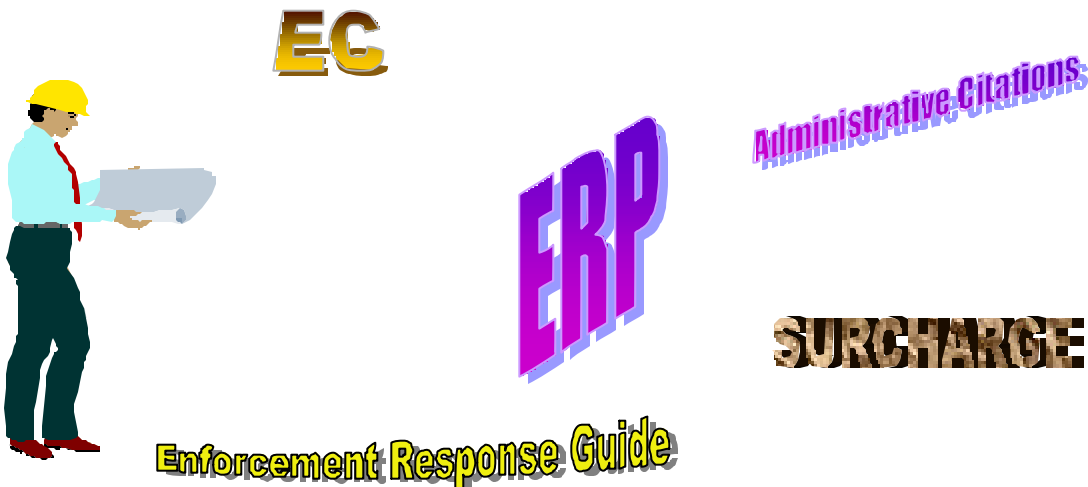




ENFORCEMENT RESPONSE PLAN SOURCE CONTROL PROGRAM

ENVIRONMENTAL SERVICES DEPARTMENT
WATERSHED PROTECTION DIVISION

July 2002



Includes

- ◆ ERP
- ◆ Guide
- ◆ Administrative Citations Guide
- ◆ Flowcharts

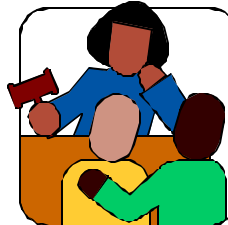


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Introduction

The Enforcement Response Plan (ERP) outlines the procedures followed by Pretreatment Program staff to identify, document, and respond to pretreatment violations. Incorporated into the ERP are specific criteria by which Pretreatment Program staff can determine the enforcement action most appropriate to the nature of the violation. In addition, the ERP describes the duties of the Enforcement Coordinator, Enforcement Coordinator Assistant and Inspector; methods used to determine compliance with applicable regulations; and procedures to review compliance data.

The Enforcement Response Guide (ERG) is a table referencing the degree of non-compliance with the type of enforcement response to be taken. The ERG lists the most common types of non-compliance and enforcement action taken.

This ERP has been prepared by following EPA's Guidance for Developing Control Authority Enforcement Response Plans.

Definitions

Administrative Citations: Enforcement actions, which assess monetary penalties for non-compliance.

Administrative Orders: Enforcement documents, which direct Industrial Users to undertake or to cease, specified activities. Administrative Orders may incorporate compliance schedules, timeframes, administrative penalties, and termination of service orders. Administrative Orders include:

- Finding of Non-compliance - a written notice instructing the Industrial User to identify and correct causes of non-compliance.
- Consent Order - documents non-compliance and includes actions required to be accomplished by specific dates. Consent Orders are developed during Compliance Meetings and both parties agree to terms.
- Compliance Order - directs the Industrial User to achieve or restore compliance by a date specified in the order. A Compliance Order is often a stipulated agreement that may include a compliance schedule, the payment of monetary penalties, or cost recovery for and the imposition of fines when milestones are not met.
- Cease and Desist Order - directs a non-compliant user to cease illegal or unauthorized discharges immediately or to terminate discharge altogether.
- Termination of Service or Permit Revocation - a notice delivered to an Industrial User serving notification of the intent to revoke the Industrial User's Permit or the termination of service.

Civil Action: An order, hearing, or other action by the presiding court. Such orders may include penalties.

Compliance Inspection: An inspection to determine compliance status and to identify practices, which may lead to non-compliance. Compliance inspections are normally not scheduled.

Compliance Meeting: A meeting with the Industrial User to discuss the causes of non-compliance, corrective actions to achieve compliance, and time frames for the implementation of corrective actions.

Compliance Schedule: A timetable for the implementation of corrective actions by an Industrial User in order to achieve consistent compliance.

Compliance

Consistent Compliance: No more than one parameter in violation and that value was less than twice the most stringent limit. Additionally, within 45 days of the Industrial User having been notified of the violation, the Industrial User has identified and corrected the cause of the violation and verified this through testing for that parameter.

Inconsistent Compliance: More than one parameter in violation, or any one parameter in violation, that exceeded twice the most stringent limit and within 45 days of the date the Industrial User is notified of the violation, the Industrial User has been re-sampled, found to be in compliance and does not fall within the significant non-compliance classification.

Significant Non-Compliance (SNC): Significant non-compliance (as defined in 40 CFR 403. 8(f)(2)(vii), is a compliance status in which one or more of the following is found:

- Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all 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.
- Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).
- Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Control Authority determines has caused, alone or in combination with other Industrial Users, interference or pass through (including endangering the health of POTW personnel or the general public).
- Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.

- Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- Failure to provide, within thirty days after the due date, required reports such as baseline monitoring reports, ninety day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- Failure to accurately report non-compliance.
- Any other violation or group of violations, which the Control Authority determines, will adversely affect the operation or implementation of the local pretreatment program.

When any action by the Industrial User meets one or more of the criteria for Significant Non-compliance (SNC) the Industrial User shall be designated SNC, and reported in the Semiannual and Annual Pretreatment Program reports, and published in the newspaper annually.

Conventional Pollutant: Any of the pollutants listed under 40 CFR 401.16 “Conventional Pollutants.” This section lists the five conventional pollutants as: biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil and grease.

Criminal Action: Similar to civil action, but the charges are for criminal neglect that may include fines and or penalties.

Fines: Monetary penalties imposed by the court or by the City for violation of discharge regulations.

Good Faith Effort: Prompt and vigorous pollution control measures undertaken by the Industrial User which show that extraordinary efforts have been made to achieve compliance. Good faith may also be defined as the user’s honest intention to remedy its noncompliance coupled with actions, which give support to this intention. (See EPA’s Guidance for Developing Control Authority Enforcement Response Plans 4.1.6)

Industrial User (IU): Any non-residential user that discharges industrial wastes to the sanitary sewer system.

Interference: A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- 1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- 2) Therefore is a cause of a violation of any requirement of the POTW’s NPDES Permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued there under (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State

regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxics Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Notice of Violation (NOV): An official notice that a violation of discharge regulations has occurred. A written response to the Notice of Violation identifying causes of the violation and corrective actions taken to prevent recurring violations is required within two weeks of the mailing date.

Toxic Pollutant: Any of the pollutants listed under 40 CFR 401.15 "Toxic Pollutants." This section lists sixty-five pollutants and their compounds as toxic pollutants.

Verbal Warning: A documented warning communicated to the Industrial User orally. The violation is usually slight or within the range of analytical error.

Warning Notice: A written notice that a violation has occurred. The Warning Notice directs the Industrial User to take actions to correct the violation, and does not require a formal response.

Duties of the Enforcement Coordinator

The primary role of the Enforcement Coordinator (EC) is to ensure that the Enforcement Response Plan is followed in a timely and consistent manner. The EC is at a level of a Senior Environmental Inspector or higher. To achieve this, the EC conducts the following duties:

- Reviews violations and makes a final determination on the level of enforcement to take. Ensures that compliance actions taken are consistent and timely.
- Signs routine enforcement actions. (Warning Notices and NOVs)
- Reviews Industrial User's response letters to ensure the response adequately addresses compliance issues.
- Coordinates and moderates compliance meetings and the preparation of compliance schedules.
- Reviews Industrial User compliance history reports.
- Compiles compliance reports for the semi-annual and annual pretreatment program compliance reports.
- Communicates and coordinates with tributary agencies and their respective Attorney's Office.

Duties of the Enforcement Coordinator Assistant

The primary role of the Enforcement Coordinator Assistant (ECA) is to identify violations, in a timely manner, and to assist the Enforcement Coordinator with tracking of

compliance issues and schedules. To achieve this, the Enforcement Coordinator Assistant conducts the following duties:

- Reviews monitoring results and verifies discharge violations.
- Verify Industrial User has responded, in a timely manner, to Notices of Violations, Compliance Meetings, and Compliance Schedules.
- Assists in the preparation and running of compliance meetings. Review compliance meeting schedules and ensure that deadlines are being met.
- Prepare weekly compliance reports.

Duties of the Inspector

The primary duties of the inspector are to process enforcement actions in a timely manner. To achieve this, the inspector conducts the following duties:

- Review monitoring (SMR and POTW) results and identify discharge violations.
- Prepare routine enforcement actions and make recommendations to the EC.
- Track Industrial User's response to Notices of Violations, Compliance Meetings, and Compliance Schedules.
- Review Industrial User's response letters to ensure the response adequately addresses compliance issues.
- Review compliance meeting schedules and ensure that deadlines are being met.
- Prepare non-routine compliance letters, Administrative Orders and Citations.
- Review Industrial User compliance history reports.
- Enters all enforcement actions into the Enforcement Action Database.

Procedures to Screen Compliance Monitoring Data

Analytical results of POTW industrial wastewater samples are reviewed by laboratory staff, the Environmental Inspector and then forwarded to the ECA. Laboratory staff upon finding a violation will notify the assigned inspector in advance of sending the results. Analytical results submitted with Self-Monitoring Reports are reviewed by the Environmental Inspector and then forwarded to the ECA. All sample results and reports are reviewed for violations of local discharge limits, state hazardous waste limits, and federal pretreatment standards. The types of local limits enforced are listed in the enforcement response guide.

The type of enforcement action to be taken is annotated on the laboratory analysis sheet or the Self-Monitoring Report, and the Industrial User is notified that a violation occurred and the type of enforcement action to be taken. The ERP will also apply to violations at non-permitted facilities. After the review, the monitoring data is forwarded to clerical and entered in the Source Control database. The Source Control database provides a variety of functions to chart and trend monitoring data and to evaluate compliance with all applicable discharge limits. This database will also flag violations of local or federal limits. The Source Control database compiles the Semi-Annual and Annual Pretreatment Reports by comparing all monitoring data with the applicable discharge limits.

Enforcement Response Guide

The Enforcement Response Guide (ERG) lists the routine types of non-compliance and enforcement actions taken. These routine actions include Verbal Warnings, Warning Notices, Notices of Violation, Administrative Citations and Compliance Meetings. This guide is a matrix, which describes violations and indicates minimum enforcement actions.

Prior to taking **any** enforcement action, including Verbal Warnings, the inspector must consult with the Enforcement Coordinator (EC). The EC will ensure that the type of enforcement action proposed is consistent with the enforcement response guide and is appropriate to the level of violation.

If multiple violations for one or more parameters occur during a calendar day, the IU will only be issued one enforcement action, and all violations will be listed. If during an inspection multiple violations are discovered, over a number of days, those violations will be grouped by day and each group of violations will be issued an enforcement action.

When considering the type of enforcement action to be taken, the ERG serves as a **minimum standard**. EPA's Guidance for Developing Control Authority Enforcement Response Plans Chapter 4.1 discusses the six criteria that the Control Authority should consider when determining a proper enforcement response. Enforcement action may be **escalated** when considering the six criteria for evaluating the degree of non-compliance. When an enforcement action is increased over the minimum, written documentation will detail the reasons for the increased enforcement action. The six criteria for evaluating the degree of non-compliance are:

- **Magnitude of the violation**

Generally an isolated instance of noncompliance can be met with an enforcement response listed in the Enforcement Response Guide. However, since even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the integrity of the Control Authority's program, the enforcement response to this type of violation must be escalated to 1) mitigate the violation quickly, 2) prevent a reoccurrence of violation(s), 3) provide an appropriate level of response and 4) provide for cost recovery as appropriate.

- **Duration of the violation**

Violations (regardless of severity) which continue over prolonged periods of time should subject the IU to escalated enforcement actions. The POTW's response to these situations must prevent extended periods of noncompliance from recurring.

- **Effect of the violation on the receiving water**

One of the primary objectives of the Pretreatment Program is to prevent pollutants from "passing through" the POTW and entering the receiving waters. Consequently, any violation which results in environmental harm will be met with an escalated enforcement response. Environmental harm will be presumed whenever an industry discharges a pollutant into the sanitary sewer which:

- Passes through the POTW
- Causes a violation of the POTW's NPDES permit limits
- Has a toxic effect on the receiving waters

A minimum response to these types of violations would be an administrative order and referral to the attorney. In addition, the response should ensure the recovery from the IU of any NPDES fines and penalties paid by the POTW. Termination of service may also be considered for repeat violations.

- **Effect of the violation on the POTW**

Some violations may have negative impacts on the POTW's operations or personnel. These violations can result in increased treatment cost, upsets to treatment processes, interfere or harm POTW personnel or equipment. A minimum response to these types of violations would be an administrative order and referral to the attorney. In addition, the response should ensure the recovery from the IU of any costs by the POTW to correct the problem.

- **Compliance History of the Industrial User**

When evaluating the level of enforcement action to be taken for a violation, the last twelve months compliance history of the IU shall be reviewed. If a pattern of recurring violations for the same parameter is noted, then an escalated enforcement action may be warranted. As an example: if two VWs have been issued in the past two months for pH discharge violations, and the IU has another violation at the same level, then it would be appropriate to escalate the enforcement action to a WN. If 50 % of the samples taken in the past twelve months are in violation, then it would be warranted to increase the enforcement action by one level. Any escalation of enforcement actions will be documented on the enforcement approval form. This documentation will include all details for the increased enforcement.

- **Good Faith of the Industrial User**

The IU's "good faith" effort in correcting its noncompliance is a factor in determining which enforcement action to take. "Good faith" maybe defined as the user's honest intention to remedy its noncompliance, coupled with actions which give support to this intention. However, god faith does not eliminate the necessity of an enforcement action.

INCREASE IN MONITORING

As a result of any discharge violation, there is a need to increase sampling and inspections to verify that the violation has been corrected. The magnitude of the violation will dictate how many follow up samples and inspections will be taken. For violations in the Verbal Warning and Warning Notice range, one follow up inspection will be conducted to verify that the violation has been corrected. Additional inspections may be conducted until the violation is corrected. One follow up sample will also be taken within 45 days by the POTW. For violations in the Notice of Violation range, the following sampling schedule will be established; the POTW will resample once within 45 days and again within 90 days, and the IU will be required to sample within 60 days of the violation. If any of the follow up sampling shows violations, then this sampling frequency will continue until the IU achieves compliance. In addition to the sampling, one follow up inspection will be conducted to verify that the violation has been corrected. Additional inspections may be conducted until the violation is corrected. For violations of the Group 1 (MECL) or Group 2 limits, Appendix A in the regulations book, sets forth an IU re-sampling schedule. For violations that warrant a compliance meeting, the compliance meeting schedule will document additional IU sampling.

CITY OF SAN JOSE ADMINISTRATIVE CITATIONS

Administrative Citations are issued only to City of San Jose dischargers when one of the City of San Jose Municipal Code Chapter 15.14 Titled "Industrial Waste Discharge Regulations" or Chapter 9.08 Part 9 Titled "Receiving Stations for Septic Tank Cleanings" is violated, and is one of the code sections listed in the schedule of fines that the San Jose City Council adopted in a resolution setting forth the administrative citation schedule of fines. The attached Enforcement Response Guide for Administrative Citations details which sections are cited and the amount (also see Administrative Citation Procedure # 2240).

CITY OF SANTA CLARA SEWER SURCHARGE

The City of Santa Clara imposes sewer surcharges subsequent to the issuance of Notices of Violation, according to the following schedule:

First Notice of Violation within a 12-month period:

No surcharge

Second Notice of Violation within a 12-month period:
50% of Sewer Billing

Third Notice of Violation within a 12-month period:
100% of Sewer Billing

Fourth Notice of Violation within a 12-month period:
200% of Sewer Billing

Fifth Notice of Violation within a 12-month period:
10 times sewer Billing

Prior to the determination of the surcharge level, the City of Santa Clara will be contacted to verify the correct level of surcharge. (See Policy and Procedure # 2260) A surcharge will only be imposed for discharge violations. Surcharges will not be imposed for reporting violations nor will Notice of Violation, issued for reporting violations, be counted when determining the surcharge level.

This surcharge will remain in effect until it is demonstrated that the violation has been permanently corrected. The following criteria will demonstrate that the problem has been corrected:

- Proof of compliance through five consecutive samples analyzed by the ESD laboratory, or
- Proof of compliance through three consecutive samples analyzed by the ESD laboratory, and installation of pretreatment equipment or pretreatment modifications, and five samples (collected using the appropriated methods) analyzed by an independent approved laboratory at discharger's expense which demonstrate compliance, or
- Proof of compliance through two consecutive samples analyzed by the ESD laboratory and eight consecutive samples (collected using the appropriated methods) analyzed by an independent approved laboratory at discharger's expense.
- Proof of compliance with one sample if the violation was resolved by permanently discontinuing the use of the pollutant and an approved plan for disposal of the pollutant has been submitted and an inspection made to verify the absence of the pollutant. If the discharger makes a fraudulent claim, surcharges and other enforcement actions can be taken immediately.

If the surcharge has been removed and another Notice of Violation is issued within 12 months of the last Notice of Violation, the surcharge is reinstated at the appropriate step with the consideration of the number of NOV's issued within the last 12 months.

The IU will be notified of the surcharge with the Notice of Violation. The POTW will notify the City of Santa Clara, in writing, when the sewer surcharge is to be removed (see procedure # 2260).

VIOLATIONS OF CITY OF SAN JOSE MUNICIPAL CODE CHAPTER 9.08
“RECEIVING STATIONS FOR SEPTIC TANK CLEANINGS”

Enforcement actions will be taken for violations of Chapter 9.08. The level of enforcement actions taken will be as follows: First violation is a Warning Notice, second violation (for the same code) within a six-month period is a Notice of Violation. Two Notices of Violation, for any code, in a six-month period is a compliance meeting. If there is another Notice of Violation issued, within six months, following the compliance meeting then the company's bond will be forfeited.

TYPES OF ENFORCEMENT ACTIONS *(Any enforcement action taken **must** be reviewed **and** approved by the Enforcement Coordinator **prior** to being issued.)*

A **Verbal Warning** is generally issued for Slight Violations. In this case the inspector notifies the IU that a violation occurred and directs the IU to take corrective actions. This notification serves as the enforcement action. Written documentation of a Verbal Warning will be posted to the company's file. The Inspector may schedule additional inspections and/or sampling, or may elect to implement more stringent enforcement action. A more stringent enforcement action may be the issuance of a Warning Notice in place of a Verbal Warning in cases where there have been previous recent violations for the same parameter and according to the guidelines. The issuance of a Verbal Warning will be documented in the facility's file.

A **Warning Notice** is a written notice and is generally issued for a Slight or Moderate Violation depending on the criteria evaluation. (See Enforcement Response Guide starting page 13) A Warning Notice documents the type of violation that occurred and directs the Industrial User to identify and correct the cause of the violation. The Inspector may schedule additional inspections and/or sampling, or may elect to implement more stringent enforcement action. A more stringent enforcement action may be the issuance of a Notice of Violation in place of a Warning Notice in cases where there have been previous recent violations for the same parameter and according to the guidelines.

A **Notice of Violation** is generally issued for a Severe Violation (See Enforcement Response Guide starting page 13) or for recurrent violations. The Notice of Violation documents the type of violation that occurred and directs the Industrial User to identify and correct the cause of the violation. The Industrial User is required to respond in writing, within two weeks, describing the cause of the violation and the corrective actions taken.

Compliance Meetings are held when Severe Violations occur or when previous violations appear to remain uncorrected as evidenced by repeated violations. Many Notices of Violation do not require a compliance meeting. The attached guide details when compliance meetings are required. During a compliance meeting, a compliance schedule and timeline are established. Progress on the compliance schedule is tracked by the Environmental Inspector and Enforcement Coordinator Assistant and reported to the EC. Compliance schedules are completed when all tasks are completed and consistent compliance is achieved.

A compliance meeting is generally scheduled when:

- The Industrial User exceeds 5 times the applicable discharge limit for any Toxic Pollutant or violates any California State Hazardous waste limit.
- The Industrial User exceeds 6 times the applicable discharge limit for any oil and grease violation.
- The Industrial User has a pH violation of less than 2 or greater than 12.5 and the duration of the violation is greater than 60 minutes.
- The Industrial User has demonstrated a Pattern of Non-compliance. A pattern of Non-compliance would include;
 1. The Industrial User has been listed as Inconsistent Local (IL) or Inconsistent Federal (IF), or both, for two consecutive quarters for the same parameter,
 2. Two NVs in a two month period for pH or oil & grease,
 3. An Industrial User has 4 or more Notices of Violation in a 5 month period for any code violation,
 4. Failure to respond to a Notice of Violation within 45 days of due date.

A maximum of two compliance meetings per parameter, within a two-year period, may be held to address non-compliance before more stringent enforcement remedies are considered. In cases of severe non-compliance, or when the Industrial User has already had two previous compliance meetings, the Industrial User's Permit may be modified to include the provisions of a compliance schedule.

Violations which occur during the implementation of a compliance schedule, and which involve the parameter(s) addressed by the compliance schedule, may be documented through enforcement actions of a lesser degree than indicated in the ERG, if short term measures have been implemented to prevent violations. If a facility is under a compliance schedule and receives an enforcement action less than what is called for in the procedures, the inspector must write the following on the enforcement action approval form:

- 1) that the enforcement action is less severe than the procedural requirement because the facility is under a compliance schedule and
- 2) reference the specific compliance meeting.

This process allows for the documentation of all violations without over penalizing an Industrial User who is actively working to correct the violation.

Other Enforcement Actions

If compliance meetings fail to obtain compliance, then additional enforcement actions are initiated. These additional enforcement actions are:

San Jose	Santa Clara	Milpitas	West Valley and Cupertino
Meeting before the City Attorney	Meeting before the Director of Sewer and Utilities	Meeting before the City Engineer	Meeting before the Sanitary District
Court Action	Meeting before the City Attorney	Meeting before the City Council	Court Action
	Court Action	Court Action	

When a compliance schedule is established, the progress on the compliance schedule is tracked by the Environmental Inspector and Enforcement Coordinator Assistant. The Industrial User's Permit may be modified to include the provisions of a compliance schedule.

In addition to the above, violations of California State Hazardous Waste limits may be referred to the County District Attorney.

Almost all cases of non-compliance are corrected by following the routine types of enforcement actions listed in the ERG. In those cases where non-compliance is not corrected, the next step in the escalation of enforcement action is the issuance of an Administrative Order (AO) (See Policy and Procedure # 2240). The types of Administrative Orders are listed under the definitions section. Additionally, the Industrial User may be referred to the District Attorney's Office for prosecution.

ENFORCEMENT RESPONSE GUIDE

Type of Violation	Degree of Violation	Nature of Violation	Enforcement Response
Corrosive Matter			
<ul style="list-style-type: none"> Discharge of corrosive matter * for POTW or I.U. sampling violations this section covers the enforcement response. 	Slight	pH of 5.0 to 5.9	Verbal Warning
	Moderate	pH of 4.0 to 4.9	Warning Notice
	Severe *	pH of 3.9 or less pH greater than 12.5	Notice of Violation
		2 NVs in a 2 month period or pH less than 2	Compliance Meeting
Corrosive Matter			
<ul style="list-style-type: none"> Discharge of corrosive matter * for violations reported by IU or discovered during an inspection of the IU's pH chart recorder or logs. 	Slight	pH of 5.0 to 5.9 of 60 minutes or less	Documented but no further enforcement action taken
	Slight	pH of 5.0 to 5.9 for more than 60 minutes	Verbal Warning
	Slight	pH of 4.0 to 4.9 of less than 60 minutes	Verbal Warning
	Moderate	pH of 4.0 to 4.9 for more than 60 minutes	Warning Notice
	Moderate	pH of 3.9 or less or greater than 12.5 for 60 minutes or less	Warning Notice
	Severe *	pH of 3.9 or less or greater than 12.5 for more than 60 minutes	Notice of Violation (also see AC section)
		2 NVs in a 2 month period or pH less than 2	Compliance Meeting
Discharge of Toxic Pollutants *			
<ul style="list-style-type: none"> Interfering Substances (Maximum Conc.) Mass Equivalent Concentration and Flow** Average Annual Concentration Limit** Average Daily Concentration Limit ** Federal limits 	Slight	Less than 1 1/2 times the limit	Verbal Warning
	Moderate	1 1/2 to 2 1/2 times the limit	Warning Notice
	Severe *	Greater than 2 1/2 times the limit	Notice of Violation
	Severe	Greater than 5 times the limit	Compliance Meeting

*These types and degrees of violation may also be subject to Administrative Citations as indicated in the Administrative Citation Schedule of Fines.

These Administrative Citations apply only in the City of San Jose

** Reference Policy & Procedure #2100 or 2110.

ENFORCEMENT RESPONSE GUIDE

Type of Violation	Degree of Violation	Nature of Violation	Enforcement Response
Oil and Grease *			
<ul style="list-style-type: none"> Discharge of Oil and Grease 	Slight	under 2 x limit	Verbal Warning
	Moderate	2 to 4 x the limit	Warning Notice
	Severe*	over 4 x the limit	Notice of Violation
		2 NVs in a 2 month period or greater than 6x the limit	Compliance Meeting
Submission of Discharge Reports *			
<ul style="list-style-type: none"> Self Monitoring Baseline Monitoring Compliance Reports 	Slight	Less than 5 days late	Document but no further enforcement action taken
	Moderate *	5 to 30 days late	Warning Notice
	Severe *	More than 30 days late Recurring late submittal	Notice of Violation SNC
Protection from Accidental Discharge *			
<ul style="list-style-type: none"> Adequate Protection Provided Notification Procedures Followed 	Moderate	No harm to POTW or environment	Warning Notice
	Severe*	Harm to POTW or environment Recurring failure to notify	Notice of Violation
Diluting Waters *			
<ul style="list-style-type: none"> Use of Dilution Waters 	Moderate	Initial violation	Warning Notice
	Severe	Recurring violation	Notice of Violation
Compliance with Permit Conditions			
<ul style="list-style-type: none"> Monitoring Equipment Maintenance Submission of Technical Reports Proper Sampling and Analysis Failure to report a violation of permit conditions. 	Slight	Initial violation	Verbal Warning
	Moderate	Failure to correct, less than 30 days after due date	Warning Notice
	Severe	Failure to correct, greater than 30 days after due date	Notice of Violation

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ENFORCEMENT RESPONSE GUIDE

Type of Violation	Degree of Violation	Nature of Violation	Enforcement Response
Compliance Schedules			
<ul style="list-style-type: none"> Failure to meet compliance schedule milestone 	Slight	Less than 10 days late	Verbal Warning
	Moderate	10 to 30 days late	Warning Notice
	Severe	More than 30 days late More than 90 days late	Notice of Violation SNC
Best Management Practices			
<ul style="list-style-type: none"> Best Management Practices are not implemented 	Slight	Initial violation	Verbal Warning
	Moderate	Recurring violation	Warning Notice or Notice of Violation
Power to Inspect			
<ul style="list-style-type: none"> Access denied Copies of records withheld 	Moderate	Initial violation	Warning Notice
	Severe	Recurring violation	Notice of Violation Administrative Order
Falsification of Information *			
<ul style="list-style-type: none"> False statements or representations made Wastewater diverted from monitoring devices or pretreatment equipment 	Moderate	Initial violation	Notice of Violation
	Severe	Recurring violation	Administrative Order
Mandatory Wastewater Discharge Permits*			
<ul style="list-style-type: none"> Discharge without a Permit 	Moderate	Application not received within 30 days of notification	Notice of Violation
	Severe	Discharge in violation of discharge limits which would result in an NV being issued.	Cease and Desist Administrative Order

*These types and degrees of violation may also be subject to Administrative Citations as indicated in the Administrative Citation Schedule of Fines.

These Administrative Citations apply only in the City of San Jose

** Reference Policy & Procedure #2100 or 2110.

ENFORCEMENT RESPONSE GUIDE

Type of Violation	Degree of Violation	Nature of Violation	Enforcement Response
Wastewater Permit Delinquent Fees			
<ul style="list-style-type: none"> Late submittal of a Wastewater Discharge permit application.* 	Moderate	Up to and including thirty (30) days delinquent	Warning Notice and a penalty of fifty percent 50% of the permit fee
	Severe	<ul style="list-style-type: none"> More than thirty (30) days but less than one year delinquent 60 days or more delinquent More than one year delinquent 	Notice of Violation and a penalty of one hundred percent 100% of the permit fee Cease and Desist Letter One thousand percent (1,000%) penalty
Oil and Grease Removal Devices*			
<ul style="list-style-type: none"> Failure to install or maintain oil and grease removal devices Failure to develop and maintain records of pumping and maintenance 	Moderate	<ul style="list-style-type: none"> Initial offense 	Warning Notice
	Severe	<ul style="list-style-type: none"> Recurring offense or failure to correct first offense 	Notice of Violation
Limitations on Point of Discharge* Discharge into a Storm Drain Prohibited* Regulation of Trucked or Hauled Waste* Obstructing or Injurious Substances* Solid or Viscous Mater* Suspended Solids; Dissolved Matter*			
		Any violation	Notice of Violation

*These types and degrees of violation may also be subject to Administrative Citations as indicated in the Administrative Citation Schedule of Fines.

These Administrative Citations apply only in the City of San Jose

** Reference Policy & Procedure #2100 or 2110.

ENFORCEMENT RESPONSE GUIDE

Type of Violation	Degree of Violation	Nature of Violation	Enforcement Response
Noxious or Malodorous Matter* Colored Matter* Garbage*			
		Any violation	Notice of Violation
Federal Pretreatment Regulations*			
Interfering Substances, Corrosive Matter and Late Reporting		Any violation	The degree of enforcement response will be the same as that for a violation of the local limits.
Flammable or Explosive Substances*			
		Any violation	Notice of Violation and forwarded to the District Attorney for a Hazardous Waste Violation
Pretreatment by Owner* Monitoring Facilities* Storm and other Waters* Hot Substances* Radioactive Matter* Screened Industrial Wastes*			
	Moderate	<ul style="list-style-type: none"> • Initial offense 	Warning Notice
	Severe	<ul style="list-style-type: none"> • Recurring offense or failure to correct first offense 	Notice of Violation

*These types and degrees of violation may also be subject to Administrative Citations as indicated in the Administrative Citation Schedule of Fines.

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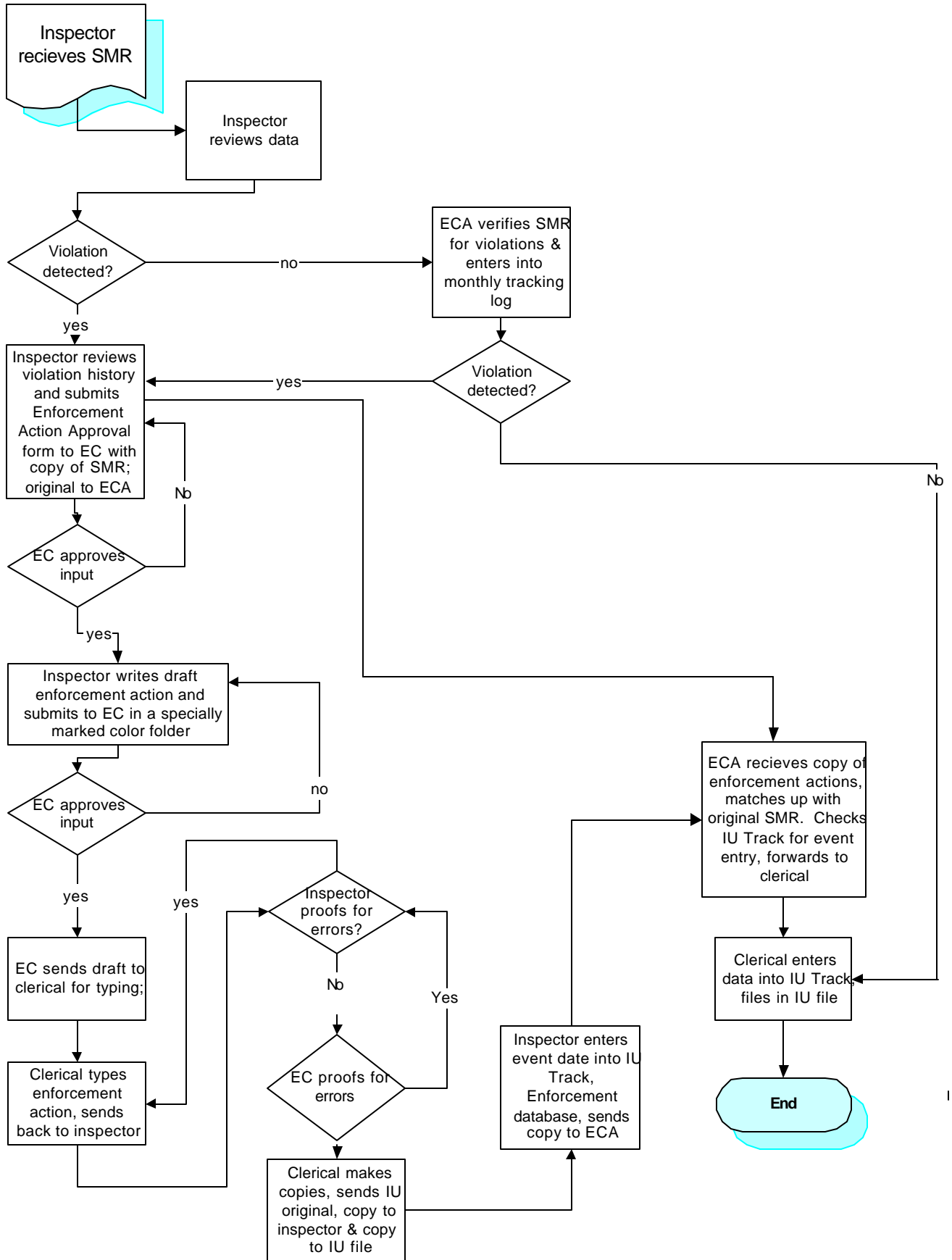
ENFORCEMENT RESPONSE GUIDE FOR ADMINISTRATIVE CITATIONS

Section	Offense	Admin. Citation Fine	When Issued
15.14.510	Limitations on Point of Discharge	\$500.00	Issue with a NV
15.14.515	Discharge into Storm Drain Prohibited	\$500.00	Any violation.
15.14.520	Regulation of Trucked or Hauled Waste	\$500.00	Issue with a NV
15.14.530	Protection from accidental discharge	\$500.00	Issue only if a NV has been issued.
15.14.535	Pretreatment by owner	\$500.00	Issue only if a NV has been issued.
15.14.540	Monitoring facilities	\$500.00	Issue only if a NV has been issued.
15.14.545	Storm and other waters	\$500.00	Issue only if a NV has been issued.
15.14.550	Obstructing or Injurious Substances	\$500.00	Issue with a NV
15.14.555	Flammable or Explosive Substances	\$500.00	Issue only if a NV has been issued. This would also be a hazardous waste violation.
15.14.560	Hot Substances	\$500.00	Issue only if a NV has been issued.
15.14.565	Grease, Oils, Fats	\$500.00	Issue only if a NV has been issued.
15.14.570	Solid or Viscous Matter	\$500.00	Issue with a NV
15.14.575	Corrosive Matter pH less than 5.5 but greater than 2.0	\$500.00	Issue only if a NV has been issued.
15.14.575	Corrosive Matter pH less than or equal to 2	\$1,000.00	Issue only if a NV has been issued.
15.14.580	Toxic Gasses, Vapors or Fumes	\$500.00	Issue only if a NV has been issued.
15.14.585	Interfering Substances $2 X < \text{limit} < 10 X$	\$500.00	Issue only if a NV has been issued.
15.14.585	Interfering Substances $\geq 10 X$ limit	\$1,000.00	Issue only if a NV has been issued.
15.14.590	Prohibition on Use of Diluting Waters	\$500.00	Issue only if a NV has been issued.
15.14.595	Suspended Solids: Dissolved Matter	\$500.00	Issue with a NV

ENFORCEMENT RESPONSE GUIDE FOR ADMINISTRATIVE CITATIONS

Section	Offense	Admin. Citation Fine	When Issued
15.14.610	Noxious or Malodorous Matter	\$500.00	Issue with a NV
15.14.615	Radioactive Matter	\$500.00	Issue only if a NV has been issued.
15.14.620	Colored Matter	\$500.00	Issue with a NV
15.14.625	Garbage	\$500.00	Issue with a NV
15.14.630	Oil and Grease Removal Devices	\$500.00	Issue only if a NV has been issued.
15.14.635	Screened Industrial Wastes	\$500.00	Issue only if a NV has been issued.
15.14.640	Group 1 Dischargers- Approved Mass Audit Study Required	\$500.00	Issue only if a NV has been issued.
15.14.645	Group 1 Dischargers- Mass Equivalent Concentration Limit	\$500.00	Issue only if a NV has been issued.
15.14.650	Group 1 Dischargers- Process Flow Exceeding MECL Flow	\$500.00	Issue only if a NV has been issued.
15.14.665	Group 2 Dischargers- Daily Maximum Average Concentration Limit	\$500.00	Issue only if a NV has been issued.
15.14.670	Group 3 Dischargers- Best Management Practices	\$500.00	Issue only if a NV has been issued.
15.14.680	Federal Pretreatment Regulations	\$500.00	Issue only if a NV has been issued.
15.14.685	Falsification of Information	\$500.00	Issue with a NV
15.14.695	Late Reporting (5 - 15 days late)	\$100.00	Any violation.
15.14.695	Late Reporting (16 - 30 days late)	\$250.00	Any violation.
15.14.695	Late Reporting (31 - 45 days late)	\$500.00	Any violation.
15.14.725	Mandatory Wastewater Discharge Permits	\$500.00	Issue only if a NV has been issued.

Enforcement Processing Flowchart of Self Monitoring Reports



Enforcement Processing Flowchart of Lab Results

