



Providing Life's Essential Services

Fresno – Clovis Regional Wastewater Reclamation Facility Wastewater Management

Enforcement Response Plan

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Introduction

A well planned monitoring program is essential to the success of a Pretreatment Program. This allows for updated industrial user information and provides adequate data to determine if compliance is being met. The scope of the monitoring surveillance program is expanded or reduced as necessary. The Enforcement Response Plan (ERP) provides the framework for determining the appropriate response when administrative or discharge violations occur.

Industrial user sampling is primarily conducted by Wastewater Management. The Fresno Municipal Code grants the right of entry to industrial sites upon presentation of appropriate identification. Samples are submitted to the Wastewater Management Laboratory, or if necessary, a private laboratory, for analysis. The Wastewater Management Laboratory is certified by the State of California, Department of Health Services Environmental Laboratory Accreditation Program (ELAP) for water and wastewater analysis. Any outside laboratory used must also be ELAP certified.

The City of Fresno Pretreatment Program includes two types of monitoring schedules. Those industries on the compliance monitoring schedule have maintained compliance for six consecutive months and are sampled according to the following schedule:

Parameter	Sampling Frequency
Cyanide	Semiannually
Metals (categorically-regulated industries)	Two days quarterly
Metals (industrial laundries)	Semiannually
Metals (low impacting industries)	Annually
Oil and grease (impacting industries)	Quarterly
Oil and grease (non-impacting industries)	Annually
pH	Annually or semiannually, depending on historical data
Total Toxic Organics	Annually
Volatile organics (industrial laundries only)	Annually

Industries that have incurred a violation of categorical pretreatment standards and/or local limits are placed on the enforcement sampling schedule. The sampling frequency varies according to the level of enforcement as follows:

Level of Enforcement	Sampling Frequency
Warning Notice	Resample within thirty (30) days after the industrial user submits the corrective action completion report
Violation Notice – Discharge	At least bimonthly for a period of six (6) months from the date of the last violation
Consent Order	At least monthly for a period of six (6) months from the date of the last violation
Compliance Order	At least monthly for a period of six (6) months from the date of the last violation

In addition to POTW monitoring, significant industrial users may be required to perform their own sampling and analysis and submit their self-monitoring reports to the Wastewater Management Division. All analyses must be performed by a laboratory that is certified for water and wastewater analysis by the State of California, Department of Health Services Environmental Laboratory Accreditation Program (ELAP).

Timeline for Addressing Violations

Any instance of non-compliance shall be properly cited and documented in accordance with the ERP, within two (2) weeks of becoming aware of the non-compliance.

Definition – Control Authority

Control Authority means the City of Fresno Department of Public Utilities and Wastewater Management Division and its representatives or designees.

Tracking Sampling Results and Industry Reporting

Continued Compliance Monitoring

The Continued Compliance Monitoring list is for industrial users that are in discharge compliance. The frequency of sampling is based on each Industrial users potential to impact the POTW, and it is determined on a case-by-case basis.

Routine monitoring of industrial users includes collecting samples for all parameters regulated in their individual Wastewater Discharge Permit. Sampling events are scheduled without notice to the industrial users. Samples are collected, preserved, and analyzed using procedures in accordance with 40 CFR Part 136.

Review of Continued Compliance Monitoring

A two part chain of custody form accompanies all samples delivered to the Wastewater Management Laboratory. The yellow copy of the chain of custody form accompanies the sample and the white copy is retained by Environmental Services Section (ESS) staff. Upon delivery, each sample container receives an integrity check and the chain of custody is signed by a Senior Laboratory Technician. The Senior Laboratory Technician will also assign a lab work order number to each sample.

After delivery of samples to the laboratory, the following information pertaining to each chain of custody is reviewed by ESS staff.

- (a) Industry
- (b) Sampling location and type
- (c) Sample observations and /or abnormalities
- (d) Field readings such as pH, EC, etc.
- (e) Sample ID and work order numbers
- (f) Date and time
- (g) Type of requested analysis
- (h) Sampler's name

Sampling information is logged in a book for tracking. ESS staff uses the above information to compile and organize analytical data from the laboratory.

Samples that are delivered to a contract laboratory are logged in by an Inventory Control Technician and the samples are assigned internal lab control numbers. Sample ID and Work Order numbers are assigned by ESS staff. Test results from contract labs are reviewed by the Wastewater Management laboratory for test methods, detection limits, and accuracy of the quality control samples. A lab staff member assigned to this task enters the sample results into the Laboratory Information Management System (LIMS). All sample results are manually entered except for organic analytical results. Only the date received is entered for these results. The completed laboratory work orders are reviewed by the Senior Laboratory Technician for quality control protocol and signed off by the Laboratory Supervisor. Hard copies of the sample results are forwarded to the Supervising Environmental Control Officer. ESS staff collects the data from LIMS, summarizing and recording the data on a work sheet. The work sheet is given to the ESS staff member responsible for that industry. Another copy of the work sheet is placed in the file for that industry. All violations on the work sheet are flagged and action will be taken following the Enforcement Response Guide.

Tracking Sampling Results and Industry Reporting

Review of Industry Self-monitoring Reports

All self-monitoring reports (SMRs) received from industrial users are stamped with the date that they are received. If an industry fails to submit the report, action will be taken according to the ERP. The ESS staff member responsible for that industry reviews the chain of custody for the sampling site, test methods, dates, times, detection limits, person collecting the sample and test results. Test results in violation are flagged for enforcement action according to the ERP. The industry will also be placed on an enforcement sampling schedule and an enforcement inspection will be scheduled. The industry is required to notify the Control Authority within twenty-four hours after learning of the violation and resample the parameter in violation. Enforcement action will be taken if the industry fails to notify the Control Authority or resample. If there are no violations the SMR is summarized, recorded and filed.

Review of revenue pH sampling

A pH measurement is taken during each industry revenue sample. Any sample result outside of discharge limitations will be reported to the Wastewater Management staff member in charge of that industry for enforcement action.

Enforcement List

Industrial users placed on the Enforcement Sampling list have violated continued compliance monitoring or their self-monitoring report. Wastewater Management will track samples and take action using the guide lines of the ERP. A permit modification may be issued requiring the industry to increase sampling of the violating parameter or parameters. Wastewater Management will also conduct enforcement inspections to verify compliance status. The industry will return to the continued compliance monitoring list after satisfying all of the ERP requirements.

Enforcement Response Plan - Administrative

This document is intended to be used to address a failure to submit various reports including Flow Monitoring Reports, compliance schedule progress reports/completion reports, or other reports as may be required.

Due Date

The due date is the date specified in a wastewater discharge permit or other regulatory and/or enforcement document. Wastewater Management will notify the industry by telephone or personal contact if the document is not received by the due date.

Grace Period

Following the due date, an industry is allowed a grace period of five (5) business days to provide adequate time for a report to move through the mail system. Documents received within the grace period are not considered to be in violation.

Penalties and Enforcement Charges

Penalties are assessed with each enforcement document that an industry receives. In addition, other enforcement charges in the form of cost recovery apply for each day that a document is not received. These charges are listed in the Master Fee Schedule and in the appendix of this document. They are also listed in the ERP Guide for Administrative Issues.

Warning Notice

If a document is not received by the end of the grace period and the industry was previously notified of the situation, a Warning Notice will be issued informing the industry that they are now considered to be in violation and will include the cost recovery accrual rate. The industry will be given a deadline of fourteen (14) calendar days following the end of the grace period to submit the required document.

Notice of Violation

If a document is not received after fourteen (14) calendar days following the end of the grace period and the industry was previously notified of the situation, a Notice of Violation (NOV) will be issued informing the industry of the violation. The industry will also be given a deadline which will be twenty-eight (28) calendar days after the end of the grace period to submit the document. Cost recovery charges continue to accrue.

Consent Order

If an industry fails to submit a document after twenty-eight (28) days following the end of the grace period and was previously notified of the situation, a Consent Order will be issued requiring a meeting between the industry representative and Wastewater Management to ascertain the source of the problem and to find a mutually agreeable solution. Cost recovery charges continue to accrue.

Enforcement Response Plan – Administrative

Compliance Order

If an industry fails to submit a document forty-five (45) days after the due date (no grace period) and was previously notified of the situation, a Compliance Order will be issued requiring a meeting between the industry representative and Wastewater Management to ascertain the source of the problem and to find a mutually agreeable solution. Cost recovery charges continue to accrue. The industry is now in Significant Noncompliance.

Significant Noncompliance

An industry that fails to provide, within forty-five (45) days after the due date, any required reports is in Significant Noncompliance. Public notification listed under 40 CFR 403.8 (f) (2) (viii) is required. There are no additional monetary penalties.

Special Circumstances

Communication is a priority. Every effort is made to contact an industry to remind them of the various documents that are due. In the event that a document has not been received after fourteen (14) days or longer following the grace period and the industry was never notified or reminded of the situation, the industry will be notified by phone and given the opportunity to submit the document by the end of the day of notification without incurring any cost recovery charges. If the document is received after the day of notification, cost recovery charges will begin accumulating with the base assessment being the fourteen-day cap. Under these circumstances, a Warning Notice would be issued and enforcement would escalate sequentially. Regardless of these special circumstances, the status of Significant Noncompliance will not change, neither will the public notification requirement as required in 40 CFR 403.8 (f) (2) (viii).

Enforcement Response Guide for Administrative Issues

Violation	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY ²
Document received after due date. ¹	Within 5 business days after due date. This is known as the grace period.	No violation Wastewater Management will notify the industry by telephone or personal contact if the document is not received by the due date.	None
	Document not received by the end of the grace period.	Issue <u>Warning Notice</u> , industry given a deadline of fourteen (14) calendar days following end of grace period.	\$250.00 plus: \$45 first day \$22.50 each additional day ³
	Document not received by fourteen (14) calendar days following end of grace period.	Issue <u>Notice of Violation</u> , industry given a deadline of twenty-eight (28) calendar days following end of grace period.	\$500.00 plus: \$22.50 each additional day
	Document not received by twenty-eight (28) calendar days following end of grace period.	Issue <u>Consent Order</u> requiring a meeting with the industry to determine a solution.	\$750.00 plus: \$22.50 each additional day
	Document not received by forty-five calendar days after the due date (no grace period).	Issue <u>Compliance Order</u> requiring a meeting with the industry to determine a solution. Industry also in SNC, see below.	\$1,000.0 plus: \$22.50 each additional day
	Document not received by forty-five (45) days after the due date.	Industry is in Significant Noncompliance (SNC). Follow public notification requirements of 40 CFR 403.8 (f)(2)(viii)	No additional penalty

Notes:

1. Documents included are permit applications, flow monitoring reports, compliance schedule reports, or any other required reports.
2. Penalties are assessed beginning the first day after the grace period.
3. If the industry was never reminded of the due date, cost recovery charges will be waived provided the report is received by the end of the day of notification. If the document is not received, cost recovery charges will begin with a maximum 14-day cap and will resume accruing until it is finally received.

Enforcement Response Plan - Discharge

This document is intended to explain the different levels of enforcement related to discharge violations. It is to be used in conjunction with the Discharge Enforcement Response Plan Flow Chart and Enforcement Response Guide. The order in which the types of enforcement are listed is not necessarily the order in which enforcement is applied.

An Enforcement Review Committee (ERC) comprises members of the ESS staff who meet upon request to discuss an industry's enforcement status, pretreatment system proposals or modifications, and enforcement actions on a case-by-case basis. Any deviation from the Discharge Enforcement Response Plan needs to be reviewed and approved by the ERC.

A Compliance Schedule is a list of actions with completion dates to be taken by a violating industry to get back into compliance.

A Compliance Check is a sampling event performed after receiving the Compliance Schedule Completion Report.

Re-sample after a violation

After a violation at any enforcement level a re-sample shall be completed within thirty (30) days of the violation by the industry during their self-monitoring or by Wastewater Management.

Charges and Penalties

Any industry on enforcement status shall be assessed cost recovery charges for sampling and analysis at each enforcement level. These charges are listed in the Master Fee Schedule. Additional penalties for each level of enforcement are listed in the Master Fee Schedule. The penalty schedule is included in the appendix.

Monitoring and Sampling

For pH sampling, each individual sample result shall be compared to the local limit to determine compliance. Where the effluent of an industry is continuously monitored for pH, the industry shall maintain the pH within the local and federal range with the following excursions allowed:

1. The total time during which the pH values are outside the accepted range shall not exceed fifteen (15) minutes in any calendar day.
2. No individual excursion outside the accepted range shall exceed five (5) minutes.

For all other sampled parameters, the local limits are daily averages. Each individual grab or daily composite sample result is compared to the applicable local or federal limit as listed below. Metals have local, federal maximum daily, and federal maximum monthly average limits. Cyanide has local and federal limits. Oil and Grease has a local limit only. Total Toxic Organics (TTO) has a federal limit only. All other organic analyses have a local limit only.

Enforcement Response Plan – Discharge

Warning Notice

If a monitored parameter is in violation, a Warning Notice will be issued for any first violation during the most recent rolling six (6) months or for subsequent violations when all of the following conditions are met:

1. The violation did not exceed the Technical Review Criteria (TRC) values of 1.4 for oil and grease or 1.2 for all other parameters (excluding pH).
2. The violation for pH is no lower than 5.0 or does not exceed 12.4
3. The industry has not shown a pattern of recurring or seasonal violations. The existence of a pattern shall be determined by Wastewater Management.
4. The industry is not on a Compliance Schedule for the violated parameter.
5. The industry has had no more than one (1) Warning Notice for the same parameter in a three (3) month period and no more than three (3) in twelve (12) consecutive months.
6. The industry has not had a failure to maintain or operate monitoring or pretreatment equipment for six (6) consecutive months.

The Warning Notice will inform the industry of the parameter in violation and will also request that the permittee submit in writing, within fifteen (15) days, the corrective action planned to prevent a similar violation in the future. Wastewater Management will decide if the corrective measures are sufficient.

Wastewater Management will perform a compliance check within thirty (30) days after receiving the corrective action completion report for the Warning Notice. Failure to pass the compliance check will escalate enforcement.

Warning Notices are reportable on Quarterly and Annual Reports.

Issuance of a Warning Notice will not alter the monitoring schedule that the industry is on; however, enforcement monitoring charges and fees will be assessed.

Notice of Violation

A Notice of Violation will be issued if the violation does not meet the criteria for a Warning Notice. A written response is required within fifteen (15) days citing the cause of the violation and requiring the submittal of the Compliance Schedule, stating action(s) to be taken and completion dates that will correct the violation and prevent future violations of the same nature.

Wastewater Management will review the Compliance Schedule and determine if it is adequate. If necessary, the Compliance Schedule will be presented to the ERC. An enforcement inspection will be conducted and a compliance check will be performed within thirty (30) days after receiving the Compliance Schedule completion report. Failure to pass the compliance check will escalate enforcement.

Enforcement Response Plan – Discharge

Notice of Violation, continued

The industry will be required to start or increase the frequency of self-monitoring to at least bimonthly for the parameter violated until they pass their compliance check. After successful completion of the Compliance Schedule, Wastewater Management may allow for decreased self-monitoring. The Industry will be added to the enforcement schedule where the parameter in violation will be sampled at least bimonthly for six (6) months from the date of the last violation. Enforcement monitoring charges and fees will be assessed.

Recording devices may be required for recordable parameters. Rental or purchase of new monitoring equipment may also be required.

Successfully staying in compliance for a period of six (6) consecutive months after submitting a Compliance Schedule Completion Report will qualify the industry to meet the criteria for a Warning Notice should another incidence of noncompliance occur for the same parameter that prompted escalating enforcement.

Consent Order

A Consent Order will be issued if the industry fails to pass the compliance check from a Notice of Violation or if both of the following conditions are met:

1. The industry has passed the compliance check but incurs a violation for the same parameter that the NOV was issued for within six (6) consecutive months following completion of the Compliance Schedule.
2. The situation does not meet the criteria for issuing a Warning Notice.

The Consent Order is an agreement that is reached following a meeting between the industry and Wastewater Management. At that meeting, a Compliance Schedule will be designed with specific dates for acquisition, construction, and installation of pretreatment equipment that will enable the permittee to achieve and maintain compliance for at least six (6) consecutive months. Time frames for the Compliance Schedule will vary with the need of consultants, permits, and construction. Extensions for any of the milestones must be requested in writing and approved by Wastewater Management prior to the scheduled milestone.

An enforcement inspection will be conducted and a compliance check will be performed by Wastewater Management within thirty (30) days after receiving the Compliance Schedule completion report. Failure to pass the compliance check will escalate enforcement.

The industry will be required to increase the frequency of self-monitoring to at least monthly for the parameter violated until they pass their compliance check. After successful completion of the Compliance Schedule, self-monitoring may be decreased at Wastewater Management discretion.

The industry will be added to an enforcement schedule where the parameter in violation will be sampled at least monthly for six (6) months from the date of the last violation. Enforcement monitoring charges and fees will be assessed.

Refusal to sign the Consent Order or failure to meet its milestones or reporting requirements without approved extensions will impose additional administrative fees and may escalate directly to a Show Cause Hearing.

Enforcement Response Plan – Discharge

Successfully staying in compliance for a period of six (6) consecutive months after submitting a Compliance Schedule Completion Report will qualify the industry to meet the criteria for a Warning Notice should another incidence of noncompliance occur for the same parameter that prompted escalating enforcement.

Compliance Order

A Compliance Order will be issued if the permittee fails to pass the compliance check from a Consent Order or if all of the following conditions are met:

1. The industry has completed the Consent Order in good faith, has passed the compliance check but incurs a violation for the same parameter that the Consent Order was issued for within six (6) consecutive months following completion of the Compliance Schedule.
2. The industry does not qualify to receive a Warning Notice.
3. Future compliance is possible because of ongoing efforts by the permittee.

The Compliance Order documents the history of the noncompliance and mandates installation of additional pretreatment equipment according to a strict construction schedule similar to the Consent Order. Wastewater Management will mandate specific dates to install a complete pretreatment system, including interim and final reporting requirements.

Refusal to sign and/or comply with the terms and conditions of the Compliance Order may result in a Show Cause Hearing and/or Cease and Desist Order.

An enforcement inspection will be conducted and a compliance check will be performed by Wastewater Management within thirty (30) days after receiving the Compliance Order completion report. Failure to pass the compliance check will escalate enforcement.

The industry may be required to increase the frequency of self-monitoring beyond that required for the Consent Order for the parameter violated until compliance is achieved. After successful completion of the Compliance Order, Wastewater Management may allow for decreased self-monitoring.

The industry will be added to an enforcement schedule where the parameter in violation will be sampled at least monthly for six (6) months from the date of the last violation. Enforcement monitoring charges and fees will be assessed.

Successfully staying in compliance for a period of six (6) consecutive months after submitting a Compliance Schedule Completion Report will qualify the industry to meet the criteria for a Warning Notice should another incidence of noncompliance occur for the same parameter that prompted escalating enforcement.

Show Cause Order

If the industry fails to comply with the requirements of any order, notice, or demand of the ERP, the Control Authority may order any industry to show cause before the Director why the water and/or sewer services of the industry should not be terminated. A notice will be served on the industry specifying the time and place of a Show Cause Hearing to be held by the Director or his/her designee regarding the violation. The notice of the hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days before the hearing. Service of notice will be made on an authorized representative of the industry, or the occupant(s), and/or owner(s), of record of the property. The Director will conduct the meeting, giving the industry time to present his/her/its position.

Enforcement Response Plan – Discharge

If the problems causing the noncompliance appear to be resolvable at the hearing's conclusion, an order will be issued to the industry that following a specified time period, the water and/or sewer service will be disconnected unless adequate facilities have been installed or upgraded to ensure future compliance. The Director can take other actions as provided for in the Fresno Municipal Code. Monthly enforcement sampling will continue at the discretion of Wastewater Management.

Notice of Noncompliance

When a violation has occurred and the industry is on a Compliance Schedule for the violated parameter, a Notice of Noncompliance (NON) will be issued informing the user that they are still in noncompliance. These notifications serve notice to the industry to review their operation and make changes as needed. Additional penalties in accordance with the Master Fee Schedule will apply for each NON issued.

Cease and Desist Order

This order may be issued to a user to terminate its discharge or a specific discharge stream to the collection system for any of the following situations:

- Illegal or unauthorized discharge
- Interference or pass through in the collection system or at the treatment facility
- Health hazards for personnel servicing the collection system or the general public
- Results of a Show Cause Hearing

The order may be issued immediately upon discovery of the problem or following a Show Cause Hearing. It can also be issued alone or in conjunction with any other notice to stop violations of a general or specific discharge prohibition or local limit.

In an emergency, a Cease and Desist Order may be given verbally, either in person or over the phone, and followed up with a written notice.

Enforcement Response Guide - Discharge

Violation	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY ²
<p>Any violation of discharge prohibitions listed in FMC Chapter 6, Article 3, Section 6-327 or applicable Code of Federal Regulations</p>	<p>Meets criteria for a Warning Notice</p> <p>Does not meet criteria for a Warning Notice.</p>	<p>Issue <u>Warning Notice</u></p> <ul style="list-style-type: none"> - Industry to submit corrective action plan within fifteen (15) days. - Wastewater Management will perform a compliance check within thirty (30) days after receiving corrective action plan. <p>Issue <u>Notice of Violation</u></p> <ul style="list-style-type: none"> - Industry to submit Compliance Schedule within fifteen (15) days. - Bi-monthly self monitoring required - Wastewater Management will: <ol style="list-style-type: none"> 1) Re-sample within thirty (30) days of violation 2) Perform a compliance check within thirty (30) days after receiving the Completion Report. 3) Sample bi-monthly for six (6) months from the date of the last violation. 	<p style="text-align: center;">\$250.00</p> <p style="text-align: center;">\$500.00</p>
<p>Industry fails to stay in compliance for six months after submitting the Completion Report under a Notice of Violation</p>	<ul style="list-style-type: none"> - Violation is for the same parameter that the NOV was issued for within six (6) months following completion of the Compliance schedule. - Violation does not meet criteria for a Warning Notice 	<p>Issue <u>Consent Order</u></p> <ul style="list-style-type: none"> - Meeting with Wastewater Management and industry, develop Compliance Schedule with timelines for equipment upgrades to maintain compliance - Self monitoring increased to monthly - Wastewater Management will: <ol style="list-style-type: none"> 1) Re-sample within 30 days of violation 2) Perform a compliance check within thirty (30) days after receiving the Completion Report. 3) Sample monthly for six (6) months from the date of the last violation. 	<p style="text-align: center;">\$750.00</p>
<p>Industry fails to stay in compliance for six months after submitting the Completion Report under a Consent Order</p>	<ul style="list-style-type: none"> - Violation is for the same parameter that the Consent Order was issued for within six (6) months following completion of the Compliance schedule. - Industry has acted in good faith - Violation does not meet criteria for a Warning Notice. 	<p>Issue <u>Compliance Order</u></p> <ul style="list-style-type: none"> - The Compliance Order documents the history and mandates additional equipment installed with strict timelines and reporting. - Industry may be required to increase self monitoring - Wastewater Management will: <ol style="list-style-type: none"> 1) Re-sample within 30 days of violation 2) Perform a compliance check within thirty (30) days after receiving the Completion Report. 3) Sample monthly for six (6) months from the date of the last violation. 	<p style="text-align: center;">\$1000.00</p>

Enforcement Response Guide – Discharge, continued

Violation	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY ²
Failure to comply with the requirements of any order, notice, or demand of the ERP.	- Industry has not acted in good faith	Issue notice of Show Cause - Notice will specify time and place to meet with the Director or his/her designee. - The notice shall be served at least ten (10) days before the hearing. - The industry will be required to show cause why termination of water or sewer service should not occur. - If the problem is resolvable an Order will be issued with a compliance schedule - Wastewater Management may continue enforcement sampling - The Director can take other actions as provided for in the Fresno Municipal Code.	\$1000.00
Industry has a violation while on a Compliance Schedule at any enforcement level	The violation is for the same parameter covered by the Compliance Schedule	Issue <u>Notice of Non-compliance (NON)</u> - Industry to review their operation and make changes as needed to correct the issue	\$250.00
-Illegal or unauthorized discharge - Results of a Show Cause hearing - Other violations deemed serious enough to warrant immediate action	- Causing interference at the POTW - Causing damage to the environment through pass through at the POTW - Causing health hazards to the public or personnel servicing the collection system or POTW	Issue <u>Cease and Desist Order</u> - Can be issued following a Show Cause hearing or with any other violation notice for stopping a specific prohibited discharge. - If an emergency, can be issued verbally - If the industry fails to comply, Wastewater Management will seek legal action.	No additional penalty.

Notes:

1. At the NOV level for a pH violation Wastewater Management will determine if a pH chart or data recorder is required.
2. Enforcement sampling and analysis charges also apply; see the appendix or the Master Fee Schedule.

Significant Noncompliance (SNC)

“Significant Noncompliance” means a compliance status in which an industrial user has a violation which meets one or more of the following criteria:

1. Chronic violations of waste water discharge limits, defined as those in which sixty six percent or more of all the measurements taken for the same pollutant parameter during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits.
2. Technical Review Criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, HEM, and 1.2 for all other pollutants except pH).
3. Any other violation of a pretreatment standard or requirement that has caused, alone or in combination with other discharges, interference, pass through, or endangered the health of plant personnel or the general public.
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
5. Failure to meet, within 90 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.
6. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, periodic self monitoring reports, and reports on compliance with compliance schedules.
7. Failure to accurately report noncompliance.
8. Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

At least annual public notification shall be made in a newspaper of general circulation within the jurisdiction served by the POTW of industrial users which, at any time during the previous 12 (twelve) months, were in significant noncompliance with applicable pretreatment requirements.

40 CFR 403.8 (f) (2) (viii)

Enforcement Response Plan - Other Issues

This part of the ERP covers issues that do not fall under the administrative or discharge ERP, but may require enforcement action. Examples would include an industry failing to maintain their composite sampler or effluent meter used for revenue sampling and billing.

Industry effluent meter malfunction

If the industry notifies Wastewater Management of the malfunction, no enforcement action will be taken provided the meter is repaired or replaced and fully functional within eight (8) weeks of becoming aware of the problem.

On the first occurrence of an industry's effluent meter malfunction without first notifying Wastewater Management, a Warning Notice will be issued for Failure to Operate and Maintain Monitoring and/or Sampling Devices. An estimate will be made for revenue billing purposes. The effluent meter shall be repaired or replaced and fully functional within eight (8) weeks after Wastewater Management becomes aware of the problem and shall be in operating condition for six (6) consecutive months to prevent escalating enforcement.

If the industry fails to repair the effluent meter within the eight (8) week period or maintain the meter in operating condition for six (6) consecutive months following repair for the first occurrence of malfunction, a Notice of Violation will be issued for Failure to Operate and Maintain Monitoring and/or Sampling Devices. The industry will be notified that the sewer bill will be based on total potable water consumption, in accordance with Chapter 6, Article 3, Section 6-309 (c) (2) (ii) of the Fresno Municipal Code. Billing will continue to be based on total potable water consumption until such time that the City can establish one full billing period based on the effluent meter.

The exception to billing based on potable water consumption will be for those instances where the industry generates more effluent than consumption. In such cases, Chapter 6, Article 3, Section 6-309 (c) (2) (iii) of the Fresno Municipal Code shall apply.

Industry composite sampler malfunction

If the industry notifies Wastewater Management of the malfunction, no enforcement action will be taken provided the sampler is repaired or replaced and fully functional within three (3) weeks of becoming aware of the problem. If, after three (3) weeks, the sampler is not repaired or replaced, enforcement will begin at the first violation level noted below.

If an industry's composite sampler is found to be non-functioning during routine revenue sampling, the ESS staff member responsible for the industry shall be notified as soon as possible. The cost for collecting make up samples shall be reimbursed to the City of Fresno in accordance with the Master Fee Schedule.

Industry composite sampler malfunction, continued

Enforcement for Failure to Operate and Maintain Monitoring and/or Sampling Devices shall be applied as follows:

Violation*	Enforcement Response	Penalty
First violation	Warning Notice	\$250.00
Second violation	Notice of Violation	\$500.00
Third violation	Consent Order	\$750.00
Fourth violation	Compliance Order	\$1000.00
Fifth violation	Show Cause Hearing	\$1000.00

*The industry must maintain compliance for six (6) consecutive months at any enforcement level to avoid escalating enforcement.

Septage Hauler Enforcement Response Plan

This document is intended to map out the path through various levels of enforcement actions when conditions that are listed in the Septage Hauler Wastewater Discharge Permit are violated. The order in which the types of enforcement are listed is not necessarily the order in which enforcement is applied.

Penalties

Penalties that apply at each level of enforcement are listed in the Master Fee Schedule and in the appendix of this document.

Warning Notice

A Warning Notice (WN) will be issued when a violation of any condition listed in the septage hauler discharge permit occurs and all of the following conditions are met:

1. The hauler has not shown a pattern of recurring violations. The existence of a pattern shall be determined by Wastewater Management.
2. The hauler has not had more than one (1) Warning Notice in a three (3) month period, and no more than three (3) Warning Notices in twelve (12) consecutive months.
3. The hauler has maintained compliance for six (6) consecutive months from the date of the last WN or six months from the completion date of a compliance schedule or order.

Notice of Violation

A Notice of Violation (NOV) will be issued if the violation does not meet the criteria for a Warning Notice. The hauler will need to stay in compliance for six (6) consecutive months from the date of the last NOV or enforcement will increase to the next level.

Consent Order

A Consent Order with a one (1) month suspension of disposal privileges will be issued if the following conditions are met:

1. The hauler incurs a similar violation that the last NOV was issued for within six (6) consecutive months from the date of the last NOV.
2. The situation does not meet the criteria for issuing a Warning Notice.

The Consent Order is an agreement that is reached in a meeting between the hauler and Wastewater Management to prevent future violations. Refusal to sign and/or comply with the terms and conditions of the Consent Order will result in increasing enforcement and penalties.

Septage Hauler Enforcement Response Plan

Compliance Order

A Compliance Order with a three (3) month suspension of disposal privileges will be issued if the following conditions are met:

1. The hauler incurs a similar violation that the Consent Order was issued for within six (6) consecutive months from the date of the last Consent Order.
2. The situation does not meet the criteria for issuing a Warning Notice.

The Compliance Order documents the history of noncompliance and mandates conditions to prevent future violations. Refusal to sign and/or comply with the terms and conditions of the Compliance Order will result in a Show Cause Hearing and/or Cease and Desist Order.

Show Cause

If the hauler fails to comply with the requirements of any order, notice, or demand of the ERP, the Control Authority may order any hauler to show cause before the Director why disposal privileges of the hauler should not be terminated. A notice will be served on the hauler specifying the time and place of a Show Cause Hearing to be held by the Director or his/her designee regarding the violation. The notice of the hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days before the hearing. Service of notice will be made on an authorized representative of the hauler, or the occupant(s), and/or owner(s), of record of the business. The Director will conduct the meeting, giving the hauler time to present his/her/its position.

Cease and Desist Order

This order may be issued to a user to terminate its discharge or a specific discharge stream to the collection system for any of the following situations:

- Illegal or unauthorized discharge
- Interference or pass through in the collection system or at the treatment facility
- Health hazards for personnel servicing the collection system or the general public
- Results of a Show Cause Hearing

The order may be issued immediately upon discovery of the problem or following a Show Cause Hearing. It can also be issued alone or in conjunction with any other notice to stop violations of a general or specific discharge prohibition or local limit.

In an emergency, a Cease and Desist Order may be given verbally, either in person or over the phone, and followed up with a written notice.

Fats, Oil & Grease (FOG) Enforcement Response Plan For Food Service Establishments (FSE)

This document is intended to map out the path through various levels of enforcement actions that maybe taken when conditions that are listed in the Food Service Establishment (FSE) FOG Wastewater Discharge Permit are violated. The order in which the types of enforcement are listed is not necessarily the order in which enforcement is applied.

Penalties

Penalties that apply at each level of enforcement are listed in the Master Fee Schedule and in the appendix of this document.

Warning Notice

A Warning Notice (WN) will be issued when a violation of any condition listed in the FSE discharge permit occurs and all of the following conditions are met:

1. The FSE has not shown a pattern of recurring violations. The existence of a pattern shall be determined by Wastewater Management.
2. The FSE has not had more than one (1) Warning Notice in a three (3) month period, and no more than three (3) Warning Notices in twelve (12) consecutive months.
3. The FSE has maintained compliance for six (6) consecutive months.

Notice of Violation

A Notice of Violation (NOV) will be issued If the violation does not meet the criteria for a Warning Notice. The FSE will need to stay in compliance for six (6) consecutive months from the date of the last NOV or enforcement will increase to the next level.

Consent Order

A Consent Order will be issued if the following conditions are met:

1. The FSE incurs a similar violation that the last NOV was issued for within six (6) consecutive months from the date of the last NOV.
2. The situation does not meet the criteria for issuing a Warning Notice.

The Consent Order is an agreement that is reached in a meeting between the FSE and Wastewater Management to prevent future violations. Refusal to sign and/or comply with the terms and conditions of the Consent Order will result in increasing enforcement and penalties.

FSE Enforcement Response Plan

Compliance Order

A Compliance Order will be issued if the following conditions are met:

1. The FSE incurs a similar violation that the Consent Order was issued for within six (6) consecutive months from the date of the last Consent Order.
2. The situation does not meet the criteria for issuing a Warning Notice.

The Compliance Order documents the history of noncompliance and mandates conditions to prevent future violations. Refusal to sign and/or comply with the terms and conditions of the Compliance Order will result in a Show Cause Hearing and/or Cease and Desist Order.

Show Cause

If the FSE fails to comply with the requirements of any order, notice, or demand of the ERP, the Control Authority may order any FSE to show cause before the Director why the water and/or sewer services of the FSE should not be terminated. A notice will be served on the FSE specifying the time and place of a Show Cause Hearing to be held by the Director or his/her designee regarding the violation. The notice of the hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days before the hearing. Service of notice will be made on an authorized representative of the FSE, or the occupant(s), and/or owner(s), of record of the business. The Director will conduct the meeting, giving the FSE time to present his/her/its position.

Cease and Desist Order

This order may be issued to a user to terminate its discharge or a specific discharge stream to the collection system for any of the following situations:

- Illegal or unauthorized discharge
- Interference or pass through in the collection system or at the treatment facility
- Health hazards for personnel servicing the collection system or the general public
- Results of a Show Cause Hearing

The order may be issued immediately upon discovery of the problem or following a Show Cause Hearing. It can also be issued alone or in conjunction with any other notice to stop violations of a general or specific discharge prohibition or local limit.

In an emergency, a Cease and Desist Order may be given verbally, either in person or over the phone, and followed up with a written notice.

Civil and Criminal Enforcement Actions

Introduction

A uniform procedure has been established to request enforcement action by the City Attorney's Office. A copy of the 'Request for Enforcement Action' form is included in the appendix.

Civil Action

The City may impose civil penalties including, but not limited to: administrative penalties, modification or revocation of permits, and/or cessation of services. The types of violations by industrial users warranting civil penalties are:

- Failure to factually report the wastewater constituents and characteristics of its discharge;
- Failure to report significant changes in wastewater constituents or characteristics;
- Refusal of reasonable access to the industrial User's premises for purpose of inspection and monitoring;
- Discharges of slugs of wastewater to the collection system;
- Failure to operate and maintain pretreatment system in the manner needed to meet discharge limits;
- Disrupting the proper functioning of monitoring equipment;
- Illegal discharges to the POTW;
- Submitting required reports past the due date;
- Causing blockages in the collection system;
- Violating any condition or provision of its permit, FMC Chapter 6, Article 3, or any judicial order

Chapter 6, Article 3, Section 6-323(e) of the Fresno Municipal Code authorizes the Control Authority to issue an administration penalty with a fine of up to twenty-five thousand dollars (\$25,000) per violation per day. The penalty may be collected through the user's city issued utility bill pursuant to Article 1 of Chapter 6 of the FMC. The industrial user receives a written notice stating the nature of the violation and the civil penalty assessed either personally or by certified or registered mail.

All costs including labor, sampling, laboratory analysis, and equipment incurred as a result of violations by an industrial user will be reimbursed to the City by that user.

The City Attorney has discretion to institute the appropriate civil action to ensure compliance with the Fresno Municipal Code, including an action for a temporary restraining order, a preliminary or permanent injunction, or an action to recover any damages incurred as a result of any Code violation.

Civil and Criminal Enforcement Actions

Criminal Prosecution

The US Attorney's Office has set up a task force to handle illegal discharges that fall under their jurisdiction. A member of Wastewater Management attends the task force meetings. If Wastewater Management staff has evidence of an illegal or hazardous discharge by an industry, the Department of Toxic Substances Control (DTSC) is notified of the evidence. DTSC will determine the most suitable way to collect evidence. If the sampling results reveals a possible illegal or hazardous waste violation DTSC will utilize a search warrant to obtain further evidence. The sampling results and search warrant information will be given to the State's Attorney General's Office and the US Attorney's Office. The US Attorney's Office usually takes the lead to determine the appropriate legal action. At this point, Wastewater Management will be a support group if needed.

Wastewater Management staff also works with the County of Fresno, Environmental Health System to prosecute other discharge and non-discharge violations. These violations include improper storage of hazardous waste and illegal dumping into the sewer system. If the evidence from inspections or sampling reveals a possible illegal action the case is brought before the Fresno County Counsel. The Fresno County Counsel will review the evidence and recommend either fines and/or prosecution. During this process the Wastewater Management staff will be a support group if needed.

Termination of Sewer Service

In addition to the provisions of FMC Chapter 6, Article 3, Section 6-335(k), any user who violates the following conditions is subject to discharge termination:

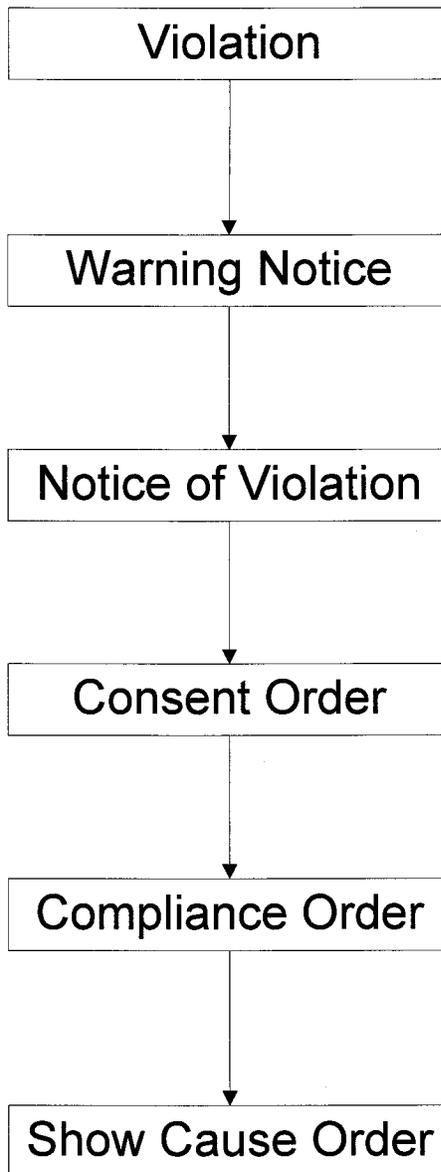
- Violation of Wastewater Discharge Permit terms and conditions;
- Failure to accurately report the wastewater constituents and characteristics of its discharge;
- Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
- Failure to report an accidental or slug discharge as required in FMC Chapter 6, Article 3, Section 6-336(k); or
- Violation of any pretreatment standard or requirement, or any terms of the Wastewater Discharge Permit

Termination of sewer service involves physically plugging or disconnecting the user's sewer line from the collection system. It may also include or be replaced by the termination of water service.

If a permitted industrial user fails to comply with previous enforcement actions including a Consent Order or a Compliance Order, a Show Cause Hearing will be held by the Director or his/her designee. The offending party will be required to show cause why an order should not be made directing the termination of water service and/or severance of sewer connection. Written notice of the hearing will be served personally or by certified mail, return receipt requested, to an authorized representative of the industry at least ten (10) days before the hearing. The Director will conduct the meeting, giving the industry time to present his/her/its position.

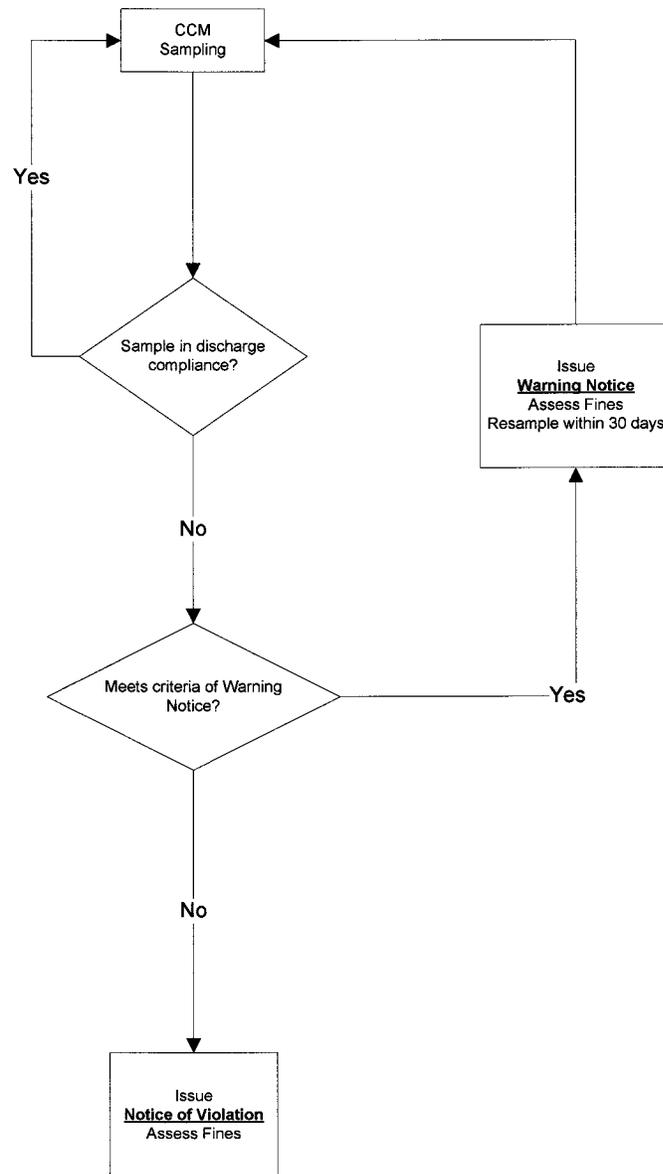
If the Director issues an order for sewer termination, a Cease and Desist Order will be issued. The Cease and Desist Order will be used to suspend or permanently revoke the industrial user's discharge permit, discontinue water service, and/or sever the sewer connection. A Cease and Desist Order may also be issued for illegal or unauthorized discharge, interference or pass through at the POTW, or health hazards for the general public or personnel servicing the collection system. In an emergency, the order may be given verbally in person or over the phone and followed up with a written notice. If a user does not comply with the Cease and Desist Order, legal action with the City's Attorney will be taken to stop the discharge.

Discharge Enforcement Response Plan Flow Chart



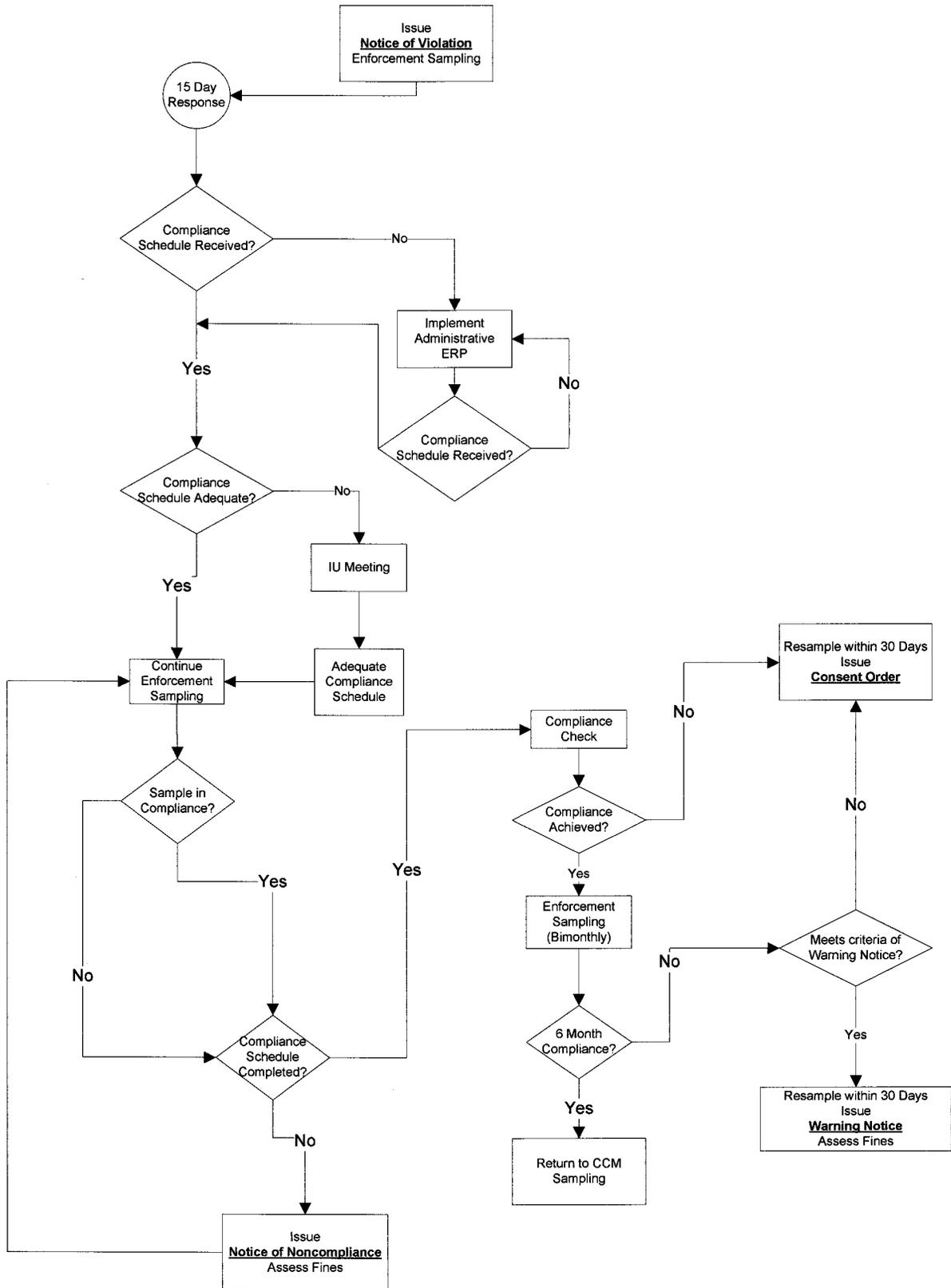
Discharge Enforcement Response Plan Flow Chart

Warning Notice



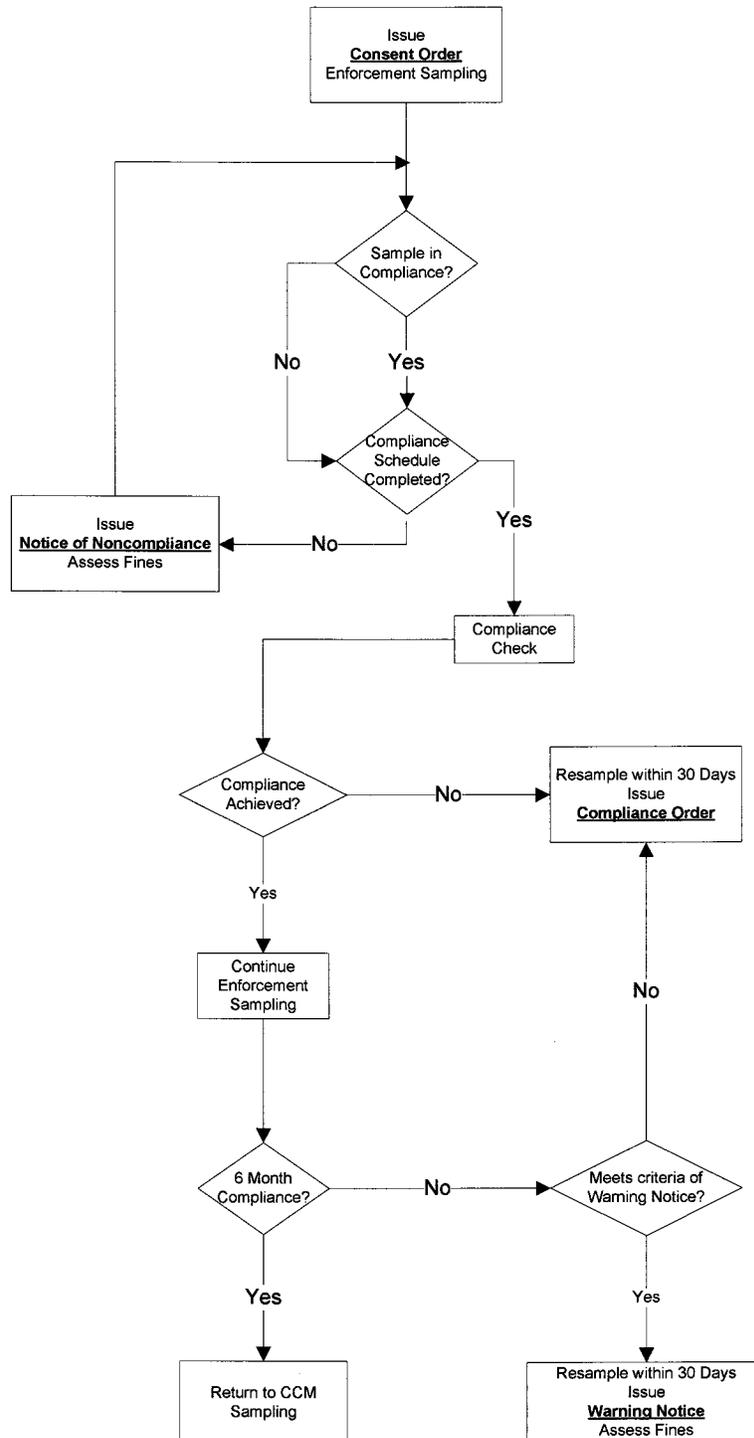
Discharge Enforcement Response Plan Flow Chart

Notice of Violation



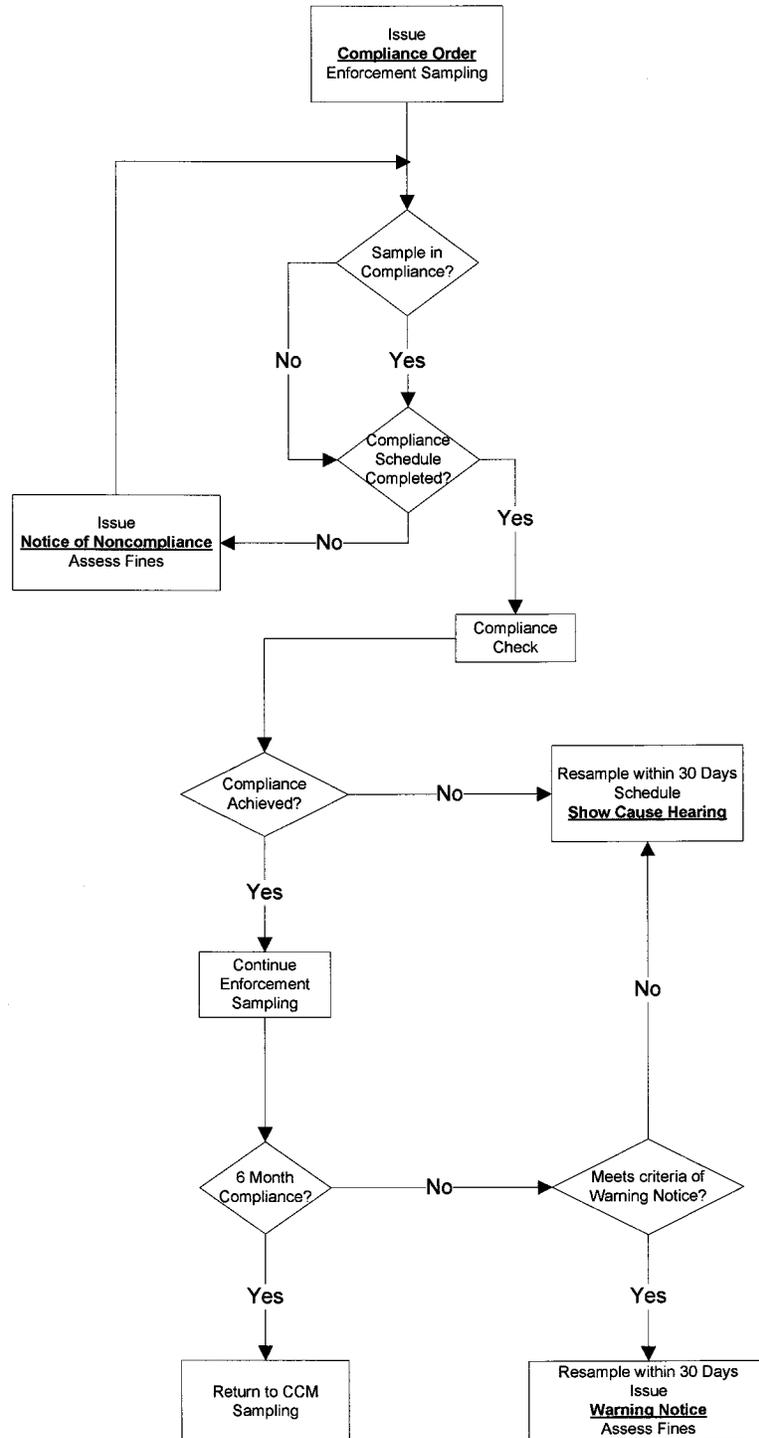
Discharge Enforcement Response Plan Flow Chart

Consent Order



Discharge Enforcement Response Plan Flow Chart

Compliance Order



Discharge Enforcement Response Plan Flow Chart

Show Cause

