

INDIRECT DISCHARGE PERMIT SECTION SIGNIFICANT NON-COMPLIANCE PROCEDURE

Purpose and Scope of this Procedure

The purpose of this procedure is to guide the Indirect Program's compliance efforts so that a high rate of compliance is achieved among the regulated entities. This procedure provides guidance to Indirect Section staff in this objective up through the point of making an enforcement referral. Indirect Section staff will be responsible for compliance tracking and implementing this policy.

Interaction with Other Policies and Procedures

This procedure is one component of the Vermont *DEC Compliance Procedure* dated 2/8/01. This procedure is also intended to be consistent with the Vermont *Agreement between the ANR Enforcement Division and the Department of Environmental Conservation*, dated 4/13/99, the *ANR Administrative Penalty Rules* dated 7/28/90, and the *Environmental Administrative Penalty Guidance* dated 7/25/90.

PROCEDURE

The following are examples of non-compliance:

- < monitoring report delinquent by more than 30 days
- < annual inspection report delinquent by more than 30 days
- < failure of permittee to submit schedule for implementing engineer's recommendations made in annual inspection report by more than 30 days
- < failure of system to meet required effluent limitations in consecutive months or in any 3 months of a six month period

The following are examples of significant non-compliance:

- < permit violations which cause substantial impact to the environment or actual/potential adverse impact to public health
- < issuance of two NOAVs to permittee for same alleged violation within a 6-month period. (Note: Enforcement discretion may be applied if the NOAVs involve failure to meet effluent limitations but no impact to receiving stream or health hazard is involved).
- < failure to renew permit with indirect discharge continuing past permit expiration date.
- < failure to comply with requirements imposed in a previous enforcement action (typically violation of Order or Assurance of Discontinuance).
- < cases involving criminal investigations

The procedure for Indirect Discharge Staff response to the permittee for each class of non-compliance is outlined below.

[continued]

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Non-Compliance Response

The following procedure will be followed for permittee non-compliance:

First Action: Staff assigned makes phone call (documented in file) or sends letter informing permittee of delinquent report, failure to meet limits, etc., and requesting submittal/response within two to three weeks.

If no response by deadline:

Second Action: Staff assigned prepares NOAV sent to permittee requesting submittal of delinquent reports within two to three weeks.

If no response by stated deadline:

Third Action: Staff assigned prepares second NOAV with specific enforcement referral warning if delinquent reports not received within two weeks.

If no response by stated deadline:

Fourth Action: Staff assigned prepares Referral to Enforcement

<p>NOTE: Failure to report system failures as required by permit conditions may warrant a directive to the permittee to take immediate corrective action and an immediate NOAV based on potential public health hazard.</p>
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Significant Non-Compliance Response

First Action: Staff assigned prepares Referral to Enforcement

Signed: /s/ Christopher Recchia
 Christopher Recchia, Commissioner

Date: June 7, 2002

[This is the Final Version of this Procedure 5/2002]