

# Much ado About Pretreatment

# Categorical Standards

- <https://www.epa.gov/sites/production/files/documents/CIUStandardsTable.pdf>
- <https://www.epa.gov/eg/learn-about-effluent-guidelines>
- <https://www.epa.gov/eg/industrial-effluent-guidelines>
- [https://cfpub1.epa.gov/npdes/docs.cfm?document\\_type\\_id=1&view=Policy%2520and%2520Guidance%2520Documents&program\\_id=3&sort=name](https://cfpub1.epa.gov/npdes/docs.cfm?document_type_id=1&view=Policy%2520and%2520Guidance%2520Documents&program_id=3&sort=name)

# Dental

- Many things are being said
  - December 2016
  - Will not be re-public noticed
- What about Medicare/Medicaid
- What about the affects of amalgam
- <https://www.epa.gov/eg/dental-effluent-guidelines>

# Enforcement

- Do you have a penalty policy
- R317-1-8

**PENALTY:** Violations are grouped into four main penalty categories based upon the nature and severity of the violation. A penalty range is associated with each category. The following factors will be taken into account to determine where the penalty amount will fall within each range:

A. History of compliance or noncompliance. History of noncompliance includes consideration of previous violations and degree of recidivism.

B. Degree of willfulness and/or negligence. Factors to be considered include how much control the violator had over and the foreseeability of the events constituting the violation, whether the violator made or could have made reasonable efforts to prevent the violation, whether the violator knew of the legal requirements which were violated, and degree of recalcitrance.

C. Good faith efforts to comply. Good faith takes into account the openness in dealing with the violations, promptness in correction of problems, and the degree of cooperation with the State.

Category A - \$7,000 to \$10,000 per day. Violations with high impact on public health and the environment to include:

1. Discharges which result in documented public health effects and/or significant environmental damage.
2. Any type of violation not mentioned above severe enough to warrant a penalty assessment under category A.

Category B - \$2,000 to \$7,000 per day. Major violations of the Utah Water Pollution Control Act, associated regulations, permits or orders to include:

1. Discharges which likely caused or potentially would cause (undocumented) public health effects or significant environmental damage.
2. Creation of a serious hazard to public health or the environment.
3. Illegal discharges containing significant quantities or concentrations of toxic or hazardous materials.
4. Any type of violation not mentioned previously which warrants a penalty assessment under Category B.

Category C - \$500 to \$2,000 per day. Violations of the Utah Water Pollution Control Act, associated regulations, permits or orders to include:

1. Significant excursion of permit effluent limits.
2. Substantial non-compliance with the requirements of a compliance schedule.
3. Substantial non-compliance with monitoring and reporting requirements.
4. Illegal discharge containing significant quantities or concentrations of non toxic or non hazardous materials.
5. Any type of violation not mentioned previously which warrants a penalty assessment under Category C.



Category D - up to \$500 per day. Minor violations of the Utah Water Pollution Control Act, associated regulations, permits or orders to include:

1. Minor excursion of permit effluent limits.
2. Minor violations of compliance schedule requirements.
3. Minor violations of reporting requirements.
4. Illegal discharges not covered in Categories A, B and C.
5. Any type of violations not mentioned previously which warrants a penalty assessment under category D.

**ADJUSTMENTS:** The civil penalty shall be calculated by adding the following adjustments to the penalty amount determined above: 1) economic benefit gained as a result of non-compliance; 2) investigative costs incurred by the State and/or other governmental levels; 3) documented monetary costs associated with environmental damage.

**ECONOMIC AND LEGAL CONSIDERATIONS:** An adjustment downward may be made or a delayed payment schedule may be used based on a documented inability of the violator to pay. Also, an adjustment downward may be made in consideration of the potential for protracted litigation, an attempt to ascertain the maximum penalty the court is likely to award, and/or the strength of the case.

8.4 Mitigation Projects. In some exceptional cases, it may be appropriate to allow the reduction of the penalty assessment in recognition of the violator's good faith undertaking of an environmentally beneficial mitigation project. The following criteria should be used in determining the eligibility of such projects:

- A. The project must be in addition to all regulatory compliance obligations;
- B. The project preferably should closely address the environmental effects of the violation;
- C. The actual cost to the violator, after consideration of tax benefits, must reflect a deterrent effect;
- D. The project must primarily benefit the environment rather than benefit the violator;
- E. The project must be judicially enforceable;
- F. The project must not generate positive public perception for violations of the law.

- Penalty
  - Calculated
  - Time
  - BEN
- Compliance Requirements

# Fact Sheets/Statement of Basis

- <http://www.deq.utah.gov/Permits/water/updates/docs/2010/07Jul/KENNECOTT%20UTAH%20COPPER,%20LLC%20UT0000051.pdf>