



## Penalties for Owner Noncompliance with Testing Requirements

Property owners are required to have their backflow prevention assemblies tested upon installation and annually thereafter, as well as whenever an assembly is relocated, reoriented, or repaired, or the owner is notified to do so by the San Francisco Public Utilities Commission (SFPUC). San Francisco Health Code Article 12A, Backflow Prevention (SFHC 12A) includes penalties against property owners who do not have their backflow prevention assemblies tested as required or who otherwise violate the requirements of SFHC 12A, associated rules and regulations (set forth in Section G of the SFPUC *Rules and Regulations Governing Water Service to Customers*), or requirements set forth in the SFPUC's *Manual for Cross Connection Control*. SFHC 12A Section 10 states that (1) Each day a violation is committed or permitted to continue shall constitute a separate violation; and (2) The amount of the fine ... shall be up to \$1,000 per violation per day." This document describes the enforcement process for noncompliance with SFHC 12A, as well as how due process is implemented in accordance with the code.

### Enforcement Process for Failure to Test Backflow Prevention Assemblies

The enforcement process for failure to test backflow prevention assemblies is described below and illustrated in the flow charts starting on page 3 of this document.

- 30 days before testing is due, SFPUC sends the customer of record a notice.
- If SFPUC has not received test results by the due date, SFPUC sends a second notice and refers the case to the San Francisco Department of Public Health (SFDPH) for enforcement.
- Upon referral, SFDPH issues a Final Notice to Provide Proof of Testing (Final Notice). The Final Notice lists the fines that are authorized under SFHC 12A if the customer does not comply.
- If proof of testing is not received by the date specified in the SFDPH Final Notice, SFDPH issues the property owner an Administrative Citation. Depending on the risk to the water system posed by the violation, fines may be up to \$1,000 per day that an assembly is in violation.
  - In usual circumstances, the fine for reduced pressure-principle assemblies (RPs, RPDAs, or RPDA-IIs), spill-resistant vacuum breakers (SVBs), and pressure vacuum breakers (PVBs) is \$200 per day per assembly that is out of compliance (i.e., each day an assembly is not tested after the date noted on the SFDPH Final Notice).
  - In usual circumstances, the fine for double-check valve assemblies (DCs, DCDA, or DCDA\_IIs) is \$100 per day per assembly that is out of compliance.
  - Fines may be paid by check to the SFPUC Customer Service Bureau. Fines unpaid after 30 days will be posted to the customer's water bill. If the customer of record is not the property owner, then the fines will be posted to a separate account for billing to the property owner.

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- Payment of fines does not exempt a customer from complying with testing requirements. If a customer does not comply with testing requirements within 15 days of the Administrative Citation, SFPUC will initiate the process for service shutoff or installation of a flow restrictor, as applicable.
  - Buildings associated with the noncompliant assemblies will be posted with a 10-day Notice of Shutoff.
  - If SFPUC does not receive proof of testing by the date on the Notice of Shutoff, water service will be shut off or a flow restrictor installed, as applicable. Full water service will not be restored until test results have been received.

### **Violation of Any Other Provision of SFHC 12A**

Upon written notification by SFPUC or SFPDPH, property owners must eliminate any unprotected cross-connection within seven calendar days of receipt of the notification, unless an alternate deadline for remediation is specified. Noncompliant property owners are subject to the provisions of Chapter 100 of the Administrative Code, as described above, including fines of up to \$1,000 per violation per day.

### **Due Process**

If a property owner does not agree with an Administrative Citation, the property owner may elect to schedule a Voluntary Conference with the SFPDPH Senior Inspector in charge of cross-connection control to provide additional information about the case.

If, after Voluntary Conference, the property owner does not agree with the resolution or penalties proposed in Voluntary Conference, the case may be appealed at an Administrative Hearing with the Director of Public Health. Information about the Director's Hearing is provided in the Administrative Citation.

At the Director's Hearing, the Hearing Officer accepts information from the enforcement agencies as well as the property owner. The Hearing Officer makes a determination about whether the violation exists or existed and may uphold, waive, or modify the penalties proposed by the department, in accordance with its authority under SFHC 12A.

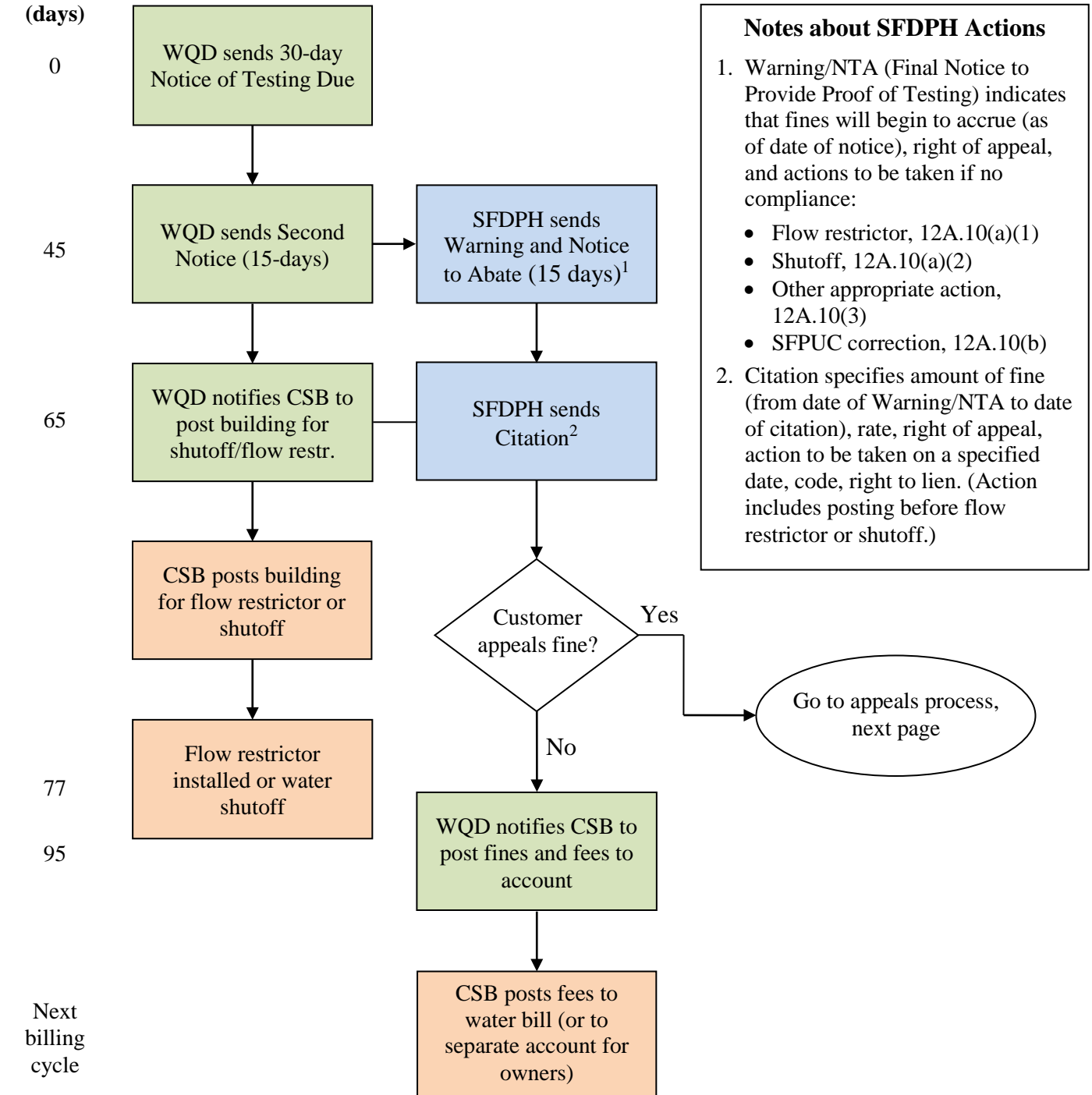
Decisions regarding fines and penalties made at a Director's Hearing are further appealable to the San Francisco Superior Court.

### **More Information**

Additional information about cross-connection control requirements is available at [www.sfwater.org/backflow](http://www.sfwater.org/backflow), or you can call the Cross-Connection Control Program at (650) 652-3199 between 8 am and 5 pm. For more information about SFHC 12A, contact the SFPDPH Senior Inspector in charge of cross-connection control at (415) 252-3892.

Enforcement Process for Non-compliance with Assembly Testing Requirements

Minimum Time (days)



**Notes about SFPDPH Actions**

- Warning/NTA (Final Notice to Provide Proof of Testing) indicates that fines will begin to accrue (as of date of notice), right of appeal, and actions to be taken if no compliance:
  - Flow restrictor, 12A.10(a)(1)
  - Shutoff, 12A.10(a)(2)
  - Other appropriate action, 12A.10(3)
  - SFPUC correction, 12A.10(b)
- Citation specifies amount of fine (from date of Warning/NTA to date of citation), rate, right of appeal, action to be taken on a specified date, code, right to lien. (Action includes posting before flow restrictor or shutoff.)

- SFPUC action
- Customer Services Bureau (CSB)/City Distribution Div. action
- SFPDPH, Environmental Health action

**Appeals Process for Non-compliance with Assembly Testing Requirements**

