STANDARD CONDITIONS

FOR

WASTEWATER DISCHARGE PERMITS
# STANDARD CONDITIONS FOR WASTEWATER DISCHARGE PERMITS

## TABLE OF CONTENTS

SECTION A. DEFINITIONS ............................................................................................................ 1

SECTION B. GENERAL CONDITIONS .......................................................................................... 2

1. Severability .............................................................................................................................. 2
2. Duty to Comply .......................................................................................................................... 2
3. Duty to Mitigate ........................................................................................................................ 2
4. Permit Modification .................................................................................................................. 2
5. Permit Termination ................................................................................................................... 3
6. Permit Appeals ........................................................................................................................ 3
7. Property Rights ...................................................................................................................... 3
8. Transfer .................................................................................................................................... 4
9. Duty to Reapply ....................................................................................................................... 4
10. Continuation of Expired Permits ........................................................................................... 4
11. Dilution ................................................................................................................................... 4
12. Prohibited Effects ................................................................................................................... 4
13. Prohibited Substances or Characteristics ............................................................................. 5
14. Compliance with Applicable Pretreatment Standards and Requirements and Other Discharge Regulations ................................................................................................................................... 5

SECTION C. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS ................... 5

1. Proper Operation and Maintenance ....................................................................................... 5
2. Spill Containment .................................................................................................................... 6
3. Duty to Halt or Reduce Activity .............................................................................................. 6
4. Bypass of Pretreatment Facilities .......................................................................................... 6
5. Removed Substances .............................................................................................................. 6
6. Sump or Clarifier Waste ......................................................................................................... 7

SECTION D. INSPECTION, MONITORING, AND RECORDS .................................................. 7

1. Representative Sampling ........................................................................................................ 7
2. Flow Measurements ................................................................................................................ 7
3. pH Measurements .................................................................................................................. 8
4. pH Meter Calibration ............................................................................................................. 8
5. Pretreatment for pH (continuous discharges) ...................................................................... 8
6. LEL Meter Calibration .......................................................................................................... 8
7. Analytical Methods to Demonstrate Continued Compliance ................................................. 9
8. Inspection and Entry ............................................................................................................... 9
9. Retention of Records ........................................................................................................... 9
10. Sampling and Analysis Record Requirements .................................................................... 10
11. Falsifying Information ........................................................................................................ 10

SECTION E. ADDITIONAL REPORTING REQUIREMENTS ....................................................... 10
1. Constituent Monitoring ......................................................................................................... 10
2. Permit Violations and Automatic Resampling ................................................................. 10
3. Accidental Discharge Report ............................................................................................. 11
4. Planned Changes .................................................................................................................. 11
5. Signatory Requirements ..................................................................................................... 11

SECTION F. ENFORCEMENT .................................................................................................. 12
1. Annual Publication ............................................................................................................... 12
2. Administrative Civil Liability (ACL) .................................................................................. 12
3. Civil and Criminal Liability ............................................................................................... 13
4. Civil Penalties for Violations of Permit Conditions ....................................................... 13
5. Criminal Prosecution ......................................................................................................... 13
6. Recovery of Noncompliance Costs .................................................................................... 13
SECTION A. DEFINITIONS

a) **Batch** – Unless otherwise specified in the Wastewater Discharge Permit, a batch is a volume of wastewater held in a tank or container so that after the tank is filled and no further additions of wastewater are made, a sample representative of the entire contents of the tank is collected and the tank is emptied as a discrete discharge.

b) **Best Management Practices (BMPs)** – Schedule of activities, prohibitions of practices, maintenance procedures, and management practices, which can include wastewater treatment and operating procedures and practices that reduce the generation of pollutants or prevent them from being released to the sewer system. BMPs, when incorporated in a wastewater discharge permit, may be used as alternative means of complying with, or in place of certain established categorical Pretreatment Standards, and/or administered as Pretreatment Requirements, and will be subject to all requirements and enforcement actions contained in the Regional San Consolidated Ordinance.

c) **Business Week** – The days of the week (Sunday through Saturday) during which process wastewater is discharged.

d) **Bypass** – The intentional diversion of wastes from any portion of a pretreatment facility.

e) **Composite Sample** – A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time paced composite sample or as a flow paced composite sample.

f) **Daily Maximum Limit** – The maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharge over the course of the day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

g) **Flow Paced Composite Sample** – A sample formed by mixing discrete samples of equal volume taken at time intervals which are proportional to wastewater flow over a defined period.

h) **Grab Sample** – An individual sample collected in less than 15 minutes, without regard for flow or time.

i) **Instantaneous Limit** – The limit of a pollutant allowed to be discharged at any time. Compliance is determined from the analysis of any discrete or composite sample collected.

j) **Monthly Average** – The arithmetic mean of the daily values for effluent samples collected during a calendar month or specified 30-day period (as opposed to a rolling 30-day window).

k) **Outfall** – Location identified as representing a wastewater discharge for purposes of compliance, monitoring, or billing and can include single or multiple wastestreams.

l) **Pollution** – A condition in which elements or compounds are present at concentrations high enough above their normal ambient levels to produce a measurable effect on humans, animals, vegetation, materials, or the environment.

m) **Production Hour Composite** – A composite sample collected during that portion of a business day when process wastewater is discharged.

n) **Public Sewer** – Any sewer which carries domestic and/or nondomestic wastewater located within an easement or public right-of-way which is maintained by a public agency.
o) **Slug** – Any discharge of waste which in flow rate or concentration or quantities of any given constituent could cause a violation of the Regional San Consolidated Ordinance, or any discharge of a non-routine episodic nature, including but not limited to an accidental spill or non-customary batch discharge.

p) **Time paced composite sample** – A sample composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of wastewater flow.

**SECTION B. GENERAL CONDITIONS**

1. **Severability**

   The provisions of this Wastewater Discharge Permit (permit) are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit will not be affected thereby.

2. **Duty to Comply**

   The permittee must comply with all conditions of this permit. Failure to comply with the requirements of this permit may be grounds for administrative action or enforcement proceedings including civil or criminal penalties together with any and all costs, injunctive relief, and summary abatements.

3. **Duty to Mitigate**

   The permittee must take all reasonable steps to minimize or correct any adverse impact to the sewer system or the environment resulting from noncompliance with this permit, including additional monitoring as necessary to determine the nature and impact of the discharge.

4. **Permit Modification**

   This permit may be modified for good causes including, but not limited to, the following:
   a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
   b) Material or substantial alterations or additions to the permittee's operation processes, or discharge volume or character that were not considered in drafting the effective permit.
   c) A change in any condition related to the permitted user or Regional San that requires a temporary or permanent reduction or elimination of the authorized discharge.
   d) Information indicating that the permitted discharge poses a threat to the collection or treatment systems, personnel, or the receiving waters.
   e) Violation of any terms or conditions of the permit.
   f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
   g) Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13.
h) To correct typographical or other errors in the permit.

i) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. **Permit Termination**

This permit may be terminated for any of the following reasons:

a) Falsifying self-monitoring reports.

b) Tampering with monitoring equipment.

c) Refusing to allow timely access to the facility premises and records.

d) Failure to meet effluent limitations.

e) Failure to pay fines.

f) Failure to pay sewer charges.

g) Failure to meet compliance schedules.

h) Failure to comply with the Regional San Consolidated Ordinance or requirements of the permit.

6. **Permit Appeals**

The permittee may petition to appeal the terms of this permit within 30 days of issuance. This petition must be in writing; failure to submit a petition for review will be deemed to be a waiver of the appeal. In its petition, the permittee must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed in the permit.

The effectiveness of this permit will not be stayed pending reconsideration by the District Engineer or designee. If any petition requests remain unresolved, the user can appeal to the Regional San Board of Directors (Board). If, after considering the petition and any arguments put forth by the District Engineer, the Board determines that reconsideration is proper, it will remand the permit back to the Wastewater Source Control Section (WSCS) for re-issuance. Those permit provisions being reconsidered by WSCS will be stayed pending re-issuance.

A Board’s decision not to reconsider the user’s petition will be considered final administrative action for purposes of judicial review. The permittee seeking judicial review of the Board’s final action must do so by filing a complaint with the Superior Court for Sacramento County.

7. **Property Rights**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State, or local laws or regulations.
8. **Transfer**

Wastewater Discharge Permits are issued to a specific user for a specific location and operation. A Wastewater Discharge Permit may not be reassigned, transferred, or sold by the permitted user. The preceding owner must notify WSCS of a pending change of ownership and provide a copy of the existing permit to the new owner or operator. However, nothing in this section will be construed to prevent the application of the terms and conditions of the Regional San Consolidated Ordinance, including enforcement penalties, from applying to a succeeding owner, successor in interest, or other assigns of an existing Wastewater Discharge Permit holder. If a business ceases permitted operations and the permit is not transferred, Regional San may terminate the permit.

9. **Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit an application for a new permit at least 60 days before the expiration date of this permit.

10. **Continuation of Expired Permits**

An expired permit will continue to be effective and enforceable until the permit is reissued if both of the following apply:

a) The permittee has submitted a complete permit application at least 60 days prior to the expiration date of the user’s existing permit.

b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the permittee.

11. **Dilution**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation.

12. **Prohibited Effects**

The permittee must comply with all the general prohibitive discharge standards in Section 2.5.3 of the Regional San Consolidated Ordinance. Namely, the permittee must not discharge wastewater to the sewer system if it contains substances or has characteristics which, as determined by Regional San, alone or by interaction with other wastewaters, cause or threaten to cause any of the following:

a) Damage to Regional San sewer system.

b) Pass through, interference with, or impairment of the operation or maintenance of Regional San sewer system.

c) Obstruction of flow in Regional San sewer system.

d) Danger to life or safety of any person.

e) Interference with or overloading of treatment or disposal processes.

f) Flammable or explosive conditions in the sewer system.
g) Regional San's effluent, or any other by-products of the treatment process, to be unsuitable for reclamation and reuse, or to interfere with any processes for reclamation.

h) Noxious or malodorous gases or odors.

i) Discoloration or any other condition which affects the quality of Regional San's treatment plant influent or effluent in such a manner that inhibits Regional San's ability to meet receiving water quality, biosolids quality, or air quality requirements established by regulatory agencies.

j) Conditions which violate any statute, or any rule, regulation, or ordinance of any public agency or regulatory agency having jurisdiction over the operation of or discharge of wastewater through the sewer facilities.

k) Contamination of groundwater by penetration of the sewer line.

l) Elevated temperature conditions resulting in damage to the public sewer or impairment of operation and maintenance including worker health and safety.

13. Prohibited Substances or Characteristics

In addition, the industrial user must not discharge or cause to be discharged to a public sewer any of the following:

a) Any unpolluted stormwater, surface water, groundwater, artesian well water, roof runoff, or subsurface drainage.

b) Any water or waste having a pH less than 5.0 or greater than or equal to 12.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of Regional San.

c) Any other solid or viscous substance in amounts capable of causing obstruction to flow in sewers or other interference with proper operation or maintenance of the sewer system.

d) Any wastewater of such quantity or such quality that is not amenable to adequate treatment or reduction by the sewage treatment process employed by Regional San or is a hazard to human health or safety.

14. Compliance with Applicable Pretreatment Standards and Requirements and Other Discharge Regulations

Compliance with this permit does not relieve the permittee from its obligations to comply with all other applicable laws, regulations, standards, and requirements contained in the Regional San Consolidated Ordinance and any other applicable local, State, and Federal pretreatment laws, regulations, standards, and requirements including such laws, regulations, standards, or requirements that may become effective during the term of this permit.

SECTION C. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee must properly operate and maintain all facilities and pretreatment and control systems used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes but is not limited to effective performance, adequate funding, proper staffing and training, adequate process controls, and Standard Operating Procedures.
Pretreatment or flow monitoring equipment must not be operated at a rate or capacity exceeding the manufacturer’s specifications unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternative exists. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. **Spill Containment**

All tanks and containers of materials capable of causing a slug discharge of a toxic, corrosive, or flammable nature or other substance that may have an adverse impact to the sewer system must be provided with spill containment.

3. **Duty to Halt or Reduce Activity**

Upon reduction of efficiency of operation or failure of all or part of the pretreatment facility, the permittee must, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the pretreatment facility is restored or an alternative method of pretreatment is provided. Control of production or discharge can include halting all production or discharge in order to maintain compliance. This requirement applies, for example, when the primary source of power of the pretreatment facility fails or is reduced. It will not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. **Bypass of Pretreatment Facilities**

Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or is required for essential maintenance. The permittee may allow bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to ensure efficient operation.

Notification of bypass:

a) **Anticipated bypass.** If the permittee knows in advance of the need for a bypass, it must submit prior written notice at least 10 days before the date of the bypass to the Regional San Wastewater Source Control Section (WSCS).

b) **Unanticipated bypass.** The permittee must immediately notify WSCS and submit a written report to Regional San within 5 days. This report must specify the following:

   (i) A description of the bypass and its cause, including its volume and duration;

   (ii) Whether the bypass has been corrected; and

   (iii) The steps being taken or to be taken to reduce, eliminate, and prevent a reoccurrence of the bypass.

5. **Removed Substances**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in accordance with section 405 of the Clean Water Act, Subtitles C and D of the Resource Conservation and Recovery Act, the California Hazardous Waste Control Law, and the Regional San Consolidated Ordinance. The permittee must retain records of disposal of all removed substances including the final disposal location.
6. **Sump or Clarifier Waste**

Except as authorized in this section or in the permittee’s wastewater discharge permit, no sump or clarifier waste may be disposed at Regional San facilities. Sump or clarifier waste may only be disposed at Regional San facilities if all of the following apply:

a) The permittee provides a description of the source, amount, and characteristics of the sump or clarifier waste that includes the results of any testing required by Regional San.

b) The permittee is given specific authorization to discharge the sump or clarifier waste.

c) The waste is disposed at an approved location by a liquid waste hauler operating under a liquid waste hauler discharge permit issued by Regional San.

**SECTION D. INSPECTION, MONITORING, AND RECORDS**

1. **Representative Sampling**

Samples and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. All equipment used for sampling and analysis must be routinely calibrated, inspected, and maintained to ensure accuracy. Monitoring points must not be changed without notification to and the approval from Regional San.

2. **Flow Measurements**

If flow measurement is required by this permit, the appropriate flow measurement devices and methods approved by Regional San must be selected and used to ensure the accuracy and reliability of the monitored discharge volume and rate measurements. The devices must be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected must be capable of measuring flows with a maximum deviation of less than 10 percent from true discharge rates throughout the range of expected discharge rates.

Confirmation of flow meter accuracy must be provided to Regional San annually by January 10 in accordance with the following:

- Open channel flow meters (e.g., weirs, flumes) must be certified by a qualified, independent firm.
- Closed channel flow meters (e.g., totalizers, electromagnetic) must be verified by geometric calculation or other method approved by Regional San.

The permittee must provide the process flow meter accuracy verification methodology to Regional San.

Incoming potable water supply agency meters are excluded from certification.
3. **pH Measurements**

The method of pH monitoring, by grab sampling or continuously recording pH meter, will be specified in the wastewater discharge permit. Continuous monitoring means a series of instantaneous pH meter readings taken at regular intervals during discharge hours. Continuous monitoring is commonly required for discharges with pH readings below 6 or above 11.5. The meter-reading interval must not be greater than 2 minutes. A meter that reports the minimum and maximum pH for every 2-minute interval is acceptable. Any type of averaging of the pH values over time is not acceptable. Under certain circumstances a shorter time interval may be required. The meter must be equipped with either a recorder or a data logger so that a permanent record is made.

Grab samples collected for pH are to be analyzed immediately using a pH meter (electrometric) or pH test strips. A record must be kept and presented to Regional San staff upon request demonstrating that the pH meter was in calibration.

4. **pH Meter Calibration**

The pH meter must be capable of at least 2-point calibration. The calibration points must include 4 and 10. Additional calibration points may be required.

At least weekly, the accuracy of the pH probe and meter must be verified by checking with standard buffers. The buffers used must include 4 and 10. If the pH meter reading is 0.3 units or more off any of the standard buffers, the pH meter must be calibrated immediately. In addition, the response time of the meter must be 90% of the reading in less than 20 seconds. For example, if the probe is removed from buffer 10 and placed in buffer 4, it should read 4.60 (or less) in less than 20 seconds. If the response time is longer than this, the meter must be cleaned, repaired, or replaced immediately. Calibration and maintenance may be required more frequently if records indicate that the meter is routinely out of calibration by more than 0.3 units at the end of the week. More frequent maintenance may also be required if records indicate that the response time is inordinately long.

A log must be kept of the calibration and maintenance that is to include readings taken on standard buffers before and after calibration. The check and calibration must include buffers 4 and 10. Alternate or additional calibration points may be required based on wastestream variability.

5. **Pretreatment for pH (continuous discharges)**

Pretreatment pH (pH adjustment) setpoints for continuous discharges must be between 6.0 and 11.5. Other setpoints may be required.

6. **LEL Meter Calibration**

All discharges contaminated with gasoline or other pollutants capable of producing explosive atmospheres must be monitored for the presence of explosive vapors. A lower explosive limit (LEL) monitoring system is required on all such discharges.

The permittee must install an LEL monitoring system to monitor the discharge to the sewer. The detector must be located over a point of turbulent flow. The LEL monitor must be set so that an alarm is triggered at 10% of the LEL. If 40% of the LEL is exceeded, discharge to the sewer must be ceased immediately. In the event that the treatment system is shut down as a result of an LEL alarm,
Regional San must be notified immediately. LEL monitoring systems must be calibrated annually using the method specified by the manufacturer. By January 10 of each year, the permittee must provide Regional San a statement certifying that the LEL monitoring and alarm system is functioning as designed. The statement must include a description of the method used for verifying the system’s reliability.

7. **Analytical Methods to Demonstrate Continued Compliance**

   All sampling and analysis required by this permit must be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, otherwise approved by the United States Environmental Protection Agency (EPA), or as specified in this permit.

8. **Inspection and Entry**

   The permittee must allow Regional San or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to

   a) Enter upon the permittee’s premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

   b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

   c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

   d) Sample or monitor, for the purposes of ensuring permit compliance, any substances or parameters at any location; and

   e) Inspect any production, manufacturing, fabricating, or storage area where pollutants regulated under the permit could originate, be stored, or be discharged to the sewer system.

   Where the permittee has security measures in force which require proper identification and clearance before entry into its premises, the user must make necessary arrangements with its security guards so that upon presentation of proper identification, personnel from Regional San will be permitted to enter without delay. Entry into the permittee’s premises must not be contingent upon the presence of any particular person.

   Unreasonable delay in allowing Regional San personnel access to the user’s premises is a violation of this permit.

9. **Retention of Records**

   The permittee must retain records of all monitoring information for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of Regional San at any time. Such records include the following:

   a) calibration, maintenance, and disposal records

   b) data files (electronic or hard copy) for continuous monitoring instrumentation

   c) copies of all reports required by this permit
All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by Regional San, State, or EPA must be retained and preserved by the permittee until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

10. **Sampling and Analysis Record Requirements**

Records of sampling and analyses must include all of the following:

a) The date, exact place, time, and methods of sampling or measurements, and sample preservation techniques or procedures;

b) The name of the person who performed the sampling or measurement;

c) The date(s) the analyses were performed;

d) The name of the person who performed the analyses;

e) The analytical techniques or methods used;

f) The results of such analyses;

g) The laboratory quality assurance and quality control (QA/QC) reports; and

h) The record of sample possession from the time the sample was collected to the time that the report of analysis was completed (Chain-of-Custody).

11. **Falsifying Information**

Knowingly making any false statement on any report or other document required by this permit, or knowingly rendering any monitoring device or method inaccurate, is a crime and may result in the termination or suspension of the permit and/or imposition of criminal and/or civil actions.

**SECTION E. ADDITIONAL REPORTING REQUIREMENTS**

1. **Constituent Monitoring**

Unless otherwise authorized, if the permittee monitors any pollutant listed in the permit more frequently than required by this permit, using test procedures prescribed in 40 CFR Part 136 or amendments thereto, otherwise approved by EPA, or as specified in this permit, the results of such monitoring must be included in any calculations of actual daily maximum or monthly average pollutant discharge results and must be summarized and reported in the monthly report submitted to Regional San. Such increased monitoring frequency must also be indicated in the report.

2. **Permit Violations and Automatic Resampling**

If the results of the permittee's wastewater analysis indicate that a violation of this permit has occurred, the permittee must do all of the following:

a) Inform Regional San's Wastewater Source Control Section (WSCS) of the violation within 24 hours of becoming aware of the violation.

b) Repeat the sampling and pollutant analysis.
c) Submit in writing the results of this second analysis within 30 days of becoming aware of the first violation.

3. Accidental Discharge Report

The permittee must notify WSCS immediately upon the occurrence of an accidental discharge of substances prohibited by the Regional San Consolidated Ordinance or any slug loads or spills that may enter the public sewer as follows:

<table>
<thead>
<tr>
<th>Time/Knowledge of Incident</th>
<th>Contact</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Hours: Monday-Friday 7:00 am-4:00 pm</td>
<td>Wastewater Source Control Section</td>
<td>(916) 875-6470</td>
</tr>
<tr>
<td>After Hours, weekends, holidays, and when direct contact with WSCS cannot be made</td>
<td>County Central Operator</td>
<td>(916) 875-5000</td>
</tr>
</tbody>
</table>

The notification must include location of discharge, date and time thereof, type of waste including concentration and volume, and corrective actions taken. The permittee’s notification of accidental releases in accordance with this section does not relieve it of other reporting requirements that arise under local, State, or Federal laws.

Within 5 days following an accidental discharge, the permittee must submit to WSCS a detailed written report. The report must specify all of the following:

a) Description of the incident, slug load, or accidental discharge and the cause thereof. The description should also include location of discharge, type, concentration, and volume of waste.

b) Duration of discharge, including exact dates and times.

c) All steps taken or to be taken to reduce, eliminate, and/or prevent recurrence of such an upset, slug load, accidental discharge, or other conditions of noncompliance.

4. Planned Changes

The permittee must give written notice to WSCS 90 days prior to any facility expansion; production change, increase, or decrease; or process modifications that result in new or substantially changed discharges or a change in the nature of the discharge.

The permittee must notify WSCS immediately of any changes at their facilities that may affect the potential for a slug discharge. It is the permittee’s responsibility to provide WSCS with updated information on the potential slug risks that are posed by process changes.

5. Signatory Requirements

All applications, reports, or information submitted to WSCS must contain the following certification statement and must be signed as follows:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
a) If Permitted User is a Corporation (“Inc.”)
   (i) Corporate Officer (President, Secretary, Treasurer, VP or any other person who performs similar policy- or decision-making functions for the corporation
   (ii) The manager of one or more manufacturing, production, or operating facilities having authority to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measure to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or action taken to gather complete and accurate information for control mechanism requirements and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b) If Permitted User is a Partnership or Proprietorship (“LLP”, “LLC”, “LTD”)
   (i) General Partner
   (ii) Proprietor

c) If Permitted User is a Government Entity
   (i) Principal Executive Officer or Director with responsibility for the discharging facility.

d) Any Duly Authorized Representative (or Position) given written authorization by a person in one of the above three categories. The representative usually includes plant manager, operator of a well, superintendent, personnel having overall responsibility for environmental matters for the company, etc.

   If a specific person or position is named above and that person leaves or the position is eliminated, Regional San must be provided with a new authorization prior to or with any reports to be signed by an authorized representative.

SECTION F. ENFORCEMENT

1. Annual Publication

   Pursuant to federal requirements\(^5\), a list of the users which during the previous 12 months were in significant noncompliance with applicable Pretreatment Requirements or Standards will be published in a newspaper of general circulation that provides meaningful public notice within the Regional San service area.

2. Administrative Civil Liability (ACL)

   The process of administrative civil liability allows Regional San to directly assess a monetary penalty. The ACL process is handled within Regional San’s authority and is independent of civil actions involving court proceedings, although it may require a hearing before an administrative law judge. The penalty amount is determined on an individual case basis.

   Administrative civil penalties may be pursued as follows, under the provisions of the Regional San Consolidated Ordinance:\(^6\)
   - Up to $2,000 a day for each day of failure or refusal to submit technical or monitoring reports
• Up to $3,000 a day for each day for failure or refusal to timely comply with any compliance schedule issued by the Regional San

• Up to $5,000 a day for each day for each discharge in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the Regional San

• Up to $10 per gallon for each discharge in violation of any suspension, cease and desist order, or other orders or prohibition issued, reissued, or adopted by the Regional San

3. Civil and Criminal Liability

Nothing in this permit will be construed to relieve the permittee from civil and/or criminal penalties for noncompliance with the Regional San Consolidated Ordinance or local, State, or Federal laws or regulations.

4. Civil Penalties for Violations of Permit Conditions

The Regional San Consolidated Ordinance provides that any person who violates a permit condition may be civilly liable to Regional San in a sum not to exceed $25,000.00 for each day and each event in which such violation occurs. Any person who willfully or negligently violates permit conditions is guilty of a misdemeanor for each and every day during any portion of which any violation is committed, continued, or permitted by such person and is punishable accordingly. The permittee may also be subject to sanctions under State and/or Federal law.

5. Criminal Prosecution

Any person who willfully or negligently violates any provision of the Regional San Consolidated Ordinance, any order or wastewater discharge permit issued hereunder, or any other pretreatment requirement may, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000 per violation per day, or imprisonment for not more than 30 days in County jail, or both.

6. Recovery of Noncompliance Costs

In addition to civil and criminal liability, the permittee violating any of the provisions of this permit or the Regional San Consolidated Ordinance, or causing damage to or otherwise inhibiting the Regional San sewer system will be liable to Regional San for any expense, loss, or damage caused by such violation or discharge. The permittee may be billed for the costs incurred by Regional San for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs will constitute a separate violation of the Regional San Consolidated Ordinance.

7. Upset Provision and Affirmative Defense

A categorical user may request consideration for an affirmative defense to an enforcement action issued for noncompliance with a categorical pretreatment standard due to an upset incident. The basis for and determination of this option are specified below per 40 CFR §403.16 - Upset Provision:

(a) Definition. For the purposes of this section, Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include
noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) **Effect of an upset.** An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c) are met.

(c) **Conditions necessary for a demonstration of upset.** An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
3. The Industrial User has submitted the following information to the publicly owned treatment works and Control Authority within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):
   i. A description of the Indirect Discharge and cause of noncompliance;
   ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
   iii. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) **Burden of proof.** In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

(e) **Reviewability of agency consideration of claims of upset.** In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that non-compliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) **User responsibility in case of upset.** The Industrial User shall control production or all Discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

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1 Regional San Consolidated Ordinance #SRSD-0118: 2.5.15
2 Regional San Consolidated Ordinance #SRSD-0118: 2.5.3
3 40 CFR §403.6(a)(2)(ii)
4 40 CFR §403.12(I)(1-4)
5 40 CFR §403.8(f)(1)(viii)
6 Regional San Consolidated Ordinance #SRSD-0118: 2.9.8
7 Regional San Consolidated Ordinance #SRSD-0118: 2.9.12
8 Regional San Consolidated Ordinance #SRSD-0118: 2.9.13

*END OF STANDARD CONDITIONS*