

Wisconsin Central States Pretreatment Conference

DEVELOPING AN ENFORCEMENT RESPONSE PLAN

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OVERVIEW

ERP Purpose

Current Status of ERPs

Ordinance & ERP Relationship

What to include in an ERP

Questions



ERP PURPOSE

Required Document for Formal Programs

- WDNR requires POTWs to identify and respond to **ALL** violations

Guidance Manual to:

- Implement Industrial Pretreatment Program
- Maintains consistent enforcement
- Resource for new staff

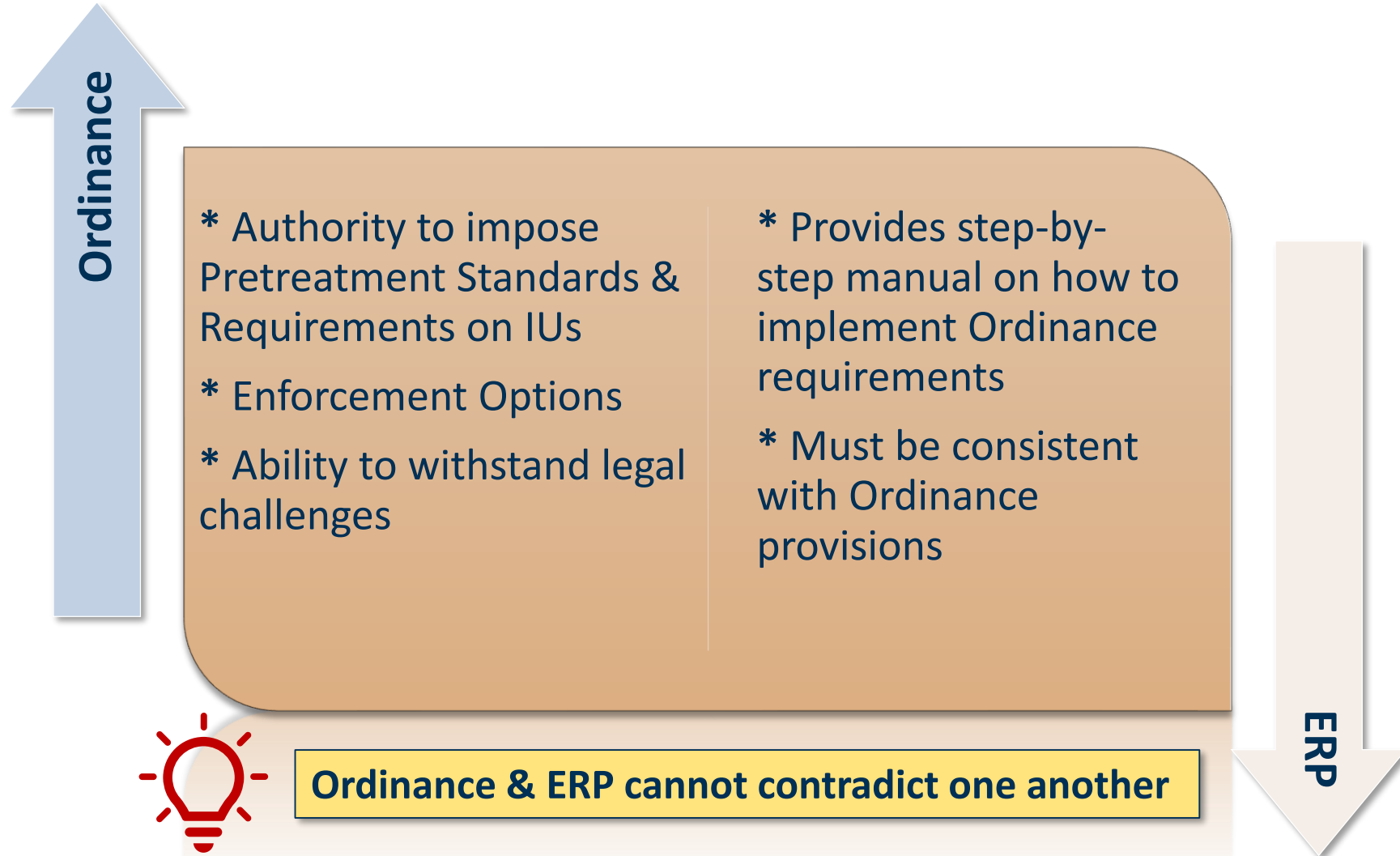


CURRENT STATUS OF ERPs

- **Originally prepared when IPP was developed**
 - 1990s to early 2000s
 - Most have not been updated since
 - Does not include current enforcement procedures
 - Not being used by current Pretreatment staff
- **Is your ERP in need of an update?**
 - Considered substantial change → WDNR approval needed



ORDINANCE & ERP RELATIONSHIP



DEVELOPING AN ERP

USEPA Guidance Manual

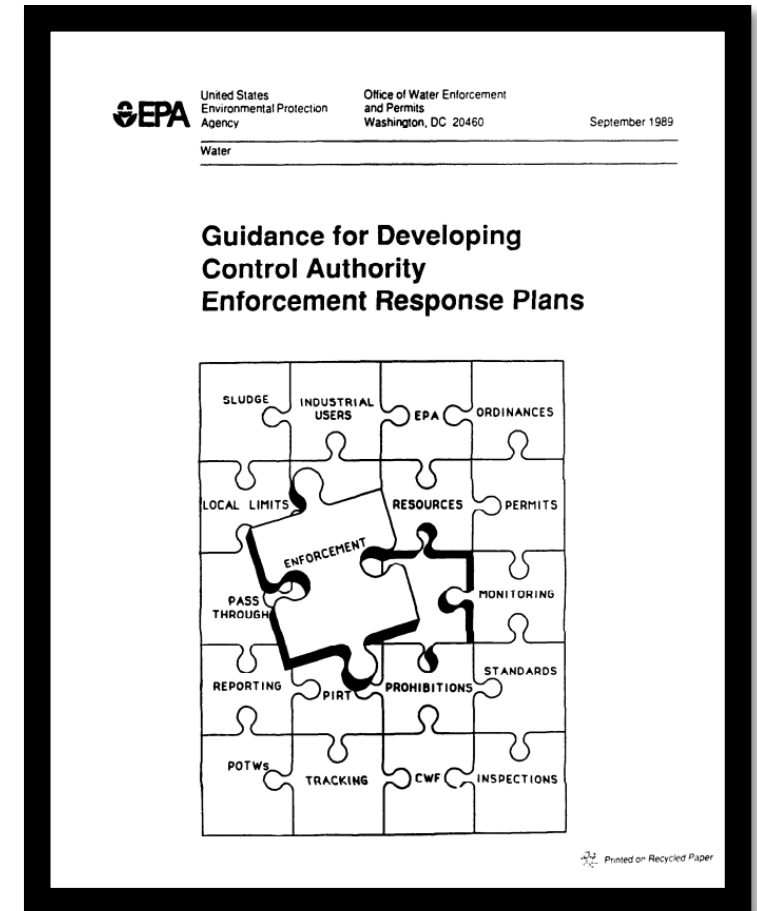
“Guidance for Developing Control Authority Enforcement Response Plans” (1989)

Link:

[Guidance for Developing Control Authority Enforcement Response Plans; September 1989. \(epa.gov\)](https://www.epa.gov/guidance-for-developing-control-authority-enforcement-response-plans)

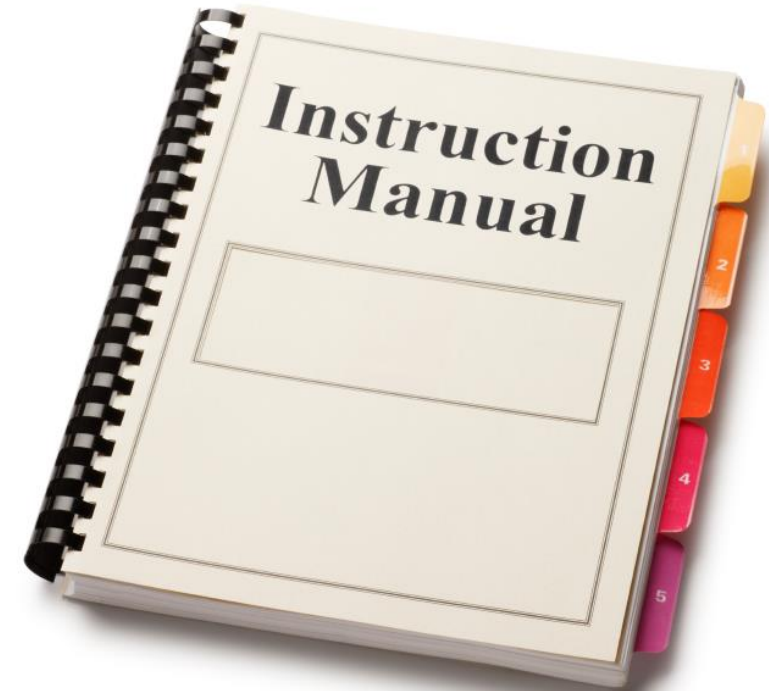
Who:

- Pretreatment Coordinator
- Director of Public Works/Wastewater Superintendent
- Attorney



ERP CONTENTS

- Introduction
- Compliance Investigations
- Reporting & Compliance Screening
- Types of Enforcement
- Enforcement Evaluation
- Significant Non-Compliance
- Appeals



INTRODUCTION

■ Reference

- Pretreatment Regulations
- Ordinance
- WPDES/NPDES Permit

■ ERP Purpose

■ Responsible Personnel & Duties

- Internal Staff
- Contract Operator
- Consultant
- If 3rd Party implements Pretreatment program → define internal and 3rd party tasks

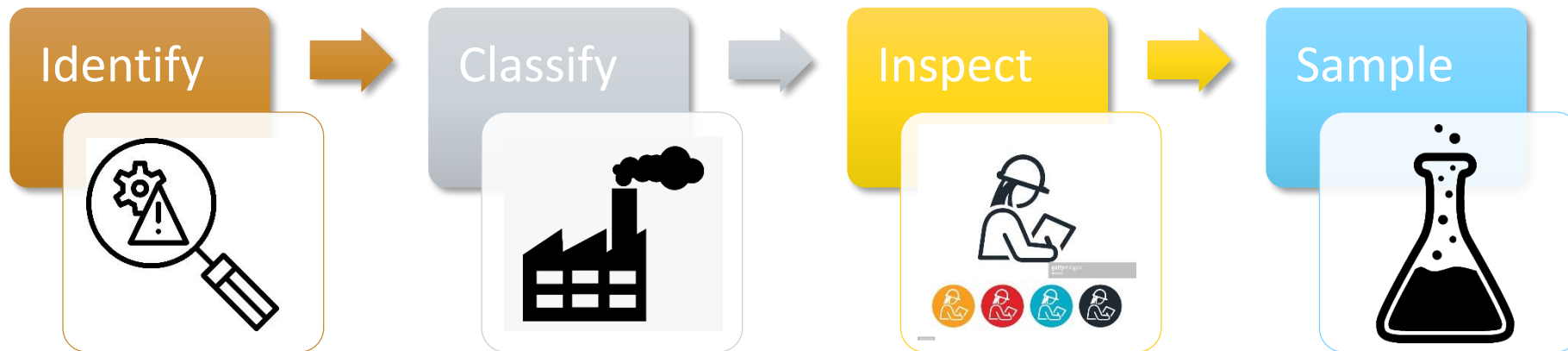


Example:

- Pretreatment Coordinator: day-to-day implementation & basic enforcement
- Superintendent: Enforcement escalation
- Attorney: Legal help for enforcement escalation & civil litigation

COMPLIANCE INVESTIGATIONS

■ How to determine IU compliance:



■ ERP to outline these compliance assessment procedures.

COMPLIANCE INVESTIGATIONS – IDENTIFY & CLASSIFY



INDUSTRIAL USER SURVEY

IU Inventory

- How will annual survey be maintained?
- New industry review procedures
- If wastewater received from tributary municipalities
→ how will you be notified of new industries?

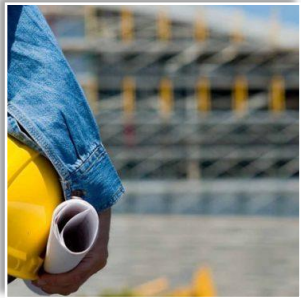
Classification & Permitting Procedures

- Provide classification determination form as attachment

Types of Permitted IUs

- CIU/SIU
- Zero Dischargers
- Non-Significant Industrial Users

COMPLIANCE INVESTIGATIONS – INSPECT & SAMPLE



IU Site Inspections

- Annual Inspections
- Non-routine Inspections
- Responsible Personnel
- Include site inspection form as attachment



IU Sampling

- Who is responsible for routine sampling?
 - IU or CA
- Surcharge Sampling?
- Annual CA sampling
- Sampling frequency

REPORTING & COMPLIANCE SCREENING

Required to review & retain IU reports & documents

Outline required reports & documents in ERP

Ensures proper files are being maintained



* "FOREVER FILE" documents

- Baseline Monitoring Report (CIU)*
- 90 Day Compliance Report (CIU)*
- Permit Application
- Permit & Fact Sheet
- Site Plans/Process Flow Diagrams*
- Spill/Slug Plan
- Self-Monitoring Reports
- Toxic Organic Management Plan (CIU)*
- NOVs and IU Responses
- General Correspondence

REPORTING & COMPLIANCE SCREENING

■ Self-Monitoring Report Review



REPORTING & COMPLIANCE SCREENING



Submittal Tracking

- How are you receiving & tracking submittals
- Late reports → Reporting NOV



Retention of Records

- Minimum 3 years
- Longer if unresolved litigation



Confidential Information

- Provide procedures for handling confidential info
- Where will files be stored?

TYPES OF ENFORCEMENT

Must match Sewer Use & Pretreatment Ordinance

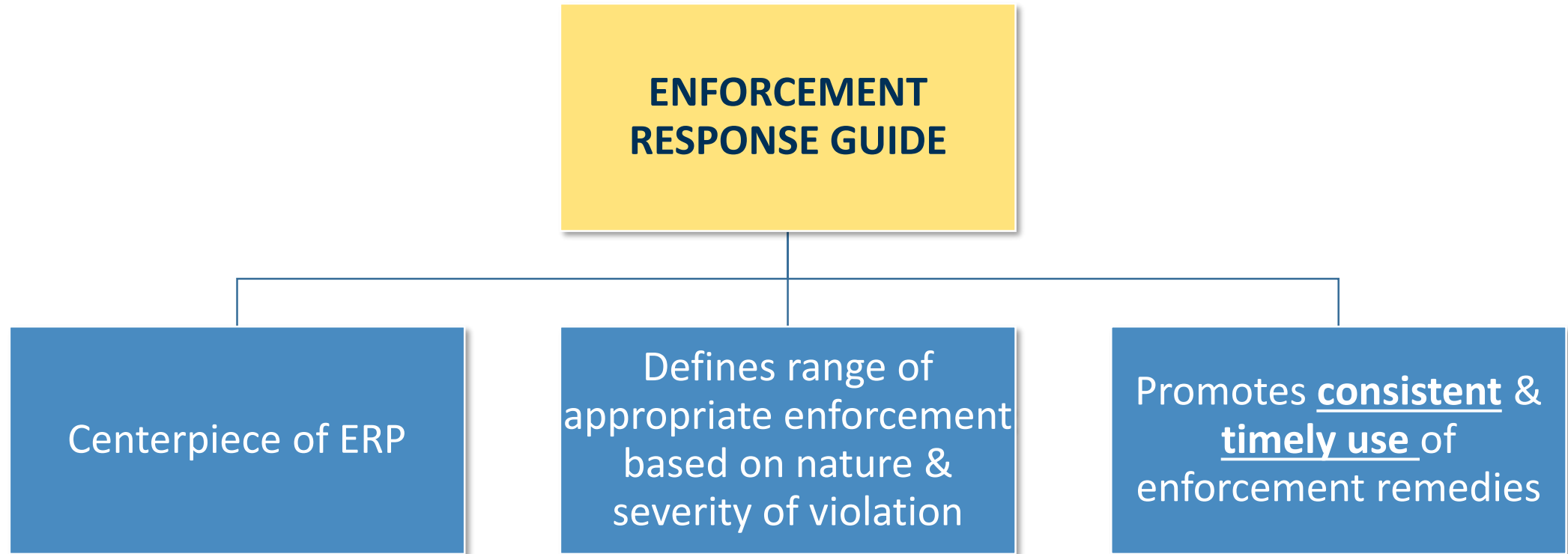
USEPA has enforcement templates

Provide templates as attachments

■ **Potential Enforcement Options:**

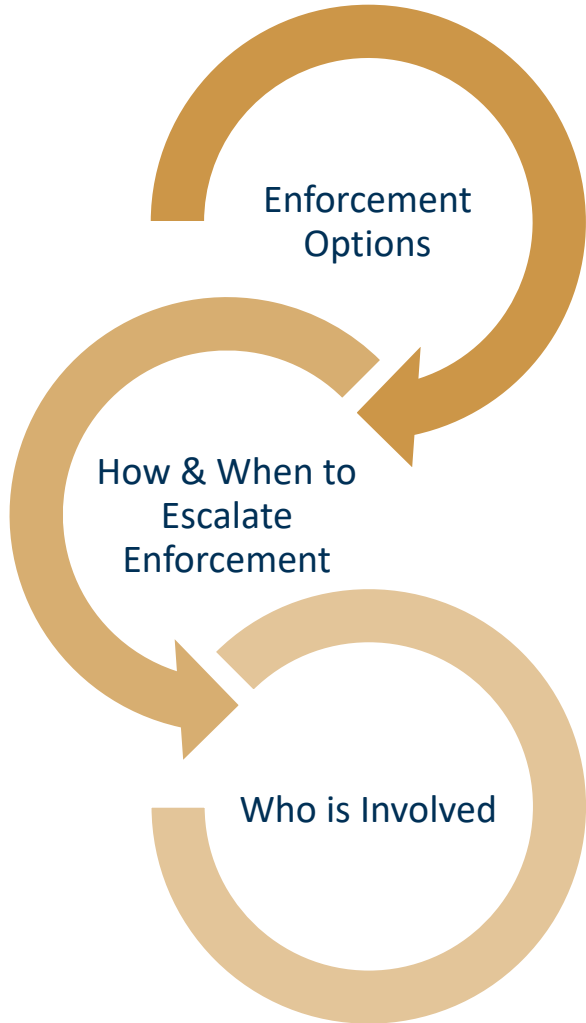
- Initial Data Notification
- NOV
- Pretreatment Review Meeting
- Compliance Agreement
- Compliance Order
- Show Cause Order
- Cease & Desist
- Emergency Suspensions
- Injunctive Relief
- Termination of Discharge
- Civil Penalties/Administrative Fines
- Civil Litigation
- Criminal Prosecution

ENFORCEMENT EVALUATION



EPA Template Available: pages 4-8 thru 4-12 of
“Guidance for Developing Control Authority Enforcement Response Plans” (1989)

ENFORCEMENT EVALUATION



Enforcement Response Guide Example:

<u>NON-COMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
<u>VIOLATIONS DETERMINED DURING SITE VISITS</u>			
Improper Sampling - Incorrect location; Incorrect sample type; or Incorrect sample collection techniques	Isolated Occurrence Improper Sampling	NOV	PC
		Pretreatment Review Meeting	PC
	Recurring Improper sampling	NOV	PC
		Late Fee	PC
		Pretreatment Review Meeting	PC
		Compliance Agreement	PC, DPW
		Compliance Order	PC, DPW
		Show Cause Order	PC, DPW

PC = Pretreatment Coordinator | DPW = Director of Public Works

ENFORCEMENT EVALUATION

ENFORCEMENT TIME FRAMES

When will violations be identified & documented?

When will initial enforcement documents be issued?

When will actions for recurring violations be taken?

When will SNC violations be addressed?

ENFORCEMENT EVALUATION

SAMPLING ESCALATION

- When will increased sampling occur?
- When can escalated sampling be reduced?

FINES/PENALTIES

- Procedures for assessing fines/late fees
- Include fee schedule (if available)

ADJUDICATION COURT

- Location, Time, Place
- Procedures

SIGNIFICANT NON-COMPLIANCE

SNC Definition

- From Ordinance

Evaluation Time Frames

- Recommend Quarterly

How to Evaluate SNC

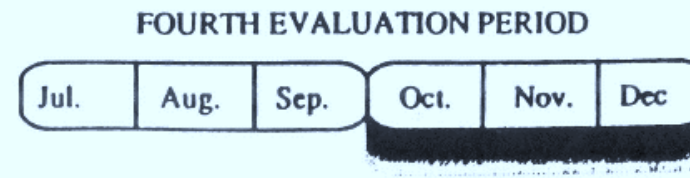
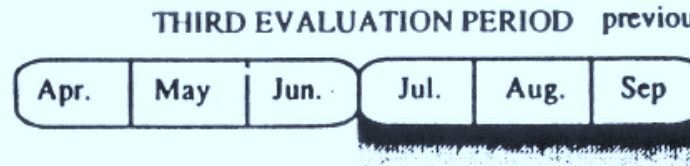
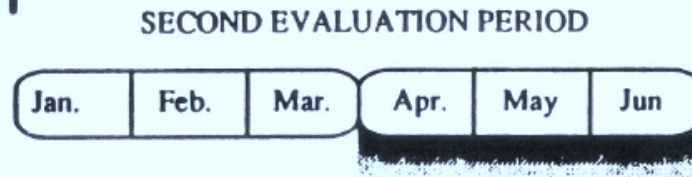
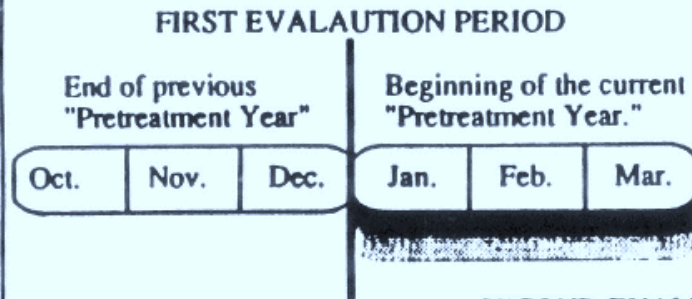
- Rolling “quarter” 6-month basis
- Daily, Monthly & Reporting Violations
- Provide example SNC calculation

Publishing Requirements

- Where to publish
- Publishing time period

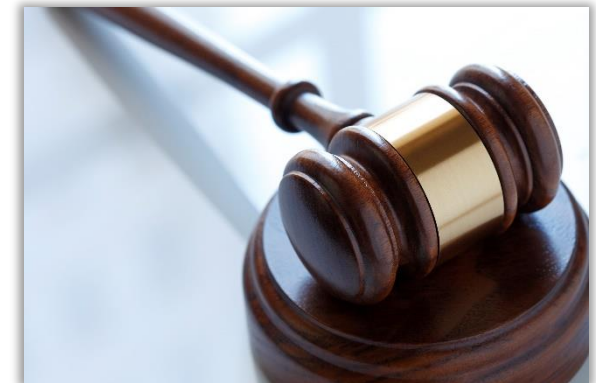
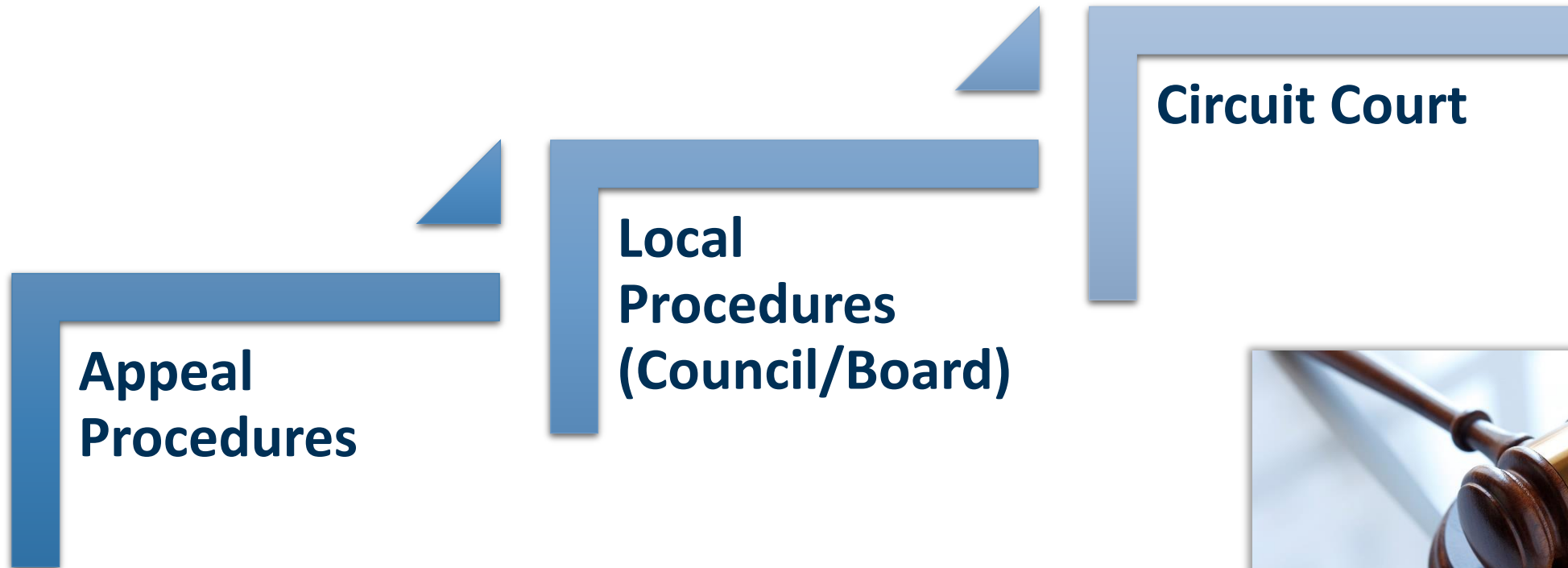
Determination of Industrial User (IU) Significant Noncompliance (SNC)

1. The POTW (in conjunction with the Approval Authority) must establish its "Pretreatment Year."
2. At the end of each quarter, POTWs and States should evaluate their IU's compliance status for the two criteria which are evaluated on a six month time frame (i.e., the "A" and "B" criteria - 403.8(f)(2)(vii)(A) and (B)) as illustrated below. The example below assumes a "Pretreatment Year" equal to the calendar year.

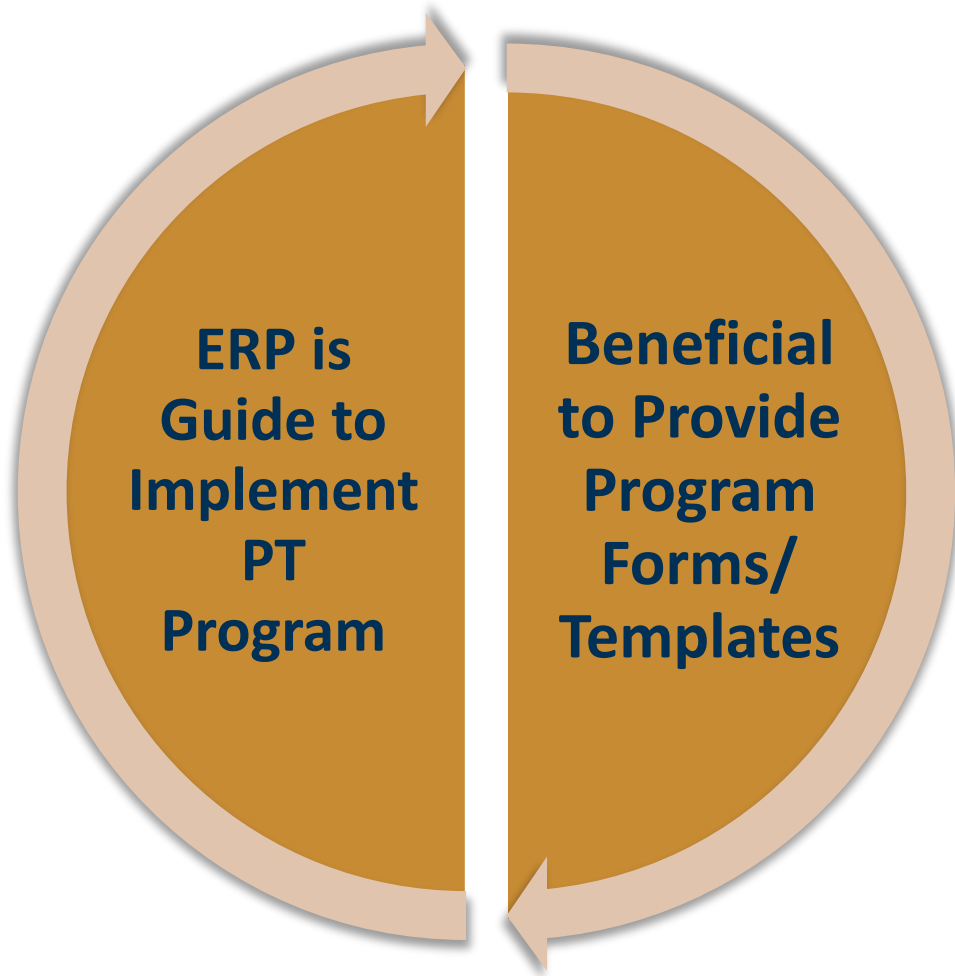


3. At the end of the first quarter (March 30th in our example), the POTW must evaluate the data from an industrial user for the previous six months (e.g., beginning with October 1 of the previous "Pretreatment Year" as in our example). Likewise, the POTW must evaluate six months of data at the end of each subsequent quarter (e.g., June 30th, September 30th, and December 31st).
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 this compliance status to the Approval Authority. The POTW must publish all industrial users 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 "Year."

APPEALS



SUPPLEMENTAL INFORMATION – ERP ATTACHMENTS



- **POTW Unusual Event Form**
 - Documents events at plant
 - Can help relate event to IU event
 - Track trends happening at plant
- **Accidental Discharge/Slug Load Notification Form**
- **Site Inspection Form**
- **Self-Monitoring Report Review Form**
- **Accidental Discharge/Slug Control Plan instructions (for IUs)**
- **Enforcement Tracking Form**
- **SNC Calculation Example**
- **Enforcement Templates**

ERP APPROVAL & ADOPTION



*ERP is NOT adopted like the Ordinance.
It is **approved** by the Board/Council for you to implement.

CONTACT INFORMATION



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