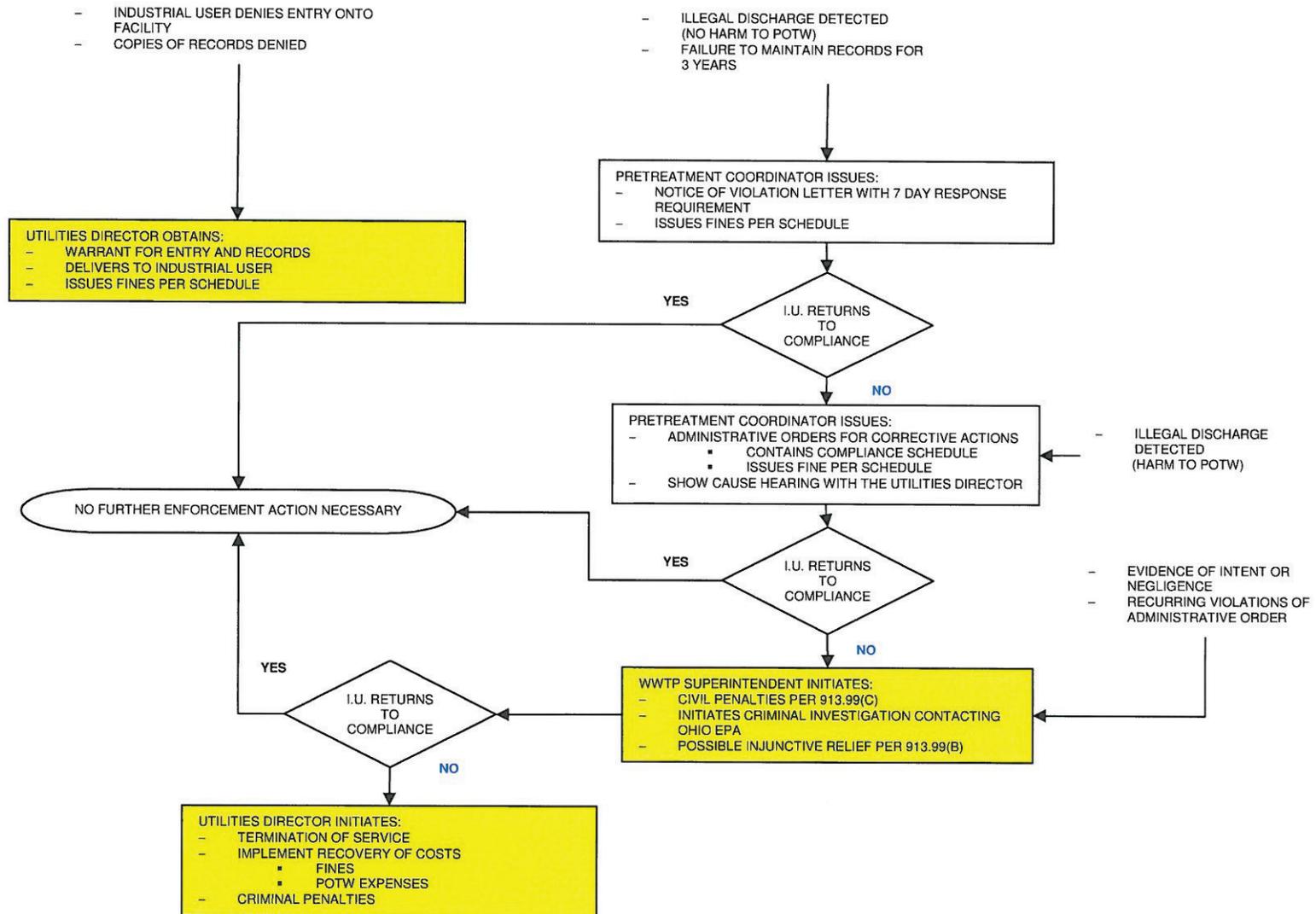


# NON COMPLIANCE EXHIBIT – G OTHER PERMIT AND/OR ORDINANCE VIOLATIONS



# NON COMPLIANCE EXHIBIT – H

## VIOLATIONS DETECTED DURING SITE VISIT OR INSPECTION



# NON COMPLIANCE EXHIBIT – I SIGNIFICANT NON-COMPLIANCE (SNC)

