

City of Fresno

Department of Public Utilities

Wastewater Management Division

Industrial Waste Pretreatment Program

Enforcement Response Plan

2019

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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 (industries subject to categorical pretreatment standards, but not NSCIUs)	Two days quarterly
Metals (industrial laundries)	Semiannually
Oil and grease	Quarterly or semiannually
pH	Quarterly or semiannually
Total Toxic Organics	Annually with Toxic Organic Management Plan; otherwise, semiannually
Volatile organics (industrial laundries only)	Semiannually

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
Notice of Violation	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 user's 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 and reasonably expected to be present. 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 is available for samples delivered to the Wastewater Management Laboratory when a hard copy chain of custody is used. 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 to indicate transfer of custody to the laboratory. The Senior Laboratory Technician will also assign a lab work order number to each sample. If a Senior Laboratory Technician is not available, this is done by another laboratory technician.

For samples brought in to the Wastewater Management Laboratory, electronic sample tracking and chain of custody have been developed using a tablet. A sample identification number is assigned when a sampling event is added to the tablet's database. Sample date and time are entered to the tablet's database, either by the tablet itself or by the Environmental Control Officer. A label is printed that includes the sample information as well as the sampler name. The label is attached to the sample container. Field measurements and notes are also entered by the sampler into the tablet.

When transferring samples using an electronic chain of custody, the Environmental Control Officer must sign the tablet. Once the laboratory signs the tablet, the samples are relinquished to the lab. The date and time of the transfer are noted on the electronic chain of custody record.

Samples that are delivered to an outside 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 outside labs are reviewed by the Wastewater Environmental Supervisor and then forwarded to the ESS staff member responsible for that industry. A copy of the report is placed in the file for that industry. All violations in the report are noted and action will be taken following the Enforcement Response Guide.

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 Enforcement Response Guide. The ESS staff member responsible for that industry reviews the report. Test results in violation are noted for enforcement action according to the Enforcement Response Guide. 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 ESS 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 Enforcement Response Guide. 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 Enforcement Response Plan 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. Documents are considered late if they are not received by the end of normal business on the date specified, for mailed or hand-delivered documents, or by midnight on the day specified, for faxed documents. The exception will be when a due date falls on a Saturday, Sunday or holiday in which case, the document will be considered late if not received by the aforementioned times on the next business day.

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.

Warning Notice

If a document is not received by the due date, 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 fifteen (15) calendar days following the date of the Warning Notice to submit the required document.

Notice of Violation

If a document is not received after fifteen (15) calendar days following the date of the Warning Notice, a Notice of Violation (NOV) will be issued informing the industry of the violation. The industry will also be given a deadline fifteen (15) calendar days following the date of the Notice of Violation to submit the document. Cost recovery charges continue to accrue.

Consent Order

If an industry fails to submit a document after fifteen (15) days following the date of the Notice of Violation, 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.

Compliance Order

If an industry fails to submit a document forty-five (45) days after the due date, a Compliance Order will be issued requiring the industry to submit the document. 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.

Enforcement Response Plan - Discharge

This document is intended to explain the different levels of enforcement related to discharge violations. 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

If sampling performed by an industrial user indicates a violation, the industrial user must notify Wastewater Management within twenty-four (24) hours of becoming aware of the violation. The industrial user must also repeat the sampling and analysis within thirty (30) days of becoming aware of the violation, unless Wastewater Management performs sampling at the industrial user's facility at least once a month or Wastewater Management performs sampling at the industrial user's facility between the time when the initial sampling was conducted and the time when the industrial user received the results. Where Wastewater Management performs the sampling and analysis, Wastewater Management must perform the repeat sampling and analysis unless it notifies the industrial user of the violation and requires the industrial to perform the repeat sampling and analysis.

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 grab 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 7 hours and 26 minutes in any calendar month.
2. No individual excursion outside the accepted range shall exceed 60 minutes.
3. No excursion shall be less than 2.
4. No excursion shall be pH 12.5 or greater.

For all other sampled parameters, the local limits are daily maximums. Each individual grab or daily composite sample result is compared to the applicable local or federal limit as listed below.

Enforcement Response Plan – Discharge

Metals have local daily maximum, federal daily maximum, and federal monthly average limits. Cyanide has local daily maximum and federal daily maximum limits. Oil and Grease has a local daily maximum limit only. Total Toxic Organics (TTO) has a federal daily maximum limit only. Other organic analyses – Phenolic compounds, Trichloroethylene (TCE), Tetrachloroethylene (PCE), BETX (Benzene, Ethylbenzene, Toluene, Xylenes) have a local daily maximum limit only.

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 not lower than 5.0 and does not exceed 12.4. Excursions are allowed for continuous monitoring of the pH, as found in Section 6-327(b)(2) of the Fresno Municipal Code.
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.
7. The industry has stayed in compliance for six (6) consecutive months after submitting a Compliance Schedule Completion Report.

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

Enforcement Response Plan – Discharge

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. 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.

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 Compliance Schedule Completion Report. 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.

Enforcement Response Plan – Discharge

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.

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, 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

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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 or designee will conduct the meeting, giving the industry time to present its position.

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 or has not had the opportunity to respond to the original violation, 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			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Any violation of discharge prohibitions listed in FMC Chapter 6, Article 3, Section 6-327 or applicable Code of Federal Regulations	Meets criteria for a Warning Notice	Issue Warning Notice -Industry to submit corrective action plan within 15 days. -Wastewater Management will perform a compliance check within 30 days after receiving corrective action plan.	\$250.00
	Does not meet criteria for a Warning Notice.	Issue Notice of Violation - Industry to submit Compliance Schedule within 15 days. - Bimonthly self-monitoring required - Wastewater Management will: 1) Resample within 30 days of violation 2) Perform a compliance check within 30 days after receiving the Completion Report. 3) Sample bimonthly for 6 months from the date of the last violation.	\$500.00
	- Violation is for the same parameter that the NOV was issued for within 6 months following completion of the Compliance schedule. - Violation does not meet criteria for a Warning Notice	Issue Consent Order - 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: 1) Resample within 30 days of violation 2) Perform a compliance check within 30 days after receiving the Completion Report. 3) Sample monthly for 6 months from the date of the last violation.	\$750.00

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DISCHARGE VIOLATION			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	<ul style="list-style-type: none"> - Violation is for the same parameter that the Consent Order was issued for within 6 months following completion of the Compliance schedule. - Industry has acted in good faith - Violation does not meet criteria for a Warning Notice. 	<ul style="list-style-type: none"> Issue Compliance Order - 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) Resample within 30 days of violation 2) Perform a compliance check within 30 days after receiving the Completion Report. 3) Sample monthly for 6 months from the date of the last violation. 	\$1000.00
	Failure to comply with the requirements of any order, notice, or demand of the ERP.	<ul style="list-style-type: none"> Issue Show Cause Order - Notice will specify time and place to meet with the Director or his/her designee. - The notice shall be served at least 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 before responding to original violation or while on a Compliance Schedule at any enforcement level	<ul style="list-style-type: none"> Issue Notice of Noncompliance - Industry to review their operation and make changes as needed to correct the issue 	\$250.00

Enforcement Response Guide

DISCHARGE VIOLATION			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	- Results of a Show Cause hearing	Issue Cease and Desist Order	No additional penalty.
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 Cease and Desist Order to immediately halt discharge - If an emergency, can be issued verbally - If the industry fails to comply, Wastewater Management will seek legal action. Issue Notice of Violation	\$500.00
Illegal or unauthorized discharge	Any level	Issue Cease and Desist Order Issue Notice of Violation for discharging without a permit	\$500.00
Discharge of a slug load without immediately notifying Wastewater Management	First violation and no impact on the POTW	Issue Warning Notice	\$250.00

Enforcement Response Guide

DISCHARGE VIOLATION			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Second violation within 6 months of first violation or First violation with impact to the POTW	Issue Notice of Violation; require submittal of a new Slug Control Plan	\$500.00
	Third violation within 6 months of second violation, any level of impact	Issue Compliance Order	\$1,000.00
	Fourth violation within 6 months of third violation	Issue Show Cause Order to terminate service	\$1,000.00

MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Document not submitted by due date	First incident	Issue Warning Notice	\$250.00 In addition: \$45.00 first day late and \$22.50 each additional day

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Not received within 15 days of the date of the Warning Notice	Issue Notice of Violation	\$500.00 In addition: \$22.50 each additional day continues
	Not received within 15 days of the date of the Notice of Violation	Issue Consent Order	\$750.00 In addition: \$22.50 each additional day continues
	Not received within 15 days of the date of the Consent Order	Issue Compliance Order Industry will be published in accordance with 40 CFR 403.8 (f) (2) (viii) as being in Significant Noncompliance	\$1,000.00 In addition: \$22.50 each additional day continues
	Industry refuses to submit report after Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Failure to monitor correctly	Failure to monitor all pollutants as required by permit	Notify industry to resample for all required pollutants; original due date enforced	None
	or Requesting the wrong analytical method		
Failure to install monitoring equipment (Effluent meter or composite sampler)	Delay of less than 15 days	Issue Warning Notice	\$250.00
	Delay of 15-30 days	Issue Notice of Violation	\$500.00
	Delay of more than 30 days	Issue Compliance Order	\$1,000.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Failure to maintain effluent meter	Industry notified Wastewater Management	Industry instructed to repair or replace effluent meter within 2 billing periods	None
	Wastewater Management discovered effluent meter malfunction prior to industry notification	Issue Warning Notice Industry instructed to repair or replace effluent meter within 2 billing periods	\$250.00
	Industry fails to repair or replace effluent meter within 2 billing periods	Issue Notice of Violation Industry will be billed based on total potable consumption until one full billing period based on effluent meter is established	\$500.00
Failure to maintain composite sampler	Industry notified Wastewater Management or industry checks the sampler daily with documentation	Industry instructed to repair or replace composite sampler within 3 weeks	None

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Wastewater Management discovered composite sampler malfunction prior to industry notification	Issue Warning Notice Industry instructed to repair or replace composite sampler within 3 weeks	\$250.00
	Industry fails to repair or replace composite sampler within 3 weeks of original notification	Issue Notice of Violation Industry instructed to repair or replace composite sampler within 1 week	\$500.00
	Industry fails to repair or replace composite sampler after receiving Notice of Violation	Issue Consent Order	\$750.00
	Industry fails to repair or replace composite sampler after receiving Consent Order	Issue Compliance Order	\$1,000.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Industry fails to repair or replace composite sampler after receiving Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00
Failure to report a change in operation or process	First violation with no impact on POTW	Issue Warning Notice	\$250.00
	First violation with an impact on POTW Violation within 6 months of the Warning Notice	Issue Notice of Violation	\$500.00
	Violation within 6 months of the Notice of Violation	Issue Consent Order	\$750.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Violation within 6 months of the Consent Order	Issue Compliance Order	\$1,000.00
	Violation within 6 months of the Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00
Failure to report upset, bypass, or slug discharge	First violation with no impact on POTW	Issue Warning Notice	\$250.00
	First violation with an impact on POTW Violation within 6 months of the Warning Notice	Issue Notice of Violation	\$500.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Violation within 6 months of the Notice of Violation	Issue Consent Order	\$750.00
	Violation within 6 months of the Consent Order	Issue Compliance Order	\$1,000.00
	Violation within 6 months of the Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00
Failure to report a self-monitoring violation	First violation	Issue Warning Notice	\$250.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Violation within 6 months of the Warning Notice	Issue Notice of Violation	\$500.00
	Violation within 6 months of the Notice of Violation	Issue Consent Order	\$750.00
	Violation within 6 months of the Consent Order	Issue Compliance Order	\$1,000.00
	Violation within 6 months of the Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Failure to submit all self-monitoring reports	First violation	Issue Warning Notice	\$250.00
	Violation within 6 months of the Warning Notice	Issue Notice of Violation	\$500.00
	Violation within 6 months of the Notice of Violation	Issue Consent Order	\$750.00
	Violation within 6 months of the Consent Order	Issue Compliance Order	\$1,000.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Violation within 6 months of the Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00
Failure to collect self-monitoring samples	First violation	Issue Warning Notice	\$250.00
	Violation within 6 months of Warning Notice	Issue Notice of Violation	\$500.00
	Violation within 6 months of Notice of Violation	Issue Consent Order	\$750.00

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MONITORING AND REPORTING VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
	Violation within 6 months of the Consent Order	Issue Compliance Order	\$1,000.00
	Violation within 6 months of the Compliance Order	Issue Show Cause Order to terminate service	\$1,000.00

FOOD SERVICE ESTABLISHMENT VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Failure to maintain log of interceptor cleaning activities or keeping receipts of outside vendor cleaning activities	First violation	Give the FSE one week to produce the maintenance log or vendor receipts	None
	Second violation	Issue Warning Notice	\$250.00

Enforcement Response Guide

	Third violation	Issue Notice of Violation	\$500.00
	Fourth violation	Issue Consent Order	\$750.00
	Fifth violation	Issue Compliance Order	\$1,000.00
Failure to clean grease interceptor in accordance to permit requirements	First violation, no Sanitary Sewer Overflow	Issue Warning Notice	\$250.00
	First violation with Sanitary Sewer Overflow Second violation	Issue Notice of Violation Occurrence of Sanitary Sewer Overflow prompts additional enforcement listed below.	\$500.00

Enforcement Response Guide

	Third violation	Issue Consent Order	\$750.00
	Fourth violation	Issue Compliance Order	\$1,000.00
	Fifth violation	Issue Show Cause Order to terminate service	\$1,000.00
Failure to maintain documents pertaining to grease removal, waste oil removal, and vent/filter cleaning for 3 years	Any level	Give the FSE a verbal warning, document	None
Causing a Sanitary Sewer Overflow	First violation	Issue Notice of Violation Issue new FSE Wastewater Discharge Permit with increased cleaning frequency Notify Fresno County Department of Environmental Health	\$500.00

Enforcement Response Guide

	Second violation	Issue Compliance Order Notify Fresno County Department of Environmental Health	\$1,000.00
	Third violation	Issue Show Cause Order to terminate service	\$1,000.00

LIQUID WASTE HAULER VIOLATIONS			
VIOLATION	NATURE and/or SEVERITY	ENFORCEMENT RESPONSE	PENALTY
Failure to leave a manifest after discharging	Within 48 hours of discharging	Notify the hauler and give 48 hours to submit the manifest	None
	More than 48 hours after being notified	Issue Notice of Violation Require manifest to be submitted within one week	\$500.00

Enforcement Response Guide

	More than one week after receiving Notice of Violation	Cancel key card	None
Submitting an incomplete manifest	Within 48 hours of discharging	Notify the hauler and give 48 hours to submit the manifest	None
	More than 48 hours after being notified	Issue Notice of Violation Require manifest to be submitted within one week	\$500.00
	More than one week after receiving Notice of Violation	Cancel key card	None
Placing outside trash in the trash bin provided at the septage receiving facility	First violation	Issue Warning Notice	\$250.00

Enforcement Response Guide

	Second violation	Issue Notice of Violation	\$500.00
	Third violation	Issue Consent Order	\$750.00
	Fourth and successive violations	Issue Compliance Order	\$1,000.00
Dumping material on the pad	First violation	Issue Warning Notice	\$250.00 Cost recovery charges to clean the pad
	Second violation	Issue Notice of Violation	\$500.00 Cost recovery charges to clean the pad

Enforcement Response Guide

	Third violation	Issue Consent Order 30-day suspension of privileges	\$750.00 Cost recovery charges to clean the pad
	Fourth violation	Permit revocation	Cost recovery charges to clean the pad
Failure to clean the pad after discharging load	First violation	Issue Warning Notice	\$250.00
	Second violation	Issue Notice of Violation	\$500.00
	Third violation	Issue Consent Order	\$750.00

Enforcement Response Guide

	Fourth violation	Issue Compliance Order 30-suspension of privileges	\$1,000.00
	Fifth violation	Permit revocation	None
Using a non-permitted truck	First violation	Issue Warning Notice	\$250.00
	Second violation	Issue Notice of Violation	\$500.00
	Third violation	Issue Consent Order	\$750.00

Enforcement Response Guide

	Fourth violation	Permit revocation	None
Discharging prohibited or non-permitted material	First violation	Issue Notice of Violation	\$500.00
	Second violation	Issue Consent Order	\$750.00
	Third violation	Issue Compliance Order	\$1,000.00
	Fourth violation	Permit revocation	None

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).

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.

Criminal Prosecution

Chapter 6, Article 3, Section 6-323(c)(6) of the Fresno Municipal Code provides for requests to be submitted to the City Attorney to pursue criminal action with penalties in the amount of at least \$1,000 per day per violation of pretreatment standards and requirements by industrial users.

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 permit revocation:

- 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.

Appendix A

Discharge Limits

Discharge Limits

Parameter	Local Limit	40 CFR 433.17(a)	
	Daily Maximum (mg/L)	Federal Maximum (mg/L)	Federal Monthly (mg/L)
Arsenic (As)	0.32	NA	NA
Cadmium (Cd)	0.12	0.11	0.07
Chromium (Cr)	6.7	2.77	1.71
Copper (Cu)	2.5	3.38	2.07
Total Cyanide (CN)	0.77	1.20	0.65
Lead (Pb)	1.2	0.69	0.43
Mercury (Hg)	0.05	NA	NA
Nickel (Ni)	1.3	3.98	2.38
Silver (Ag)	1.1	0.43	0.24
Zinc (Zn)	2.1	2.61	1.48
Phenolic Compounds ¹	300	NA	NA
Trichloroethane (TCE)	0.12	NA	NA
Tetrachloroethane (PCE)	0.77	NA	NA
BETX ²	20	NA	NA
Oil & Grease (as HEM)	700	NA	NA
pH Local Limit: 6.0 – 12.4, Federal minimum: 5.0			

¹ 4-Chloro-3-methylphenol, 2-Chlorophenol, 2,4-Dichlorophenol, 2,4-Dimethylphenol, 2,4-Dinitrophenol, 2-Methyl-4,6-dinitrophenol, 2-Nitrophenol, 4-Nitrophenol, Pentachlorophenol, Phenol, 2,4,6-Trichlorophenol as a single constituent or as a cumulative total.

² Benzene, ethylbenzene, toluene, and xylene as a single constituent or as a cumulative total.

Appendix B

Penalties and Enforcement Charges

Penalties and Enforcement Charges

Administrative penalty for failure to meet reporting deadlines:	
First day late (after 5 business days grace period)	\$45.00
Each additional day late	\$22.50
General inorganic and bacteriological analysis / per hour	\$50.00
Composite sampler rental / per day	\$75.00
Pretreatment enforcement charges / per hour	\$45.00
Miscellaneous non-enforcement charges / per hour	\$45.00
Miscellaneous enforcement sampling charges:	
Total metals, per sample	
First metal	\$14.00
Each additional metal	\$ 7.00
Cyanide, per sample	\$20.00
Oil & Grease, per sample	\$45.00
Series of grabs, per sample	\$22.50
Warning Notice	\$250.00
Notice of Violation	\$500.00
Consent Order	\$750.00
Compliance Order	\$1,000.00
Show Cause Order	\$1,000.00
Notice of Noncompliance	\$250.00

Appendix C

Discharge Category Definitions

DISCHARGE CATEGORY DEFINITIONS

Class I Discharger

Any industrial or commercial user meeting the criteria of a Significant Industrial User shall be defined as a Class I Discharger. Significant Industrial Users are defined as follows:

- 1) Any categorical industrial users; or
- 2) Any non-categorical industrial user that:
 - i) Discharges 25,000 GPD or more of process wastewater, or
 - ii) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic (BOD, SS, etc.) capacity of the treatment plant, or
 - iii) Has a reasonable potential, in the opinion of the Control Authority, to adversely affect the POTW treatment plant.

Class I industrial users are further broken down into the following subclasses:

- (a) Industrial users that are subject to National Categorical Pretreatment Standards.
- (b) Non-categorical industrial users having an effluent discharge greater than or equal to 25,000 GPD, but less than 50,000 GPD.
- (c) Non-categorical industrial users having an effluent discharge greater than or equal to 50,000 GPD, but less than 100,000 GPD.
- (d) Non-categorical industrial users having an effluent discharge greater than or equal to 100,000 GPD, but less than 500,000 GPD.
- (e) Non-categorical industrial users having an effluent greater than or equal to 500,000 GPD.
- (f) Non-categorical industrial users having an effluent less than 25,000 GPD that contains priority pollutants in a concentration that may have a potential impact on the collection system or the POTW.

Class I permits may be issued for periods greater than one year but not longer than five years. Class I dischargers shall be inspected at least annually.

Class II Discharger

Any industrial or commercial user who discharges process wastewater to the public sewer in amounts, on a routine basis, that have little or no singular impact on the wastewater collection system, wastewater treatment plant, the quality of sludge or the quality of the effluent may be defined as a Class II discharger. Industries in this class have an effluent discharge less than 25,000 GPD, BOD concentration greater than 265 mg/L and/or suspended solids greater than 300 mg/L, and do not have a well characterized waste stream. Routine sampling and analysis of their wastewater will be required for revenue determination purposes. Class II permits may be issued for periods greater than one year but not longer than five years. Industrial users in this class are broken down into the following subclasses:

- (a) Non-significant industries having an effluent discharge less than or equal to 10,000 GPD.
- (b) Non-significant industries having an effluent discharge greater than 10,000 GPD and less than 25,000 GPD.

Class III Discharger

Any commercial user having a potential impact on the POTW may be defined as a Class III discharger. These users may require some type of pretreatment, but scheduled monitoring is not required. The user may be required to install a grease interceptor or other pretreatment device. Because of the nature of their business activity and a well-characterized waste stream, routine sampling is not required. Class III permits may be issued for periods of up to five years.

Class IV Discharger

Any user requiring a special permit for a one time discharge (batch discharges) of wastewater into the collection system or for discharging wastewater for a specific short-term period of time (interim discharge) may be defined as a Class IV discharger. In addition, haulers of waste removed from septic tanks and chemical toilets (defined as Septage Haulers) may also be defined as Class IV dischargers. Sampling and analysis of the wastewater may be required prior to approval of discharge and issuance of a permit. Class IV permits will be issued for either specified volumes or specified time periods. Septage hauler permits may be issued for periods of up to five years.

Class V Discharger

Industrial or commercial users having no process wastewater discharge, but who may have product or hazardous materials stored on site which may require spill prevention measures may be defined as Class V dischargers. Class V permits may be issued for periods of up to 5 years, but are not required under all circumstances.

Class VI Dischargers

This class consists of residential users. No permit is required.

Appendix D

Warning Notice

Failure to Submit

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
WARNING NOTICE**

TO: contact name
Industry name

Date:
Cert. Mail # xxxx xxxx xxxx xxxx

xxxx
Mailing address
City, ST zip

LOCATION: address

ADMINISTRATIVE VIOLATION

FOR: Failure to submit _____ due _____.

Your facility has been found in violation of:

- Wastewater Discharge Permit # _____ , Section __ , Condition # __ .
- Fresno Municipal Code: Chapter 6, Article 3, Section 6-336(____)
- Code of Federal Regulations: 40 C.F.R. 403.12(____)

In accordance with the above regulatory documents, you are required to submit _____
_____, Your report was due _____.

Penalties are currently accruing at the rate of \$45.00 for the first date late and \$22.50 for every day late thereafter, and will continue to accrue until the overdue report is received. Your penalties to date are \$_____.

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

Environmental Control Officer

RIGHT TO APPEAL

Pursuant to FMC § 6-323(d), you have the right to request a reconsideration. Should you file a written request and disagree with the decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

1. The name, address, and telephone numbers of the appellant;
2. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
3. A brief description of the specific order, citation, decision, or determination being appealed;
4. A statement of the relief sought;
5. The reasons why such relief should be granted;
6. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
7. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by _____:

Attn: Rosa Lau-Staggs
Wastewater Management Division
5607 West Jensen Avenue
Fresno, CA 93706-9458

If you have any questions regarding any of the above, please call _____ at (559) 621-XXXX.

jhp

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10-Feb-20

Appendix E

Warning Notice

Composite Sampler Failure
Effluent Meter Failure

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
WARNING NOTICE**

TO: contact name
Industry name

Date:
Cert. Mail # xxxx xxxx xxxx xxxx

xxxx

Mailing address
City, ST zip

LOCATION: address

FOR: COMPOSITE SAMPLER FAILURE / EFFLUENT METER FAILURE

DATE OF VIOLATION: (DATE)

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

REPORTING REQUIREMENTS

Please review your process operations and/or pretreatment system to determine what caused the violation. You are required to submit a Corrective Plan of Action to prevent a similar violation in the future.

Please submit by ***Day Month, year*** to:

ECO Name
Wastewater Management Division
Environmental Services Section
5607 West Jensen Avenue
Fresno, CA 93706-9458

Failure to submit the required Plan of Action will result in penalties being accrued at the rate of \$45.00 for the first day late and \$22.50 for every day late thereafter, and will continue to accrue until the required report is received.

ECO Name
Environmental Control Officer

RIGHT TO APPEAL

Pursuant to FMC § 6-323(d), you have the right to request a reconsideration. Should you file a written request and disagree with the decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

8. The name, address, and telephone numbers of the appellant;
9. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
10. A brief description of the specific order, citation, decision, or determination being appealed;
11. A statement of the relief sought;
12. The reasons why such relief should be granted;
13. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
14. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by _____:

Attn: Rosa Lau-Staggs
Wastewater Management Division
5607 West Jensen Avenue
Fresno, CA 93706-9458

If you have any questions regarding any of the above, please call _____ at (559) 621-XXXX.

jhp
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10-Feb-20

Appendix F

Warning Notice

Discharge Parameters

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
WARNING NOTICE**

TO: contact name
Industry name
Mailing address
City, ST zip

Date:
Cert. Mail # xxxx xxxx xxxx xxxx xxxx

LOCATION: address

Wastewater samples collected from your facility's sampling site on **Day Month, year**, by Wastewater Management personnel violated the **local/federal limit** for **parameter**.

<u>Date</u>	<u>Parameter</u>	<u>Value</u>	<u>Limit Violated</u>	<u>Status</u>
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ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

REPORTING REQUIREMENTS

Please review your process operations and/or pretreatment system to determine what caused the violation. You are required to submit a Corrective Plan of Action to prevent a similar violation in the future.

Please submit by **Day Month, year** to:

ECO Name
Wastewater Management Division
Environmental Services Section
5607 West Jensen Avenue
Fresno, CA 93706-9458

Failure to submit the required Plan of Action will result in penalties being accrued at the rate of \$45.00 for the first day late and \$22.50 for every day late thereafter, and will continue to accrue until the required report is received.

Environmental Control Officer

RIGHT TO APPEAL

Pursuant to FMC § 6-323(d), you have the right to request a reconsideration. Should you file a written request and disagree with the decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

15. The name, address, and telephone numbers of the appellant;
16. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
17. A brief description of the specific order, citation, decision, or determination being appealed;
18. A statement of the relief sought;
19. The reasons why such relief should be granted;
20. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
21. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by _____
_____:

Attn: Rosa Lau-Staggs
Wastewater Management Division
5607 West Jensen Avenue
Fresno, CA 93706-9458

If you have any questions regarding any of the above, please call _____ at
(559) 621-XXXX.

jhp

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10-Feb-20

Appendix G

Notice of Violation

pH Violations

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
NOTICE OF VIOLATION**

TO: NAME
 INDUSTRY
 MAILING ADDRESS
 CITY, ST ZIP

DATE:
Cert. Mail #:

LOCATION: STREET ADDRESS

DISCHARGE VIOLATION

FOR: Discharge of effluent with a pH value in violation of the Fresno Municipal Code lower/upper limit of 6.0/12.4 and the Federal lower limit of 5.0.

Date of Violation

Value

Your facility has been found in violation of:

- Wastewater Discharge Permit # _____ , Section __ , Condition # __ .
- Fresno Municipal Code: Chapter 6, Article 3, Section 6-327(b)(2)
- Code of Federal Regulations: 40 C.F.R. 403.5(b)(2)

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

REPORTING REQUIREMENTS

In accordance with the Fresno Municipal Code, Chapter 6, Article 3, Section 6-336(g), you are required to submit, for approval by Wastewater Management staff, a detailed Compliance Schedule of specific actions to correct this/these violation(s) and prevent future violations.

Please submit Compliance Schedule by _____ to:

ECO Name
Environmental Services Section
Wastewater Management Division
5607 W. Jensen Ave.
Fresno, CA 93706-9458

Failure to submit the required Compliance Schedule will result in penalties being accrued at the rate of \$45.00 for the first day late and \$22.50 for every day late thereafter, and will continue to accrue until the required report is received.

By: _____
For Director of Public Utilities

RIGHT TO APPEAL

Pursuant to FMC § 6-323(d), you have the right to request a reconsideration. Should you file a written request and disagree with the decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

22. The name, address, and telephone numbers of the appellant;
23. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
24. A brief description of the specific order, citation, decision, or determination being appealed;
25. A statement of the relief sought;
26. The reasons why such relief should be granted;
27. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
28. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by _____:

Attn: Rosa Lau-Staggs
Wastewater Management Division
5607 West Jensen Avenue
Fresno, CA 93706-9458

If you have any questions regarding any of the above, please call _____ at (559) 621-XXXX.

Appendix H

Notice of Violation

Discharge Parameters Other than pH

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
NOTICE OF VIOLATION**

TO: NAME
 INDUSTRY
 MAILING ADDRESS
 CITY, ST ZIP

DATE:
Cert. Mail #:

LOCATION: STREET ADDRESS

DISCHARGE VIOLATION

FOR: Discharge of effluent with a (parameter) concentration in violation of the Fresno Municipal Code limit of (state limit), the EPA 1-day maximum limit of (state limit), and/or the EPA monthly maximum of (state limit).

Date of Violation

Value in mg/L

Your facility has been found in violation of:

- Wastewater Discharge Permit # _____ , Section __ , Condition #__ .
- Fresno Municipal Code: Chapter 6, Article 3, Section 6-327(d)
- Code of Federal Regulations: 40 C.F.R. _____

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

REPORTING REQUIREMENTS

In accordance with the Fresno Municipal Code, Chapter 6, Article 3, Section 6-336(g), you are required to submit, for approval by Wastewater Management staff, a detailed Compliance Schedule of specific actions to correct this/these violation(s) and prevent future violations.

Please submit Compliance Schedule by _____ to:

ECO Name
Environmental Services Section
Wastewater Management Division
5607 W. Jensen Ave.
Fresno, CA 93706-9458

Failure to submit the required Compliance Schedule will result in penalties being accrued at the rate of \$45.00 for the first day late and \$22.50 for every day late thereafter, and will continue to accrue until the required report is received.

By: _____
For Director of Public Utilities

RIGHT TO APPEAL

Pursuant to FMC § 6-323(d), you have the right to request a reconsideration. Should you file a written request and disagree with the decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

29. The name, address, and telephone numbers of the appellant;
30. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
31. A brief description of the specific order, citation, decision, or determination being appealed;
32. A statement of the relief sought;
33. The reasons why such relief should be granted;
34. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
35. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by _____ :

Attn: Rosa Lau-Staggs
Wastewater Management Division
5607 West Jensen Avenue
Fresno, CA 93706-9458

If you have any questions regarding any of the above, please call _____ at (559) 621-XXXX.

Appendix I

Notice of Violation

Administrative

Failure to Submit Documents

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
NOTICE OF VIOLATION**

TO: NAME
 INDUSTRY
 MAILING ADDRESS
 CITY, ST ZIP

DATE:
Cert. Mail #:

LOCATION: STREET ADDRESS

ADMINISTRATIVE VIOLATION

FOR: Failure to submit _____ due _____.

Your facility has been found in violation of:

- Wastewater Discharge Permit # _____ , Section __ , Condition # ____ .
- Fresno Municipal Code: Chapter 6, Article 3, Section 6-336(____)
- Code of Federal Regulations: 40 C.F.R. 403.12(____)

In accordance with the above regulatory documents, you are required to submit _____
_____, Your report was due _____.

Penalties are currently accruing at the rate of \$45.00 for the first date late and \$22.50 for every day late thereafter, and will continue to accrue until the overdue report is received. Your penalties to date are \$_____.

By: _____
For Director of Public Utilities

Appendix J

Notice of Violation

Administrative

Failure to Operate and Maintain Monitoring and/or Sampling Devices

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY
NOTICE OF VIOLATION**

TO: NAME
 INDUSTRY
 MAILING ADDRESS
 CITY, ST ZIP

DATE:
Cert. Mail #:

LOCATION: STREET ADDRESS

ADMINISTRATIVE VIOLATION

FOR: FAILURE TO OPERATE and MAINTAIN MONITORING and/or SAMPLING DEVICES

In accordance with the following regulatory documents, you are required to operate and maintain all industrial wastewater pretreatment devices and/or monitoring equipment in a satisfactory and approved manner. On DATE, was found to be in violation of the following:

- [] Wastewater Discharge Permit # _____, Section ____, Condition _____.

- [] Fresno Municipal Code: Chapter 6, Article 3, Section 6-315(a)

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The penalty assessment for INDUSTRY.is \$ _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

ECO

Environmental Services Section
Wastewater Management Division
5607 W. Jensen Ave.
Fresno, CA 93706-9458

Failure to submit the required Compliance Schedule will result in additional penalties being accrued at the rate of \$45.00 for the first day late and \$22.50 for every day late thereafter, and will continue to accrue until the required report is received.

By: _____
For Director of Public Utilities

RIGHT TO APPEAL

Pursuant to FMC § 6-323(d), you have the right to request a reconsideration. Should you file a written request and disagree with the decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

1. The name, address, and telephone numbers of the appellant;
2. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
3. A brief description of the specific order, citation, decision, or determination being appealed;
4. A statement of the relief sought;
5. The reasons why such relief should be granted;
6. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
7. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by **DATE**.

Attn: Rosa Lau-Staggs
Wastewater Management Division
5607 West Jensen Avenue
Fresno, CA 93706-9458

If you have any questions regarding any of the above, please call **ECO** at (559) 621-51??.

Appendix K

Consent Order

CONSENT ORDER

CITY OF FRESNO

WASTEWATER MANAGEMENT DIVISION

IN THE MATTER OF

*
*
*
*
*

(Date)

HISTORY

(Write a history of events leading up to the Consent Order including previous IU action/response.)

Due to an inability to maintain compliance, a meeting was held at Wastewater Management to confer and agree on actions to be taken by to ensure compliance is achieved.

ORDER

As a result of the meeting held on _____, and the Environmental Services Section have agreed to the following measures to achieve and maintain compliance with local and/or federal discharge requirements for .

	Action	Completion Date	Report Due
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____

As a result of advancing to this level of enforcement, please be advised of the following modifications to your Wastewater Discharge Permit No. _____:

1. Condition No. _____:
2. Condition No. _____:
3. Condition No. _____:

These modifications are made in accordance with Chapter 6, Article 3, Section 6-335(h) of the Fresno Municipal Code and will be effective on _____.

AGREEMENT

The following representatives of and the City of Fresno have read, understand, and agree to the conditions set forth in this Consent Order. In accordance with Chapter 6, Article 3, Section 6-323(g) of the Fresno Municipal Code, refusal to sign this Order may result in a Show Cause Hearing for termination of services.

Rosa Lau-Staggs for Director of Public Utilities

Date

I hereby acknowledge receipt of this Consent Order and agree to the conditions set forth.

Industry Representative

Title

Date

Environmental Control Officer

Date

XXX
Consent Order Blank
10-Feb-20

Appendix L

Compliance Order

COMPLIANCE ORDER
CITY OF FRESNO
WASTEWATER MANAGEMENT DIVISION

IN THE MATTER OF

*

INDUSTRY
LOCATION
CITY, ST ZIP

*
*
*
*
*

LEGAL AUTHORITY

The following findings are made and this order is issued pursuant to the authority vested in the Director of Public Utilities under Section 6-338 of the City of Fresno’s Municipal Code. This order is based on findings of a violation of the conditions of the Wastewater Discharge Permit issued under Section 6-335 of the City’s Municipal Code.

FINDINGS

1. INDUSTRY discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Fresno.
2. INDUSTRY is a “Significant Industrial User” as defined by Section 6-302(s)(8) of the Fresno Municipal Code.
3. INDUSTRY was issued a Wastewater Discharge Permit on _____ which contains prohibitions, restrictions, and other limitations on the quality of wastewater it discharges into the sanitary sewer.
4. Pursuant to the Fresno Municipal Code and the above-referenced permit, data is routinely collected or submitted on the compliance status of INDUSTRY.
5. This data shows that INDUSTRY has violated its Wastewater Discharge Permit in one or more of the following manner(s):
 - a. INDUSTRY has violated its permit limits for PARAMETER in samples collected between DATE and DATE, for a total of ## separate violations of the permit; and/or
 - b. INDUSTRY has failed to submit all SPECIFY REPORT(S) due since DATE.
 - c. The violation(s) stated above satisfy the City’s definition of significant noncompliance as defined in 40 C.F.R. 403.8(f)(2)(vii).

ORDER

THEREFORE, BASED ON THE ABOVE FINDINGS, INDUSTRY IS HEREBY ORDERED TO:

1. Within 180 days, install pretreatment technology which will adequately treat INDUSTRY'S wastewater to a level which will comply with its Wastewater Discharge Permit.
 - a. Select an engineer or consultant by DATE*.
 - b. Select a treatment process & design criterion by DATE*.
 - c. Submit a detailed design of the treatment system by DATE*.
 - d. Select a contractor for construction of treatment system by DATE*.
 - e. Commence construction of treatment system by DATE*.
 - f. Start up pretreatment system by DATE*.
 - g. Achieve compliance by DATE*.
 - h. Maintain continuous compliance with all local and federal discharge limits for six (6) consecutive months following the "Achieve Compliance" date above.

(* no more than 30 days, WMD specifies) and/or

2. Within five (5) days, submit all REPORTS which have been due since DATE.
 - a. Within the first week of each month subsequent to issuance of this Order, ## sample(s) shall be obtained from the agreed upon sample site and analyzed for PARAMETER by the method designated in permit condition ##. Results shall be submitted to Wastewater Management Division by the end of each month.
3. Within ten (10) days, pay to the cashier's office of the City of Fresno's Utility Billing and Collections Division, enforcement charges as stated on the utility bill. (Enforcement charges shall include, but not be limited to, all costs including overhead incurred for labor, sampling, laboratory analysis and equipment as a result of a user failing to comply with any provision of this article.)
4. Report, on a monthly basis by the end of each month subsequent to issuance of this Order, the progress toward achievement of the above steps until compliance is achieved.
5. All reports and notices required by this Order shall be sent, in writing, to the following address:

**WASTEWATER ENVIRONMENTAL SUPERVISOR
WASTEWATER MANAGEMENT DIVISION
5607 WEST JENSEN AVENUE
FRESNO, CA 93706-9458**

6. This Order does not constitute a waiver of the Wastewater Discharge Permit which remains in full force and effect. The City of Fresno reserves the right to seek any and all remedies available to it under Section 6-323 of the Fresno Municipal Code for any violation cited by this Order.
7. Failure to comply with any requirement of this Order may result in termination of water and sewer service forty-eight (48) hours after notification, and may subject INDUSTRY to civil or criminal penalties or such other enforcement response as may be appropriate.
8. This Order shall be effective upon receipt by INDUSTRY.

 Rosa Lau-Staggs for
 Director of Public Utilities

 Date

I hereby acknowledge receipt of this Compliance Order and agree to the conditions set forth therein:

 Industry Representative

 Title

 Date

Witnessed by:

 Environmental Control Officer

 Date

 Other

 Date

FAILURE TO SIGN THIS COMPLIANCE ORDER SHALL BE INTERPRETED AS WILLFUL INTENT TO VIOLATE LOCAL AND FEDERAL REGULATIONS AND SHALL RESULT IN A SHOW CAUSE HEARING TO TERMINATE SERVICE.

Appendix M

Cease and Desist Order

City of Fresno
Department of Public Utilities
Wastewater Management Division

In the Matter of _____)
)
)
)
)
_____)

ORDER TO
CEASE AND DESIST

FINDINGS OF FACT

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED, that

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(c), the City may impose administrative penalties of no more than one thousand dollars (\$1,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

RIGHT TO APPEAL

Pursuant to FMC § 6-323(h), you have the right to request a reconsideration to the Director of Public Utilities Department. Should you file a written request and disagree with the Director's decision, you may file an appeal of that decision to the City's Administrative Hearing Officer pursuant to Chapter 1, Article 4.

If you fail to file a written request for reconsideration within fifteen (15) days of this notice, the penalty assessment will be deemed final with no further right to appeal.

A written request for reconsideration shall contain all of the following information:

1. The name, address, and telephone numbers of the appellant;

2. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
3. A brief description of the specific order, citation, decision, or determination being appealed;
4. A statement of the relief sought;
5. The reasons why such relief should be granted;
6. Any other information you believe relevant to this matter which would be helpful for the Director to make his/her decision;
7. A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

A written request for reconsideration shall be filed at the following address by _____:

Attn: Michael Carbajal, Director
Department of Public Utilities
2600 Fresno Street, Room 3065
Fresno, CA 93721

If you have any questions regarding any of the above, please call _____ at
(559) 621-XXXX.

Dated at Fresno, California, this _____ day of _____.

Rosa Lau-Staggs
Wastewater Manager

Appendix N

Notice of Noncompliance

**FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION
FACILITY
NOTICE OF NONCOMPLIANCE**

TO: contact name
Industry name
xxxx xxxx
Mailing address
city, ST Zip code

DATE:
Cert. Mail #: xxxx xxxx xxxx

LOCATION: address

A sample of wastewater was collected from your facility's sampling site on (DATE) by Wastewater Management personnel and analyzed for (PARAMETER). Analysis of the sample gave the following result:

<u>Date</u>	<u>Parameter</u>	<u>Value</u>	<u>Limit Violated</u>	<u>Compliance Status</u>
-------------	------------------	--------------	-----------------------	--------------------------

ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with Fresno Municipal Code ("FMC") Chapter 6, Article 3, Section 6-323(e), the City has the authority to impose administrative penalties of no more than twenty-five thousand dollars (\$25,000) per day for each violation. The assessment for _____ is _____. This amount will be assessed to the sewer utility bill pursuant to FMC § 6-323(d).

Please review your process operations and/or pretreatment system for possible explanations. Corrective action taken will prevent future violations and the need for escalating enforcement against (INDUSTRY NAME). If you have any questions please contact me at 621-51__.

ECO Name
Environmental Control Officer