

ORDINANCE NO. VWD-010

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT ADOPTING A PRETREATMENT PROGRAM AND WASTE DISCHARGE PERMITTING REQUIREMENTS FOR USERS OF THE DISTRICT'S INDUSTRIAL WASTEWATER TREATMENT PLANT AND WORKS LOCATED ADJACENT TO THE SOUTHERN CALIFORNIA LOGISTICS AIRPORT TO BE CODIFIED IN NEW CHAPTER 10.08 OF THE VICTORVILLE MUNICIPAL CODE

WHEREAS, the Victorville Water District ("District") is a subsidiary district of the City of Victorville ("Victorville") and a county water district organized and operating pursuant to California Water Code ("Water Code") section 30000 *et seq.*; and

WHEREAS, the District Board of Directors ("Board") has the statutory authority to provide for requirements for wastewater quality, pretreatment requirements and other matters relating to industrial wastewater flows received by or into the District's Industrial Wastewater Treatment Plant and treatment works ("POTW") located adjacent to the Southern California Logistics Airport and within the territorial boundaries of the District; and

WHEREAS, the District provides wastewater treatment and disposal services to certain industrial areas and Users within the District and received a Waste Discharge Requirement Permit ("WDR") to enable discharge of certain flows from its POTW to Percolation Pond No. 14 from the California Regional Quality Control Board, Lahontan Region ("Lahontan"); and

WHEREAS, one of the conditions of the WDR is that the Board adopt and enforce a Pretreatment Program ("Program") meeting the United States Environmental Protection Agency standards set forth at 40 CFR section 403.8 to ensure that industrial flows having the potential to pass through or interfere with the POTW are properly pretreated and controlled and will not cause degradation or pollution in the receiving groundwater; and

WHEREAS, the District's Program requires adoption by ordinance of the standards, requirements and regulations to be imposed on industrial users of the POTW, including but not limited to: permitting rules; pretreatment standards and requirements; effluent limitations; monitoring and sampling requirements; and remedies in the event of user noncompliance, all of which are contained in **Exhibit A** of this Ordinance No. VWD-010 ("Ordinance"); and

WHEREAS, the District's Program also requires adoption of an Enforcement Response Plan ("ERP") setting forth the manner in which the remedies for noncompliance in the Ordinance shall be administered and applied, which ERP is attached to this Ordinance as **Exhibit B**; and

WHEREAS, the District's Program further includes the adoption by separate Resolution No. VWD 14-012 of Local Limits, which limits were developed based on a study prepared by the District's consultants, Woodard & Curran; and

WHEREAS, notice of a Public Hearing stating the Board's intention to adopt this Ordinance and Local Limits Resolution No. VWD 14-012 was published on September 26, 2014; and

WHEREAS, a Public Hearing was conducted on October 7, 2014 at a regularly-scheduled Board meeting at Victorville City Hall to receive public input and comments on the Ordinance, the Enforcement Response Plan ("ERP") attached thereto, and Resolution No. VWD 14-012; and

WHEREAS, information to support the findings made by the Board within this Ordinance have been prepared by District staff, made available to any members of the public who would request such information and presented to the Board as part of its consideration of this matter; and

WHEREAS, the Board hereby designates the District Secretary as the official authorized to prepare summaries of ordinances as set forth in §§ 31027, 31105 and 31141 of the Water Code, and any other publication or notice requirements as provided by Federal, State or local law; and

WHEREAS, given the length and scope of the Ordinance, the District Secretary has determined that it is not feasible to publish a fair and adequate summary thereof, and given the District Secretary's determination, the Board hereby orders the display ad method of publication provided by Water Code section 31105(b)(2) be undertaken by the District Secretary; and

WHEREAS, the Board has determined that it is appropriate to adopt this Ordinance to make the determinations and findings, and for the purposes set forth herein.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. The Board of Directors ("Board") hereby finds and determines as follows:

- (a) Based on applicable legal standards, state and federal water and wastewater quality requirements, the WDR issued by Lahontan, and current best practices, it is in the best interests of the District to adopt the Ordinance (the specific Pretreatment Program provisions of which are set forth in **Exhibit A** attached hereto and incorporated herein by this reference) and the Enforcement Response Plan (the specific provisions of which are set forth in **Exhibit B** attached hereto and incorporated herein by this reference).
- (b) The Ordinance, together with the Enforcement Response Plan ("ERP"), Local Limits Resolution No. VWD 14-012, and other related materials as set forth in the District's Staff Report, comprise a comprehensive Pretreatment Program for the District's POTW.
- (c) As the local body responsible for supervising and funding of District's Program, the Board hereby expresses its approval and endorsement of the Pretreatment Program.

- (d) The District Secretary is designated as the official to prepare ordinance summaries for the District for purposes of Water Code sections 31027, 31105 and 31141 any other publication or notice requirements as provided by Federal, State or local law.

Section 3. Introduction, Adoption and Implementation.

- (a) The Ordinance, the specific Program provisions of which are set forth in Exhibit A, is hereby introduced for adoption and shall take effect as set forth in Section 6 hereof.
- (b) The Victorville Water District ERP, as set out in Exhibit B, is hereby adopted to take effect simultaneously with the Ordinance.
- (c) Following its final adoption, the specific provisions of the Ordinance contained in Exhibit A shall be codified and included as Chapter 10.08 of the Victorville Municipal Code for reference purposes. The ERP contained in Exhibit B (as such may be amended from time to time by District Resolution) shall be maintained in the General Manager's office.

Section 4. CEQA Exemption.

The Board finds that adoption of this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15301(b), 15307 and 15308 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it concerns the operation of an existing public facility used to provide sewerage which involves negligible or no expansion of the currently-existing use; consists of actions taken to maintain, restore or enhance a natural resource; and/or consists of actions taken to assure the maintenance, protection and enhancement of the environment. Because this Ordinance does not have the potential to cause significant effects on the environment, it is categorically exempt from CEQA review.

Section 5. Partial Invalidity; Severability.

The Board declares that, should any provision, Section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, Sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 6. Effective Date; Supersession of Urgency Ordinance.

In accordance with Water Code section 31105, this Ordinance shall become effective immediately upon the date of its final adoption (second reading) by the Board. As of the date of its final adoption, this Ordinance shall supersede and replace Urgency Ordinance No. VWD-011 in its entirety, if so adopted.

Section 7. Publication.

Given the determination of the District Secretary as set forth in the recitals hereof, the Board orders publication of the Ordinance to be accomplished by means of a display ad and in compliance with the provisions of Water Code section 31105(b)(2).

Section 8. Certification.

The District Secretary of the Victorville Water District is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published in the manner set forth in Section 7, above.

**EXHIBIT A
TO ORDINANCE NO. VWD-010**

**VICTORVILLE WATER DISTRICT PRETREATMENT PROGRAM ORDINANCE
TO BE CODIFIED IN CHAPTER 10.8 OF THE VICTORVILLE MUNICIPAL CODE**

	Page
SECTION 1—GENERAL PROVISIONS	1
1.1 Purpose and Policy	1
1.2 Administration	1
1.3 Abbreviations	1
1.4 Definitions	2
SECTION 2—GENERAL POTW USE REQUIREMENTS	10
2.1 Prohibited Discharge Standards	10
2.2 National Categorical Pretreatment Standards	12
2.3 Local Limits	14
2.4 District’s Right of Revision	15
2.5 Dilution	15
SECTION 3—PRETREATMENT OF WASTEWATER	15
3.1 Pretreatment Facilities	15
3.2 Additional Pretreatment Measures	15
3.3 Accidental Discharge/Slug Discharge Control Plans	16
3.4 Hauled Wastewater	16
SECTION 4—WASTEWATER DISCHARGE PERMITS (WDPS)	17
4.1 Wastewater Analysis	17
4.2 Wastewater Discharge Permit (WDP) Requirement	17
4.3 Wastewater Discharge Permitting: Existing Connections	17
4.4 Wastewater Discharge Permitting: New Connections	17
4.5 Wastewater Discharge Permit (WDP) Application Contents	17
4.6 Section Not Used	19
4.7 Application Signatories and Certifications	19
4.8 Wastewater Discharge Permit (WDP) Decisions	19
SECTION 5—WASTEWATER DISCHARGE PERMIT (WDP) ISSUANCE	19
5.1 Wastewater Discharge Permit (WDP) Duration	19
5.2 Wastewater Discharge Permit (WDP) Contents	19
5.3 Waste Discharge Permit (WDP) Issuance; Reconsideration	21
5.4 Permit Modification	21
5.5 Wastewater Discharge Permit (WDP) Transfer	22
5.6 Wastewater Discharge Permit (WDP) Revocation	22
5.7 Wastewater Discharge Permit (WDP) Reissuance Upon Expiration	23
5.8 Regulation of Waste Received from Other Jurisdictions	23
SECTION 6—REPORTING REQUIREMENTS	24
6.1 Baseline Monitoring Reports	24
6.2 Compliance Schedule Progress Reports	26

6.3	Reports on Compliance with Categorical Pretreatment Standard Deadline	26
6.4	Periodic Compliance Reports	26
6.5	Reports of Changed Conditions	27
6.6	Reports of Potential Problems	27
6.7	Reports from Unpermitted Users	28
6.8	Notification of Sampling Violation/Repeat Sampling and Reporting	28
6.9	Section Not Used	28
6.10	Analytical Requirements	28
6.11	Sample Collection	28
6.12	Date of Receipt of Reports	29
6.13	Recordkeeping	29
6.14	Certification Statements	29
SECTION 7—COMPLIANCE MONITORING		30
7.1	Right of Entry: Inspection and Sampling	30
7.2	Search/Inspection Warrant	31
SECTION 8—CONFIDENTIAL INFORMATION		31
SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE		32
SECTION 10—ADMINISTRATIVE ENFORCEMENT ACTIONS AND REMEDIES		33
10.1	Enforcement Actions (EAs) Generally	33
10.2	Informal Notice; Warning Notice of Non-Compliance Letter	33
10.3	Notice of Violation	33
10.4	Administrative Orders	33
10.5	Show Cause Hearing and Order	34
10.6	Administrative Complaint; Administrative Civil Penalties	35
10.7	Emergency Suspension Order	37
10.8	Discharge Termination	38
SECTION 11—JUDICIAL ENFORCEMENT REMEDIES		38
11.1	Injunctive Relief	38
11.2	Civil Penalties	38
11.3	Criminal Prosecution	39
11.4	Remedies Nonexclusive; Enforcement Response Plan; Actions by Other Agencies	39
SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION		40
12.1	Payment of Outstanding Fees, Costs and Penalties	40
12.2	Contractor Listing	40
12.3	Liability for Non- Compliance Costs Incurred by the District	40
SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS		41
13.1	Upset	41
13.2	Prohibited Discharge Standards	42
13.3	Bypass	42

SECTION 14—WASTEWATER TREATMENT RATES	43
SECTION 15—MISCELLANEOUS PROVISIONS	43
15.1 Pretreatment Charges, Fees and Costs	43
SECTION 16—DISTRICT BOARD APPEAL HEARINGS	44
16.1 – Procedure for Actions Appealable to the District Board	44

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) of the Victorville Water District to comply with all applicable State, Federal and local laws, including but not limited to, the Clean Water Act (33 United States Code [U.S.C.] section 1251 *et seq.*), the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403); the County Water District Law (California Water Code sections 30000 to 33901); California Government Code sections 54739 - 54740.6; and the California Porter Cologne Water Quality Act (California Water Code section 13000 *et seq.*). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of Industrial Wastewater and sludge from the POTW;
- E. To enable the District to provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- F. To enable the District to comply with its National Pollutant Discharge Elimination System permit or Waste Discharge Requirements (WDR) conditions, water reuse, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all Users of the POTW. The ordinance authorizes the issuance of Wastewater Discharge Permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and enables the District to set fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the General Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the General Manager may be delegated by General Manager to a duly authorized District employee.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

AC – Administrative Complaint

ACP – Administrative Civil Penalty
AO – Administrative Order
BOD – Biochemical Oxygen Demand
BMP – Best Management Practices
BMR – Baseline Monitoring Report
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
CO – Consent Order
COD – Chemical Oxygen Demand
CMO – Compliance Order
EA – Enforcement Action
EPA – U.S. Environmental Protection Agency
FDS – Fixed Dissolved Solids
gpd – gallons per day
mg/l – milligrams per liter
NOV – Notice of Violation
NPDES – National Pollutant Discharge Elimination System
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
TDS – Total Dissolved Solids
TSS – Total Suspended Solids
U.S.C. – United States Code
WDR – Waste Discharge Requirements
WDP – Wastewater Discharge Permit

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or “the Act.” The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 *et seq.*
- B. Administrative Civil Penalty or ACP. A civil penalty assessed by the District against a User in conjunction with issuance of an Administrative Complaint pursuant to California Government Code section 54740.5.
- C. Administrative Complaint or AC. A formal administrative complaint issued by the District pursuant to California Government Code section 54740.5 to Users who violate or continue to violate provisions of this ordinance, a Wastewater Discharge Permit (WDP) or order issued hereunder, or any other Pretreatment Standard or Requirement. An AC alleges the act or failure to act that constitutes the violation(s), sets forth the provisions of law authorizing civil liability to be imposed, and the proposed ACP.

- D. **Administrative Order or AO.** An enforcement document which directs a User to implement corrective or remedial measures.
- E. **Approval Authority.** The US Environmental Protection Agency (EPA), the State of California Water Resources Control Board and/or the California Regional Quality Control Board, Lahontan Region.
- F. **Authorized or Duly Authorized Representative of the User.**
- (1) If the User is a corporation:
- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that 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 measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for WDP requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1) through (3), above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.
- G. **Best Management Practices or BMPs** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- H. **Biochemical Oxygen Demand or BOD.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l)

- I. **Categorical Industrial User or CIU.** An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.
- J. **Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- K. **Cease and Desist Order.** An AO issued by the District requiring a User to halt the discharge of wastewater that is in violation of the provisions of this ordinance or take other actions to remedy violations.
- L. **Chemical Oxygen Demand or COD.** A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- M. **Civil Penalties.** Monetary penalties which can be imposed and recovered by the District through filing a petition in the superior court under the authority of California Government Code sections 54739 and 54740.
- N. **Compliance Order or CMO.** An AO directing the User to achieve or restore compliance by a specified date. Such an order may include a compliance schedule with specific milestones for achieving steps toward compliance and for tracking and recording progress. The District issues a CMO unilaterally when noncompliance cannot be resolved without construction, repair, or process changes and when the User is not making a good faith effort to achieve compliance.
- O. **Consent Order or CO.** An AO establishing a written agreement with any User responsible for noncompliance and specifying action to be taken by the User to correct the noncompliance within a time period also specified in the order.
- P. **Control Authority.** The Victorville Water District.
- Q. **Daily Maximum.** The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- R. **Daily Maximum Limit.** The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits 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.
- S. **District.** The Victorville Water District.
- T. **District Board.** The Board of Directors of the Victorville Water District.

- U. Domestic Wastewater. Liquid, solid and water-carried waste originating from residential sources or from sanitary devices in industrial or commercial establishments.
- V. Enforcement Action or EA. Any of a series of progressively more stringent measures taken by the District to obtain compliance with the provisions of this ordinance, a WDP or order issued hereunder, or any other Pretreatment Standard or Requirement. EAs include, without limitation, informal and letter notices, NOV's, AOs, ACs, WDP revocations, Emergency Suspensions, Terminations of Discharge, civil and/or criminal actions and may include monetary fees, costs, fines or penalties.
- W. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- X. Existing Source. Any source of discharge that is not a "New Source."
- Y. Fixed Dissolved Solids or FDS. The quantity of substances remaining after filtration through a standard filter, drying to constant weight at 180 degrees Centigrade and ignited to constant weight at 550+/- 50 degrees Centigrade, expressed in terms of milligrams per liter (mg/l) and analyzed in accordance with Approved Analytical Methods.
- Z. General Manager. The person designated by the District to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a duly authorized representative of the General Manager.
- AA. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- BB. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.
- CC. Industrial User or User. Any Person who discharges or causes a discharge of Industrial Wastewater directly or indirectly to the POTW.
- DD. Industrial Wastewater. Any water-carried wastes and wastewaters, excluding Domestic Wastewater derived from any producing, manufacturing, processing, institutional, agricultural or other operation.
- EE. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- FF. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the District's NPDES or WDR permit, or prevents reuse of the treated effluent in compliance with

California Code of Regulations Title 22, or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; and the California Porter-Cologne Water Quality Act.

- GG. **Local Limits.** Specific discharge limits developed and enforced by the District upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b) and to specifically protect the POTW from Interference and Pass Through based on site-specific design and disposal limits and conditions of the POTW. Local Limits are developed to assure that Industrial User discharges to the POTW do not upset the Treatment Plant's biological, chemical or physical treatment processes, prevent the disposal of biosolids (sludge), impact worker health and safety, or harm the POTW infrastructure.
- HH. **Medical Waste.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- II. **Monthly Average.** The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- JJ. **Monthly Average Limit.** The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- KK. **New Source.**
- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
- a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Sections (1) b or c above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

LL. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

MM. Non-Compliance Costs. Charges issued to a User to recover costs incurred by the District to address User noncompliance, including but not limited to: (1) costs arising out of a User's violations (such as penalties and fines imposed on the District by regulatory agencies and costs of replacing POTW facilities or equipment damaged by a User's noncompliant discharge); (2) the District's administrative costs (staff time) associated with pursuing EAs and investigating/resolving User noncompliance; and (3) actual costs incurred by the District for conducting monitoring, testing, sampling, investigation and inspections required as result User noncompliance.

NN. Notice of Violation or NOV. An official written notice from the District to a User stating that a violation of this ordinance, a Wastewater discharge Permit or order issued hereunder or a Pretreatment Requirement has occurred and requires immediate attention and correction by the User to achieve compliance.

OO. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the District's NPDES permit or WDR conditions, including an increase in the magnitude or duration of a violation.

PP. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

- QQ. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- RR. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, TDS, turbidity, color, BOD, COD, toxicity, or odor).
- SS. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- TT. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- UU. Pretreatment Standards or Standards. Pretreatment Standards or Standards shall mean Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.
- VV. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- WW. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned and/or operated by the District. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a Treatment Plant.
- XX. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- YY. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- ZZ. Significant Industrial User (SIU). Except as provided in paragraphs (3) and (4) of this definition, a Significant Industrial User is:
- (1) An Industrial User subject to Categorical Pretreatment Standards; or
 - (2) An Industrial User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

- b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or
- c. Is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) The District may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- a. The Industrial User, prior to the District's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
- b. The Industrial User annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
- c. The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the District may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

- AAA. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- BBB. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- CCC. Total Dissolved Solids or TDS. The quantity of substances remaining after filtration through a standard filter and drying to constant weight at 180 degrees Centigrade, expressed in terms of milligrams per liter (mg/l) and analyzed in accordance with Approved Analytical Methods.
- DDD. Total Suspended Solids (TSS) or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

- EEE. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- FFF. Wastewater Discharge Permit or WDP. The form of authorization issued by the District General Manager to a User for the discharge of wastewater. The WDP sets forth the limits and conditions under which Users shall be able to discharge wastewater into POTW.
- GGG. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste, including the Industrial Wastewater Treatment Plant located at the Southern California Logistics Airport in the City of Victorville, and any permitted facility owned or operated by the District that is designed to treat municipal and/or Industrial Wastewater.
- HHH. Working Days. Any day except Saturdays, Sundays, and State or Federal holidays observed by the District.

SECTION 2—GENERAL POTW USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH level less than 5.0 or greater than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than one-half inch (½") in any dimension;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
- (5) Wastewater having a temperature greater than 140 degrees F (60 degrees C), or which will inhibit biological activity in the Treatment Plant resulting in Interference, but in no case

wastewater which causes the temperature at the introduction into the Treatment Plant to exceed 104 degrees F (40 degrees C);

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the General Manager in accordance with Section 3.4 of this ordinance;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes, food and beverage processing wastes, and vegetable tanning solutions, which consequently imparts color to the Treatment Plant's effluent, thereby violating the District's NPDES or WDR permits;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the General Manager;

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(14) Medical Wastes, except as specifically authorized by the General Manager in a WDP;

(15) Wastewater causing, alone or in conjunction with other sources, the Treatment Plant's effluent to fail toxicity test;

(16) Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW;

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than those set forth in the Local Limits adopted by District resolution;

(18) Hazardous Wastes as defined in 40 CFR Part 261.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

2.2 National Categorical Pretreatment Standards

Users must comply with the Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471, which standards are hereby incorporated into this ordinance by this reference.

A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the General Manager may impose equivalent concentration or mass limits in accordance with Sections 2.2 E and 2.2 F.

B. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the General Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

C. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the General Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).

D. A CIU may obtain a net/gross adjustment to a Categorical Pretreatment Standard in accordance with the following paragraphs of this Section.

(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the General Manager. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (*i.e.*, adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

- a. Either (i) The applicable Categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable Categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
- b. Credit for generic pollutants such as BOD, TSS, and oil, fat and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet the applicable Categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
- d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The General Manager may waive this requirement if it finds that no environmental degradation will result.

E. When a Categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the General Manager convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the General Manager. The General Manager may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 2.2 E (1) a through e, below.

- (1) To be eligible for equivalent mass limits, the Industrial User must:
 - a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its WDP;
 - b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - e. Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

- (2) An Industrial User subject to equivalent mass limits must:
 - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c. Continue to record the facility's production rates and notify the General Manager whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in Section 2.2 E (1) c. Upon notification of a revised production rate, the General Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Sections 2.2 E (1) a through e of this ordinance so long as it discharges under an equivalent mass limit.

- (3) When developing equivalent mass limits, the General Manager:
 - a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;
 - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - c. May retain the same equivalent mass limit in subsequent WDP terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not

based on the use of dilution as a substitute for treatment pursuant to Section 2.5. The Industrial User must also be in compliance with Section 13.3 regarding the prohibition of bypass.

F. The General Manager may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the General Manager.

G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 2.2 in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived.

H. Many Categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the General Manager within two (2) Working Days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the General Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

2.3 Local Limits

A. The General Manager shall develop Local Limits pursuant to 40 CFR 403.5(c), to protect against Pass Through, Interference and/or or impacts to biosolids reclamation or reuse. Such Local Limits shall be established by adoption of a resolution by the District Board, following public notice to affected Users and a public hearing thereon. Such Local Limits may be amended as necessary and revised by District resolution in the same manner.

B. Mass-Based Local Limits. The District resolution shall establish Local Limits based on the total Maximum Allowable Industrial Load (MAIL) in pounds per day that can be allocated to all Significant Industrial Users and other permitted Industrial Users. The General Manager shall establish the industry specific allocation in the Industrial User's WDP as a mass-based limit. It shall be unlawful for any Significant Industrial User or other permitted Industrial User to discharge or cause to be discharged into the POTW any waste or wastewater that exceeds the total MAIL established or modified by the District's Local Limits resolution or the specific allocations set forth in the User's WDP.

C. The General Manager may develop Best Management Practices (BMPs), to be adopted by District ordinance or resolution, and thereafter included in WDPs to implement Local Limits and the requirements of Section 2.1.

2.4 District's Right of Revision

The District reserves the right to establish, by ordinance, resolution or in WDPs, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

2.5 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 unless expressly authorized by an applicable Pretreatment Standard or Requirement. The General Manager may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, the State, or the General Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the General Manager for review, and shall be acceptable to the General Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the District under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

A. Whenever deemed necessary, the General Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.

B. The General Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A WDP may be issued solely for flow equalization.

C. Grease, fat, oil, and sand interceptors shall be provided when, in the opinion of the General Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease, fat oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the General Manager, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

The General Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The General Manager may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the General Manager may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the General Manager of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by the General Manager, and at such times as are established by the General Manager. Such waste shall not violate Section 2 of this ordinance or any other requirements established by the District. The General Manager may require septic tank waste haulers to obtain WDPs.
- B. The General Manager may require haulers of industrial waste to obtain WDPs. The General Manager may require generators of hauled industrial waste to obtain WDPs the General Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the General Manager. No load may be discharged without prior consent of the General Manager. The General Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The General Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste.

The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 4—WASTEWATER DISCHARGE PERMITS (WDPS)

4.1 Wastewater Analysis

When requested by the General Manager, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The General Manager is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Wastewater Discharge Permit (WDP) Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining a WDP from the General Manager, except that a Significant Industrial User that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.

B. The General Manager may require other Users to obtain WDPs as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of a WDP shall be deemed a violation of this ordinance and subjects the Wastewater Discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a WDP does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any User required to obtain a WDP who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the General Manager for a WDP in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a WDP issued by the General Manager.

4.4 Wastewater Discharge Permitting: New Connections

Any User required to obtain a WDP who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this WDP in accordance with Section 4.5 of this ordinance, must be filed at least forty-five (45) days prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit (WDP) Application Contents

A. All Users required to obtain a WDP must submit a permit application. The General Manager may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2 C (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

- a. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Pretreatment Standards or by the General Manager, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the General Manager or the applicable Pretreatment Standards to determine compliance with the Standards.

e. Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.

(8) Any other information as may be deemed necessary by the General Manager to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.6 Section Not Used

4.7 Application Signatories and Certifications

A. All WDP applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14 A.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the General Manager prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the General Manager pursuant to Section 1.4 ZZ (3) must annually submit the signed certification statement in Section 6.14 B.

4.8 Wastewater Discharge Permit (WDP) Decisions

The General Manager will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete permit application, the General Manager will determine whether to issue a WDP. The General Manager may deny any application for a WDP.

SECTION 5—WASTEWATER DISCHARGE PERMIT (WDP) ISSUANCE

5.1 Wastewater Discharge Permit (WDP) Duration

A WDP shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A WDP may be issued for a period less than five (5) years, at the discretion of the General Manager. Each WDP will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit (WDP) Contents

A WDP shall include such conditions as are deemed reasonably necessary by the General Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the Treatment Plant's effluent, or such reuse of reclaimed water, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. WDPs must contain:

- (1) A statement that indicates the WDP issuance date, expiration date and effective date;
- (2) A statement that the WDP is nontransferable without prior notification to the District in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing WDP;
- (3) Effluent limits, including BMPs, based on applicable Pretreatment Standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These Pretreatment Requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- (5) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (6) Requirements to control Slug Discharge, if determined by the General Manager to be necessary.

B. WDPs may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the WDP does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the WDP; and

(8) Other conditions as deemed appropriate by the General Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Waste Discharge Permit (WDP) Issuance; Reconsideration

The General Manager shall provide public notice of the issuance of a WDP within five (5) Working Days of such issuance by posting notice on the District's website and on the bulletin board(s) where the District's meeting agendas are posted. Any person, including the User, may petition the General Manager to reconsider the terms of a WDP within ten (10) Working Days of notice of its issuance.

A. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of administrative review.

B. In its petition, the party seeking reconsideration must indicate the WDP provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the WDP.

C. The effectiveness of the WDP shall not be stayed while the administrative reconsideration petition is pending.

D. If the General Manager fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a WDP, not to issue a WDP, or not to modify a WDP shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative WDP decisions set forth above must do so by filing a complaint with the Superior Court for San Bernardino County within ninety (90) days.

5.4 Permit Modification

The General Manager may modify a WDP for good cause, including, but not limited to, the following reasons:

A. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual WDP issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to the District's POTW, District personnel, reuse of reclaimed water, or the receiving waters;

E. Violation of any terms or conditions of the WDP;

F. Misrepresentations or failure to fully disclose all relevant facts in the WDP application or in any required reporting;

G. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;

H. To correct typographical or other errors in the WDP.

5.5 Wastewater Discharge Permit (WDP) Transfer

WDPs are issued to a specific User for a specific operation. Permits shall not be assigned, transferred, subcontracted, or sold to a new owner, new User, subcontractor, or to different premises, or to a new or changed operation, whether such transfer, assignment or subcontract occurs voluntarily or involuntarily.

5.6 Wastewater Discharge Permit (WDP) Revocation

A. Grounds. The General Manager may revoke a WDP for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the General Manager of changed conditions pursuant to Section 6.5 of this ordinance;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the WDP application;
- (4) Falsifying self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the General Manager timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines or penalties;
- (9) Failure to pay treatment charges or related costs or fees;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the WDP application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any Pretreatment Standard or Requirement, or any terms of the WDP, this ordinance or any order issued hereunder.

B. Notice. Before revoking a WDP, the General Manager shall issue to the User at least one Notice of Violation or other Enforcement Action document specifying the violations and corrective action required, and may, but shall not be required to, issue Administrative Orders or take other Enforcement Actions as set forth herein. If the User does not correct the violation within the time period specified in the notice, the General Manager may revoke the WDP and/or take such other action(s) as may be deemed necessary to ensure compliance and protect the POTW.

C. Reconsideration and Appeal. A User whose WDP has been revoked may petition the General Manager for a reconsideration of the decision to revoke. A User's failure to petition the General Manager for a reconsideration of a decision to revoke within ten (10) days of the date the General Manager issues a revocation decision shall be deemed a waiver of any further right to administrative review or appeal. The procedural provisions of Section 5.3 of this ordinance shall apply to such petition for reconsideration, except that only the User may petition the General Manager for reconsideration. In addition, the General Manager's failure to act on a petition to reconsider a WDP revocation within thirty (30) days, as well as decisions by the General Manager not to reconsider a WDP revocation or upholding a revocation decision following reconsideration shall be appealable to the District Board under the provisions set forth in Section 16 of this ordinance.

D. WDPs shall be voidable upon cessation of operations or transfer of business ownership. All previous or prior WDPs issued to a User are void upon the issuance of a new WDP to that User.

5.7 Wastewater Discharge Permit (WDP) Reissuance Upon Expiration

A User with an expiring WDP shall apply for WDP reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing WDP.

5.8 Regulation of Waste Received from Other Jurisdictions

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the General Manager shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, the General Manager shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the General Manager may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs), which are at least as stringent as those set out in Section 2.3 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the District's ordinance or Local Limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including WDP issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the General Manager; and which of these activities will be conducted jointly by the contributing municipality and the General Manager;

(4) A requirement for the contributing municipality to provide the General Manager with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the General Manager access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the General Manager; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

SECTION 6—REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to

discharge to the POTW shall submit to the General Manager a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the General Manager a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

- (1) All information required in Sections 4.5 A (1) a, 4.5 A (2), 4.5 A (3) a, and 4.5 A (6).
- (2) Measurement of pollutants.
 - a. The User shall provide the information required in paragraphs a through d of Section 4.5 A (7).
 - b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - d. Sampling and analysis shall be performed in accordance with Section 6.10;
 - e. The General Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 F and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this ordinance and signed by an Authorized Representative as defined in Section 1.4 F.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1 B (4) of this ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the General Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the General Manager.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the General Manager a report containing the information described in Section 4.5 A (6) and (7) and 6.1 B (2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2, this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance. All sampling will be done in conformance with Section 6.11.

6.4 Periodic Compliance Reports

A. All Significant Industrial Users must, at a frequency determined by the General Manager submit no less than twice per year (June and December or on dates specified in their WDPs) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period.

In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by the General Manager or the Pretreatment Standard necessary to determine the compliance status of the User.

B. All periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance.

C. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

D. If a User subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the General Manager, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each User must notify the General Manager of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least ten (10) days before the change.

A. The General Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a WDP application under Section 4.5 of this ordinance.

B. The General Manager may issue a WDP under Section 5.7 of this ordinance or modify an existing WDP under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.

6.6 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the General Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such discharge, the User shall, unless waived by the General Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. Significant Industrial Users are required to notify the General Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.7 Reports from Unpermitted Users

All Users not required to obtain a WDP shall provide appropriate reports to the General Manager as the General Manager may require.

6.8 Notification of Sampling Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the General Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the General Manager within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the District performs sampling at the User's facility at least once a month, or if the District performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the District receives the results of this sampling, or if the District has performed the sampling and analysis in lieu of the Industrial User.

6.9 Section Not Used

6.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a WDP application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the General Manager or other parties approved by EPA.

6.11 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Sections B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the General Manager. Where time-proportional

composite sampling or grab sampling is authorized by the General Manager, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics, oil, fat and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the General Manager as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits

B. Samples for oil, fat and grease; temperature; pH, cyanide; total phenols; sulfides; and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH; cyanide; total phenols; oil, fat and grease; sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the General Manager may authorize a lower minimum. For the reports required by Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

6.12 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

6.13 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 2.3 C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the District, or where the User has been specifically notified of a longer retention period by the General Manager.

6.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.7; Users submitting baseline monitoring reports under

Section 6.1 B (5); Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 6.3; and Users submitting periodic compliance reports required under Section 6.4. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 F:

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.

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the General Manager pursuant to Sections 1.4 ZZ (3) and 4.7 C must annually submit the following certification statement signed in accordance with the signatory requirements in Section 1.4 F. This certification must accompany an alternative report required by the General Manager:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 1.4 ZZ (3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

SECTION 7—COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The General Manager shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any WDP or order issued hereunder. Users shall

allow the General Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the General Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The General Manager shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

C. The General Manager may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least once per year, or as otherwise required by the General Manager in the permit, to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the General Manager and shall not be replaced. The costs of clearing such access shall be borne by the User.

E. Unreasonable delays in allowing the General Manager access to the User's premises shall be a violation of this ordinance.

F. The location of the sampling and monitoring facility shall provide ample room in or near said facility to allow accurate sampling, preparation of sample and analysis.

7.2 Search/Inspection Warrant

If the General Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the District designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the General Manager may seek issuance of an inspection warrant from a judge of the superior court of San Bernardino County in accordance with the provisions of California Code of Civil Procedure section 1822.50 and California Water Code section 31016.

SECTION 8—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, WDP applications, WDPs, and monitoring programs, and from the General Manager's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the General Manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law, including without limitation, the California Public Records Act (Gov. Code § 6250 *et seq.*). Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User

furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The General Manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs C, D or H of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined in Section 1.4;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 1.4 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 1.4 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the General Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the General Manager's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a WDP or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of BMPs, which the General Manager determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10—ADMINISTRATIVE ENFORCEMENT ACTIONS AND REMEDIES

10.1 Enforcement Actions (EAs) Generally

The various administrative Enforcement Actions (EAs) and remedies available to the District for achieving compliance by Users are set forth in Section 10. These administrative EAs and remedies, together with the judicial enforcement remedies and other EAs specified elsewhere in this ordinance are authorized for District use under State and Federal laws, including but not limited to: the Act; the California Porter-Cologne Water Quality Act; the County Water District Law (California Water Code sections 30000 to 33901); and California Government Code sections 54739 - 54740.6.

10.2 Informal Notice; Warning Notice of Non-Compliance Letter

A. Informal Notice. Informal notices are used by District staff under the authority of the General Manager to correct minor infractions resulting in inadvertent non-compliance and may consist of a telephone call, electronic notice, site visit or informal meeting advising the User of a requirement to complete a compliance action or to exercise more due diligence.

B. Warning Notice of Non-Compliance Letter. The Warning Notice of Noncompliance Letter (WNON) is an informal written communication used by District staff under the authority of the General Manager to address minor violations of this ordinance, a WDP or order issued hereunder, or any other Pretreatment Standard or Requirement. A WNON may include specific corrective actions required of the User, Non-Compliance Costs and a warning that additional EAs may be pursued if corrective actions are not accomplished.

10.3 Notice of Violation

When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, a WDP, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may serve upon that User a written Notice of Violation (NOV). The NOV shall be hand delivered or delivered by certified mail with a written receipt of delivery. Within ten (10) Working Days of the receipt of NOV (or such shorter period of time as may be specified in the NOV when the exigency of the circumstances dictate) an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the General Manager. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the NOV. Except as may be specified elsewhere in this ordinance, nothing in this Section shall limit the authority of the General Manager to take any action, including emergency actions or any other EAs, without first issuing a NOV. Recipients of NOVs may be required to pay Non-Compliance Costs.

10.4 Administrative Orders

The General Manager may require compliance with this ordinance, any WDP or order issued hereunder, or any other Pretreatment Standard or Requirement, by issuing Administrative Orders (AOs) which direct Users to implement corrective or remedial measures. AOs may incorporate compliance schedules, time frames and may specify Non-Compliance Costs to be paid by the User. AO's may be accompanied by an Administrative Complaint (AC) specifying proposed Administrative Civil Penalties (ACPs). AOs issued under this ordinance are judicially enforceable, and the General Manager may use AOs, either individually, sequentially, concurrently, or in any order for one or more violations as appropriate for the circumstances. Except as may be specified otherwise in this Section, AOs shall be hand-delivered or delivered by certified mail with a written receipt of delivery to the User. Such AOs include:

A. Consent Orders. The General Manager may enter into assurances of compliance or other similar documents establishing an agreement with any User responsible for noncompliance ("Consent Orders" or COs). COs shall include specific action to be taken by the User to correct the noncompliance within a time period specified by CO.

B. Compliance Orders. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, a WDP or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may issue a Compliance Order (CMO) to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. CMOs also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A CMO may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a CMO relieve the User of liability for any violation, including any continuing violation. Issuance of a CMO shall not be a bar against, or a prerequisite for, taking any other action against the User.

C. Cease and Desist Orders. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, a WDP, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the General Manager may issue a Cease and Desist Order to the User which directs it to cease and desist all such violations and directs the User to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.5 Show Cause Hearing and Order

A. The General Manager may order a User which has violated, or continues to violate, any provision of this ordinance, a WDP, or order issued hereunder, or any other Pretreatment Standard or

Requirement, to appear before the General Manager and show cause why a proposed EA should not be taken up to and including Discharge Termination (a "Show Cause Hearing"). Notice shall be served on the User specifying the time and place for the hearing, the proposed EA, the reasons for such action, and a request that the User show cause why the proposed EA should not be taken. The Show Cause Hearing notice shall be served personally or by registered or certified mail (return receipt requested) on any Authorized Representative of the User, as defined in Section 1.4 F and required by Section 4.7 A, at least ten (10) Working Days prior to the hearing.

B. A Show Cause Hearing shall be conducted in accordance with written procedures to be established by the General Manager in consultation with the District's General Counsel, to be maintained for public review in the office of the General Manager and provided to the User with notice of the Show Cause Hearing. Issuance of a Show Cause Hearing Order (SCO) shall not be a bar against, or prerequisite for, taking any other action against the User and such SCO may specify Non-Compliance Costs to be paid by the User and/or may be accompanied by an AC specifying proposed ACPs.

10.6 Administrative Complaint; Administrative Civil Penalties

A. Pursuant to the authority of California Government Code sections 54739 and 54740.5, and as set forth in Subsections (1) through (9) below, the District may issue an Administrative Complaint to any to any User who violates or continues to violate any provision of this ordinance, a WDP or order issued hereunder, or any Pretreatment Standard or Requirement adopted or ordered by the District pursuant to this ordinance.

(1) The Administrative Complaint shall be served by personal delivery or certified mail on such User and shall inform the User that a hearing shall be conducted, within sixty (60) days following service. The Administrative Complaint will allege the act or failure to act that constitutes the violation(s), set forth the provisions of law authorizing civil liability to be imposed and the proposed Administrative Civil Penalty. The matter shall be heard by the General Manager or such hearing officer as he/she may designate.

(2) At the hearing, the User shall have an opportunity to respond to the allegations set forth in the Administrative Complaint by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures to be established by the General Manager and approved by the District's General Counsel.

(3) The User to whom an Administrative Complaint has been issued may waive the right to a hearing, in which case a hearing shall not be conducted. A User dissatisfied with the decision of the General Manager or hearing officer may appeal to the District Board within thirty (30) days of notice of the General Manager's or hearing officer's decision in the manner specified in Section 16 of this ordinance.

(4) If after the hearing, or appeal, if any, it is found that the User has violated reporting or discharge requirements, the General Manager or hearing officer (or the District Board in the event of an appeal), may assess an Administrative Civil Penalty against that User. In determining the amount of the Administrative Civil Penalty, the General Manager or hearing

officer (or District Board in the event of an appeal) may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.

(5) Administrative Civil Penalties may be imposed as follows:

a. In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.

b. In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the District.

c. In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the District.

d. In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District.

e. The amount of any Administrative Civil Penalties imposed under this Section which have remained delinquent for a period of sixty (60) days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the Administrative Civil Penalty. The lien provided herein shall have no force and effect until recorded with the San Bernardino County Recorder and, when recorded, shall have the force and effect and priority of a judgment lien and continue for ten (10) years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of sections 683.110 to 683.220, inclusive, of the California Code of Civil Procedure.

(6) All moneys collected under this Section 10.6 shall be deposited in a special account of the District and shall be made available for the monitoring, treatment, and control of discharges into the District's POTW or for other mitigation measures.

(7) Unless appealed, orders setting Administrative Civil Penalties shall become effective and final upon issuance thereof, and payment shall be made to the District within thirty (30) days. Copies of these orders shall be served by personal service or by registered mail upon the party (User) served with the Administrative Complaint and upon other persons who appeared at the hearing and requested a copy.

(8) The District may, at its option, elect to petition the Superior Court to confirm any order assessing Administrative Civil Penalties and enter judgment in conformity therewith in

accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.

(9) Remedies under this Section 10.6 are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no Administrative Civil Penalties shall be recoverable under this Section for any violation for which Civil Penalties are recovered under Government Code section 54740 (Section 11.2 of this ordinance).

B. Any User aggrieved by a final order issued by the District Board imposing Administrative Civil Penalties, following an appeal as provided in Section 16 of this ordinance, may obtain review of the order of the District Board in the Superior Court, pursuant to Government Code section 54740.6, by filing a petition for writ of mandate within thirty (30) days following service of a copy of the Board's final decision or order.

C. Any User aggrieved by a final order issued by the General Manager or hearing officer for which the District Board denies review, may obtain review of such order in the Superior Court, pursuant to Government Code section 54740.6, by filing a petition for writ of mandate within thirty (30) days following service of a copy of a decision and order denying review by the District Board.

10.7 Emergency Suspension Order

The General Manager may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons (an "Emergency Suspension"). The General Manager may also order Emergency Suspension of a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any User notified of an Emergency Suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the Emergency Suspension order, the General Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The General Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the General Manager prior to the date of any show cause or termination hearing under Sections 10.5 or 10.8 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section. Recipients of Emergency Suspension orders may be required to pay Non-Compliance Costs.

10.8 Discharge Termination

In addition to the provisions in Section 5.6 of this ordinance, any User who violates the following conditions is subject to Discharge Termination:

- A. Violation of WDP conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

Such User will be notified of the proposed Discharge Termination and be offered an opportunity to show cause under Section 10.5 of this ordinance why the proposed action should not be taken. Exercise of this EA by the General Manager shall not be a bar to, or a prerequisite for, taking any other action against the User. Users subject to Discharge Termination may be required to pay Non-Compliance Costs.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, a WDP, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may petition a court of competent jurisdiction through the District's General Counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the WDP, order, or other requirement imposed by this ordinance on activities of the User. The General Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

- A. Pursuant to California Government Code sections 54739 and 54740, a User who has violated, or continues to violate, any provision of this ordinance, a WDP, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be civilly liable to the District in a sum of not to exceed twenty-five thousand dollars (\$25,000) a day for each violation.
- B. The District may petition the Superior Court to impose, assess, and recover the sums provided for in Section 11.2 A of this ordinance. In determining the amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of

the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.

C. To the extent permitted by law, the District may also recover reasonable attorneys' fees and court costs associated with petitioning the court for recovery of Civil Penalties.

D. Notwithstanding any other provision of law, all Civil Penalties imposed by the court for a violation of this Section 11.2 shall be distributed to the District.

E. Remedies under this Section 11.2 are in addition to and do not supersede or limit any and all other remedies, civil or criminal; but no Civil Penalties shall be recoverable under this Section 11.2 for any violation for which Administrative Civil Penalties are recovered under California Government Code section 54740.5 (Section 10.6 of this ordinance).

11.3 Criminal Prosecution

A. A User who willfully or negligently violates any provision of this ordinance, a WDP, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000) for each day such violation occurs, or by imprisonment for not more than six (6) months, or both.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000) for each day such violation occurs, or by imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, WDP, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000) for each day such violation occurs, or by imprisonment for not more than six (6) months, or both.

11.4 Remedies Nonexclusive; Enforcement Response Plan; Actions by Other Agencies

A. The remedies provided for in this ordinance are not exclusive. The General Manager may take any, all, or any combination of the administrative or other types of EAs specified in this ordinance against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the District's Enforcement Response Plan (ERP), which will serve as guidance for imposing progressive EA against noncompliant Users. However, the General Manager may take other EA(s) against any User when the circumstances warrant. Further, the General Manager is empowered to take more than one EA (concurrently or sequentially) against any noncompliant User as the circumstances may warrant. The District's ERP, initially adopted together with this

Ordinance, as amended from time to time by District Resolution, shall be maintained in the General Manager's office.

B. Nothing in this ordinance is intended to prevent State and/or Federal regulatory agencies from undertaking enforcement actions against Users and Persons as may otherwise be available due to a violation of this ordinance which also constitutes a violation of Federal or State statutes and regulations, such as: (1) the Act; (2) the California Porter-Cologne Water Quality Act (California Water Code section 13000, *et seq.*); (3) the California Hazardous Waste Control Law (California Health and Safety Code sections 25100 - 25250); (4) the RCRA; and (5) California Government Code sections 54739 - 54740.6.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Payment of Outstanding Fees, Costs and Penalties

The General Manager may decline to issue or reissue a WDP to any User who has failed to pay any outstanding fees, Non-Compliance Costs, fines or penalties incurred as a result of any provision of this ordinance, a previous WDP, or order issued hereunder.

12.2 Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the District. Existing contracts for the sale of goods or services to the District held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the General Manager.

12.3 Liability for Non- Compliance Costs Incurred by the District

A. Any User found in violation of any requirement adopted or ordered by the District to meet the standards established to protect the District's POTW or to prevent the entry of any wastewater found or suspected to be in violation of any State, Federal, or Local Limit, WDP, or any provisions of this ordinance which causes expense, loss, damage or other liability to the District (including but not limited to expenses arising out of a User's discharge which causes the District to be in violation of its WDR or NPDES permit or other requirements of applicable regulatory agencies) shall be liable to the District for such expense, loss, damage or other liability (Non-Compliance Costs) and shall pay the same to the District in a manner prescribed by the General Manager.

B. Non-Compliance Costs can include environmental fines and cleanup costs arising out of, pertaining to, or resulting from User noncompliance as well as any related cost of defense, settlement, arbitration, and attorney's fees. Non-Compliance Costs may also be levied to recover any costs incurred by the District to replace or repair POTW facilities or equipment damaged by a User's unauthorized discharge of Industrial Wastewater.

C. Non-Compliance Costs further include, but are not limited to, inspection, monitoring and sampling costs as well as transportation, equipment, and labor costs incurred by the District to investigate and/or demonstrate User noncompliance/compliance, as well as administrative (District staff) time spent in resolution of noncompliance. Administrative Non-Compliance Costs will be

based on actual staff hourly time expended to resolve User noncompliance (*e.g.*, issuing NOV's and AOs; engaging in EAs; and conducting additional monitoring, sampling, testing, inspections or investigation as may be required). To the extent standardized hourly rates for administrative time expended in addressing User noncompliance can be established by the District, such standardized rates will be adopted by District resolution and utilized in calculating any Non-Compliance Costs to be assessed.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

A. 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 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. An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph C, below, are met.

C. A 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 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; and

(3) The User has submitted the following information to the General Manager within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users shall have the opportunity for a judicial determination on any claim of upset only in an Enforcement Action (EA) brought for noncompliance with Categorical Pretreatment Standards.

F. Users shall control production of 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.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an EA brought against it for noncompliance with the general prohibitions in Section 2.1 A of this ordinance or the specific prohibitions in Sections 2.1 B (3) through 2.1 B (18) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the District was regularly in compliance with its NPDES or WDR permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs C and D of this Section.

C. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the General Manager, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the General Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact

dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The General Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the General Manager may take an EA against a User for a bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- c. The User submitted notices as required under paragraph C of this section.

(2) The General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in paragraph D (1) of this Section.

SECTION 14—WASTEWATER TREATMENT RATES

By means of a resolution adopted and amended from time to time by the District Board, after appropriate public notice and hearing, the District shall set or adjust the rates charged to Industrial Users for the services of the Treatment Plant.

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges, Fees and Costs

To the extent that such costs may be standardized and expressed as flat fees or hourly rates, the District Board, by means of a resolution adopted and amended from time to time after appropriate public notice and hearing, may adopt reasonable fees for reimbursement of the costs of setting up and operating the District's pretreatment program, which may include:

- A. Fees for WDP applications, including the cost of processing such applications;
- B. Fees for routine monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users (based on staff time expended and costs associated with materials and/or outside testing facilities as may be required);
- C. Fees for reviewing and responding to accidental discharge procedures and construction;

- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (which are not included in Section 15.1 B, above) associated with investigation and regulation of User noncompliance as well as costs associated with EAs taken by the General Manager and District staff to address, regulate or investigate User noncompliance (Non-Compliance Costs); and
- F. Other fees as the District may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the District.

SECTION 16—DISTRICT BOARD APPEAL HEARINGS

16.1 – Procedure for Actions Appealable to the District Board

- A. Where a right to appeal a decision of the General Manager (or a decision of a hearing officer duly designated by the General Manager) is specified in this ordinance, such User or other person aggrieved by such decision may file with the District Secretary a written request for an appeal hearing before the District Board. The written request must be received by the District Secretary within fifteen (15) days of the date such decision, action, or determination of the General Manager was taken against the User or became final. The request for an appeal hearing shall set forth in detail the decision, action or determination the appellant wishes to appeal; the facts supporting the appellant's reasons for seeking appeal; and shall include the address at which the appellant may be notified of the hearing date and final decision of the District Board.
- B. No later than sixty (60) days after the receipt by the District Secretary of a timely request for an appeal hearing in the proper form, the District Board shall either set the matter for a hearing, or deny the request for a hearing.
- C. A hearing shall be held by the District Board within thirty (30) days of the date the request for a hearing was granted, unless a later date is agreed to by appellant and the District Board. Notice of the time, date and place of such appeal hearing shall be given to the appellant by mailing, postage prepaid, at the address provided by the appellant in its notice for appeal at least fifteen (15) days prior to the date of the hearing, unless such notice is waived in writing by the appellant. If the hearing is not held within the time set due to actions or inactions of the appellant, the decision of the General Manager or the duly designated hearing officer shall be deemed final.
- D. The appellant and his or her attorney may be present and may submit evidence at the appeal hearing. The appeal hearing shall not be continued by the District Board without the appellant's consent.
- E. After the hearing, the District Board shall make a determination to uphold, modify or reverse the decision or order of the General Manager (or his/her duly designated hearing officer). The decision of the District Board shall be reduced to writing within sixty (60) days after the hearing and shall contain a brief statement of facts found to be true, the determination of the issues presented, and the

District Board's findings. The written decision and order of the District Board shall be submitted to the appellant via certified mail to the address set forth in appellant's written notice requesting appeal.

F. The written decision and order of the District Board shall be sent by certified mail within 65 days after the close of the hearing. The decision and order of the District Board shall be final upon its adoption.

EXHIBIT B
TO ORDINANCE NO. VWD-010

VICTORVILLE WATER DISTRICT
PRETREATMENT PROGRAM ENFORCEMENT RESPONSE PLAN

October 7, 2014

SECTION 1 - INTRODUCTION AND PURPOSE

This Enforcement Response Plan (ERP) has been developed by the Victorville Water District ("District") under its Pretreatment Ordinance No. VWD-010, as adopted by the District on October 7, 2014, (hereinafter the "Ordinance") and reflects the District's responsibility to enforce all applicable Pretreatment Standards and Requirements set forth therein. In accordance with Lahontan Regional Water Quality Control Board Order No. R6V-2014-0002 (WDID No. 6B360911001) and the requirements of 40 CFR 403.8(f)(5), this ERP contains procedures for investigating instances of Noncompliance, the types of escalating enforcement actions the District may take in response to Noncompliance, the time frames for implementing responses to such actions, and the District staff responsible for each response. The ERP's purpose is to provide guidance to District staff in the specific application of the various enforcement mechanisms set forth in the Ordinance (hereinafter "Enforcement Actions" or EAs) and to ensure that EAs are executed in a consistent and timely manner for each Industrial User ("User") of the District's Publicly Owned Treatment Works (POTW). To the extent terms are not defined in the body of this ERP, definitions of capitalized terms, abbreviations and acronyms used are in the Glossary attached as Appendix II.

SECTION 2 - DISTRICT STRUCTURE AND ENFORCEMENT PERSONNEL

2.1 The District is a county water district, formed and functioning under the provisions of California Water Code section 30000, *et seq.* The District is governed by a five member Board of Directors ("District Board") whose membership is comprised of the elected members of the City Council of the City of Victorville ("City"). Although the District is a subsidiary district of the City, it retains its powers as a county water district. The following contribute to the District's pretreatment program and activities related to enforcement of the Ordinance:

- A. The **District Board** is ultimately responsible for administration of all provisions of the Ordinance and must exercise such responsibilities according to the purpose and intent of the Ordinance in a fair and objective manner. Except as otherwise provided in the Ordinance, the District Board has delegated to the District General Manager the responsibility to administer, implement and enforce the provisions of the Ordinance. Most powers granted to or duties imposed on the General Manager by the District Board may be delegated by the General Manager to other District staff as delineated below.
- B. The **District General Manager** ("General Manager") provides general supervision of the Ordinance. The General Manager may review and sign EA documents and correspondence before they are issued to Users, or designate the District's Director of Public Works (or other authorized District Pretreatment Staff) to review and sign such documents. The General Manager is the signatory for Show Cause Hearing Orders (SCHOs) and severe EAs such as Emergency Suspensions, and Waste Discharge Permit (WDP) revocations. The General Manager is responsible for conducting show cause hearings when severe EAs are at issue, but may appoint alternative staff or other qualified persons to act as hearing officers for show cause hearings. When it is determined that enforcement requires a civil suit or may involve criminal prosecution, the General Manager will refer these actions to the District General Counsel.
- C. The **District Director of Public Works and Water** ("Director") is responsible for the enforcement of the Ordinance and administration of this ERP. The Director oversees the issuance of and signs Notices of Violation (NOVs), Administrative Complaints (ACs), and Administrative Orders (AOs) and presents the case at AC hearings (if necessary). The Director further oversees preparation of documentation of non-compliance for severe EAs. The Director also has signatory responsibility for Non-Compliance Costs (NCC) recovery documents. The Director may marshal resources (such as the General Manager or District General Counsel) as may be needed dependent on the nature and severity of the Noncompliance.
- D. The **District Pretreatment Staff** (Water Supply Manager and Water Quality Coordinator) are responsible for conducting the day to day implementation of the Ordinance and will generate the majority of the written correspondence and enforcement documentation for the Director or the General Manager to review. Informal Notices, such as Warning Notices of Noncompliance (WNONs) and similar communications between the District and Users is also the responsibility of Pretreatment Staff. Accurate and complete records of EAs and related compliance monitoring and testing are maintained in individual User files by the Pretreatment Staff. Other personnel, including the District's contract Treatment Plant Operations Staff, lab technicians, collection personnel, and contract laboratory personnel may provide assistance to the District's Pretreatment Staff as requested to complete required sampling and analysis associated with enforcement activities.
- E. The **District General Counsel** ("District Counsel") will provide consultation as requested by the General Manager, the Director and Pretreatment Staff for issues requiring legal clarification and guidance and will act as lead on all recommendations or referrals for civil litigation and where criminal proceedings or investigations may be required.

2.2 Levels of Responsibility for Instances of Noncompliance and Enforcement Actions

The table below summarizes District staff responsibility for the various EAs specified in the Ordinance. Staff is listed by level of signatory responsibility and the table indicates the escalating enforcement levels (minor, moderate, severe) and the EAs that may be employed at any level, dependent upon the circumstances associated with the noncompliance. Other subordinate District staff will assist as necessary to compile and document instances of Noncompliance at all levels of enforcement:

Enforcement Action	Responsible Staff	Associated Duties
<p>Minor Informal Notices; WNONs</p> <p>NOVs</p>	<p>Pretreatment Staff (Water Quality Coordinator; Water Supply Manager)</p>	<p>Determine and document Noncompliance. Draft appropriate EA documents; forward NOVs to Director or Water Supply Manager for review and signature. Track enforcement follow-up and recommend closure.</p>
<p>Moderate AOs: Consent, Compliance & Cease and Desist Orders</p>	<p>Director or Water Supply Manager</p>	<p>Oversee determination and documentation of Noncompliance. Draft appropriate enforcement action. Track enforcement follow-up and recommend closure upon compliance. Sign and issue AOs; Sign closure actions.</p>
<p>AC; Administrative Civil Penalties (ACPs) **</p> <p>Assess and Recover NCC **</p>	<p>Director</p>	<p>Oversee determination and documentation of noncompliance. Draft AC issuances and supportive documentation. Track enforcement follow-up and recommend closure. Sign and issue ACs; assess ACPs; Sign closure actions. Present case at administrative hearing. Pursue recovery of NCC</p>
<p>Severe Show Cause Hearing and Order (SCHO); WDP Revocation, Emergency Suspension Order (ESO), Discharge Termination; Civil/Criminal Action</p>	<p>Director</p>	<p>Oversee determination and documentation of noncompliance. Draft appropriate EA documents. Track enforcement follow-up and recommend closure. Prepare notification to the General Manager (and where Ordinance provides appeal or review rights to District Board) for actions involving WDP revocation, Discharge Termination or Emergency Suspension Orders.</p>
	<p>General Manager</p>	<p>Sign and issue SCHOs, WDP Revocations, ESOs and Discharge Terminations. Conduct show cause hearing or assign hearing officer. Refer to District Counsel Noncompliance involving civil action and potential criminal prosecution.</p>

**These EAs may generally be used at any time during the compliance enforcement process, but usually are not invoked for minor or isolated instances of Noncompliance.

SECTION 3 - IDENTIFICATION AND INVESTIGATION OF NONCOMPLIANCE/VIOLATIONS

3.1 The District becomes aware of Noncompliance through various processes, including without limitation, the following:

- A. Inspection and sampling activities conducted by District Staff and/or Treatment Plant Operations Staff
- B. Review of User reports required by provisions of User WDPs
- C. Sampling of Treatment Plant influent/effluent/biosolids
- D. Evaluation of Treatment Plant upsets
- E. General incident response (User notification of Slug Discharge, Slug Load or accidental discharge)
- F. Review of information from District or City departments, outside agencies or the general public

3.2 Although the primary focus of this ERP is EAs to be pursued by the District in response to User Noncompliance, the District is also tasked with determining that Noncompliance has occurred and evaluating the nature and severity of such Noncompliance. The Ordinance and/or WDPs issued thereunder will specify sampling and/or inspection programs for all Users permitted to discharge Industrial Wastewater to the POTW Treatment Plant. The number and types of sampling events required for each particular User will be set forth in the User's WDP issued by the General Manager.

- A. **Inspections.** District Pretreatment Staff perform inspections to determine compliance with applicable regulations, to verify information submitted to the District by each User in reports and applications, and to verify reports generated by Treatment Plant Operations Staff indicating the presence of prohibited substances in a User's discharge. Inspections are also used as a mechanism to allow follow up on instances of User Noncompliance. Documentation of each inspection is made by the inspector and evaluated for potential violations.
- B. **Sampling.** Sampling is performed by District Pretreatment Staff and Treatment Plant Operations Staff to determine if Users are in compliance with specific discharge limitations for applicable pollutants as set forth in the Ordinance and WDPs. Sampling is also used as a mechanism to follow up instances of User Noncompliance. Documentation is made by the sampler, and the samples are delivered to a certified analytical laboratory for analysis using procedures contained in the Code of Federal Regulations. Sample results are delivered to the District for compliance verification.
- C. **Compliance Screening.** Compliance screening involves reviewing all available information to identify any Noncompliance. The review process assesses, as appropriate, compliance with schedules, WDP reporting requirements, and applicable Pretreatment Standards and Requirements. The screening process should verify that all reports from Users are submitted on schedule, encompass the appropriate time period(s), contain required information and are properly signed. If self-monitoring reports are submitted, District Pretreatment Staff should carefully review these reports for accuracy and completeness and compare them to the appropriate discharge limitations to verify compliance. Laboratory results from User samples should likewise be carefully reviewed and compared to applicable discharge limitations. All Noncompliance or potential violations should be addressed by an appropriate EA.

3.3 As Federal or State regulations and/or District policies for inspections, sampling, reporting and data management evolve; such procedures will be updated and incorporated into this ERP as needed.

SECTION 4 – OVERVIEW OF ENFORCEMENT ACTIONS AND RESPONSE SUMMARY

4.1 The District's enforcement procedures are generally based on three levels of enforcement responses: minor, moderate, and severe. However, as noted in the table in Section 2.2, certain EAs may take place at various levels of enforcement, such as assessment of NCC and the issuance of ACs and associated ACPs. User noncompliance with monitoring, reporting, BMPs (where applicable), and treatment requirements may range from relatively minor violations (e.g., late reports without effluent discharge limit violation) to severe violations resulting in Treatment Plant or POTW Interference or upsets. Selection of the appropriate EA will take into account whether the violation is severe, moderate or minor, and other factors described in Section 6 of this ERP and the Enforcement Response Guide (ERG) attached hereto as Appendix I.

4.2 Specific limitations on discharges to the POTW Treatment Plant are governed by Ordinance provisions and Local Limits adopted by Resolution as specified therein, which require Significant Industrial Users (and other Users as may be required by the General Manager) to apply for and obtain a WDP. WDPs impose industry and User-specific conditions and prohibitions on User discharges. Instances of Noncompliance are subject to the EAs specified in the Ordinance.

4.3 The range of EAs available to the District are discussed in the Ordinance, which provides the legal authority necessary to implement any and all measures required to ensure User compliance. The most common EAs are listed below:

- ❖ Informal Notice (Phone call, e-mail, personal visit, meeting)
- ❖ Warning Notice of Noncompliance Letter (WNON)

- ❖ Notice of Violation (NOV);
- ❖ Administrative Orders (AOs)
 - Consent, Compliance, and Cease and Desist
- ❖ Administrative Complaint (AC) for Administrative Civil Penalties (ACPs)
- ❖ Show Cause Hearing and Order (SCHO)
- ❖ Emergency Suspension Order (ESO)
- ❖ Emergency Enforcement (suspension/abatement of discharge)
- ❖ WDP Revocation
- ❖ Discharge Termination
- ❖ Civil Action
 - Civil Penalty Action, Injunction or other civil action
- ❖ Criminal Action
- ❖ Recovery of Non-Compliance Costs (NCC)

SECTION 5 – ENFORCEMENT ACTIONS AND PROCEDURES

5.1 Minor Enforcement Action. The general timing observed and process followed when pursuing minor EAs is shown in Appendix III (Diagram A) of this ERP. If Noncompliance is not resolved through minor EAs, enforcement will escalate to the moderate level. Minor EAs include informal notices, WNONs, informal meetings, and NOVs.

A. Informal Notice.

- (1) **Informal Notices.** Informal Notices are used to correct minor infractions resulting in inadvertent Noncompliance and to make Users aware that the District monitors and follows up on all instances of noncompliance. Informal Notices may take the form of a telephone call, electronic notice, site visit or informal meeting and are used to: (a) Correct minor violations and seek User explanation; (b) Require User to exercise more due diligence; and/or (c) advise Users that subsequent violations of the same type may be addressed with more severity.
- (2) **Warning Notice of Noncompliance Letter (WNON).** The WNON is a written communication from the District to the noncompliant User stating that minor Noncompliance has occurred and that correction is necessary. A WNON may include specific corrective actions required of the User, as well as a statement that additional EAs may be pursued if corrective actions are not accomplished. Copies of WNONs must be maintained in the User's permanent file.

- B. Notice of Violation (NOV).** The NOV is an official, written notice from the District to a User stating that Noncompliance has occurred and requires immediate attention and correction to achieve compliance. NOVs are generally issued for failure to achieve compliance following a WNON. When an NOV is issued to a noncompliant User, the User must respond to the NOV within the time period specified in the NOV (but in no event later than ten (10) working days after receipt). A User's timely response to a NOV and acceptable completion of any corrective actions included in the NOV will be considered in determining the need for and type of subsequent EAs. NOVs must be sent via certified mail with return receipt requested and may serve as proof that the User received the NOV in the event that more severe EAs become necessary. A copy of the NOV and the return receipt will be maintained in the User's permanent file. Any further EAs for the violations set forth in the NOV will usually terminate when corrective actions have been completed to the satisfaction of the District. If a subsequent violation occurs, the process may start over or may continue on to an escalated EA depending on the factors involved.

5.2 Moderate Enforcement Action - Administrative Orders (AOs). AOs are issued when compliance is not achieved through minor enforcement actions or when egregious Noncompliance events occur. The District generally issues three types of AOs. The time frame for issuance of an AO is a maximum of 30 days from the time of determination of continued Noncompliance (e.g., failure to resolve NOV within time frame specified therein). The circumstances of noncompliance will dictate the appropriate AO to issue. The time frame for compliance after issuance of an AO will vary depending on the circumstances and will be specified in the AO. All AOs shall be hand delivered or delivered by certified mail with a written receipt of delivery to the User and retained in the User's permanent file. The following types and guidelines for AO issuance are applied:

- A. Consent Order. (CO).** A CO is an agreement between the District and the User which contains a compliance schedule for remedial actions and signatures of the Director and an authorized representative of the User. In the CO, the User acknowledges responsibility for its Noncompliance, its willingness to take remedial action and provides written assurances of compliance. COs shall include the specific action to be taken by the User to correct the Noncompliance and the time frame within which corrective action will be taken.

- B. Compliance Order (CMO).** A CMO is an order directing the User to achieve or restore compliance by a specified date. It is issued unilaterally by the District and contains a schedule with specific milestones used to verify progress. The CMO is typically issued when Noncompliance cannot be resolved without construction, repair, or process changes, or when the User is not making good faith efforts to achieve compliance. If the User does not come into compliance within the time provided, POTW service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. CMOs also may contain other requirements, including additional self-monitoring and BMPs designed to minimize the amount of pollutants discharged to the POTW. A CMO may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor will a CMO relieve a User of liability for any Noncompliance, including any continuing Noncompliance.
- C. Cease and Desist Order (CDO).** A CDO is an order issued to a noncompliant User directing it to immediately cease noncompliant discharges and to take such appropriate remedial or preventive action as may be needed to properly address continuing or threatened Noncompliance, including halting operations and/or terminating the discharge. The CDO will specify a time by which the noncompliant must cease (*e.g.*, 24 hours, 2 days, *etc.*). CDOs are issued for recurring violations and/or when the noncompliant discharge could cause POTW Interference or Pass Through, or threatens human health or the environment. A CDO may be issued immediately upon discovery of the noncompliance or following a hearing. In an emergency, a CDO may be issued by telephone; however, such informal notification should be followed up with a written CDO served in the same manner as other AOs.

Failure to resolve Noncompliance through moderate EA will escalate the enforcement to the severe level and/or may result in the issuance of an AC and assessment of ACPs.

5.3 Show Cause Hearing and Order (SCHO). Failure to resolve Noncompliance through the AO process will result in consideration of severe EAs. Prior to initiating severe EAs, the General Manager may issue a SCHO. The SCHO will specify the time and place for a show cause hearing, the EA proposed to be taken, and the reasons for such action. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the User. Immediate EA may be pursued following the hearing date whether or not the User appears as ordered. With the exception of Discharge Termination, issuance of a SCHO shall not be a prerequisite for taking any other action against the User and is not required in cases where District elects to pursue civil, criminal, or injunctive actions.

5.4 Severe Enforcement Action. When all attempts to achieve compliance through intermediate enforcement have failed, the District will pursue severe enforcement actions including WDP revocation, Discharge Termination and/or judicial proceedings (civil litigation, criminal prosecution, or action for injunction). Due to the complexities of each case, specific time frames for pursuing conducting severe EA cannot be predetermined.

- A. WDP Revocation and Discharge Termination.** Users failing to resolve Noncompliance or present adequate information at a show cause hearing are subject to WDP revocation and/or Discharge Termination.
- (1) WDP revocation may be used when attempts to bring Users into compliance are not successful and when more severe measures, such as civil or criminal action seem inevitable. WDP revocation extinguishes the User's right to lawfully discharge to the POTW. At least one NOV will be issued to a User prior to proceeding with a WDP revocation; but the District need not (although it may), issue other EAs prior to WDP revocation.
 - (2) Discharge Termination may be accomplished by physical severance (or plug) of the User's connection to the POTW. A User subject to proposed Discharge Termination will be provided with a SCHO prior to issuance of an order for Discharge Termination, and such order shall specify the method and date for termination. Exercise of this EA by the General Manager shall not be a bar to, or a prerequisite for, taking any other action against the User. However, as Discharge Termination may require Users to halt business operations and/or force closure, the District will carefully consider all legal and operational implications before employing this EA.
- B. Civil Action/Criminal Prosecution/Injunctive Relief.**
- (1) Civil Action (litigation) is the process of filing lawsuits against Users to obtain compliance, seek CP and/or to recover unpaid NCC. By filing a petition in the Superior Court, the District can seek CP for Noncompliance in amounts up to \$25,000 a day for each violation, as set forth in the Ordinance and Government Code section 54740. The District may also pursue civil actions to collect unpaid NCC or pretreatment program fees and charges, or to seek declaratory or other appropriate legal relief.
 - (2) The District may seek criminal prosecution for any person who willfully or negligently violates the Ordinance or its WDP; knowingly makes any false statements, representations, or certifications; or tampers with a monitoring

device or method. Such violations include non-permitted discharges to the Treatment Plant misrepresenting or concealing discharge information, allowing pretreatment equipment to deteriorate through neglect, or failing to prevent anticipated spills.

- (3) If it is determined that EA delay has the potential for irreparable harm, or a User refuses to comply with previously issued EAs, the District may seek injunctive relief by petitioning the Superior Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the WDP, order, or other requirement imposed by the Ordinance on activities of the User.

C. Emergency Enforcement (Emergency Suspension Order or ESO). In the event of an emergency, the General Manager or his duly authorized designee has the authority to immediately halt or suspend a wastewater discharge to the POTW after informal notice to the User (an "Emergency Suspension"). An ESO differs from a CDO because a determination has been made that immediate suspension of discharge is necessary to stop an actual or threatened discharge which reasonably appears to present or cause imminent and substantial endangerment to the environment or to the health or safety of persons, or that threatens to interfere with the operation of the POTW. A User notified either verbally or in writing of an ESO must immediately stop or eliminate the discharge. In the event a User fails to immediately comply voluntarily, the General Manager or his/her designee will take such emergency enforcement as deemed necessary, including immediate severance or plug of the User's connection to the POTW Treatment Plant to abate the discharge. When the period of endangerment has passed and the General Manager or designee determines the User has returned to a state of compliance, the ESO may be lifted and the User may resume discharging, unless Discharge Termination proceedings are initiated against the User.

5.5 Administrative Complaint (AC) and Administrative Civil Penalty (ACP). The AC is the process by which ACPs are assessed directly by the District for Noncompliance. ACP amounts are determined on a case-by-case basis by the District, taking into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any Noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the User. Assessment of ACPs does not generally require judicial intervention unless the User contests the AC or refuses to pay ACPs. ACPs are punitive and assessed to deter future violations. An AC may be issued to any User found in violation of any requirement adopted or ordered by the District and may accompany other EAs. Following the service of an AC and the required hearing (unless waived by the User) ACPs may be assessed in the following amounts:

- A. In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
- B. In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the District.
- C. In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the District.
- D. In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District.

The Ordinance and Government Code sections 54740.5 and 54740.6 detail the procedural rules the District will follow when pursuing ACs for ACPs and providing appeals thereof.

5.6 Non-Compliance Costs (NCC). When User Noncompliance causes expense, loss, damage or other liability to the District, including but not limited to: expenses arising out of a User's discharge which causes the District to be in violation of its WDR or NPDES permit; costs incurred by the District to replace or repair POTW facilities or equipment damaged by a User's unauthorized discharge; costs incurred by the District to investigate and/or demonstrate User noncompliance/compliance; and in the other instances described in the Ordinance, the District may levy NCC to ensure recovery of such costs. NCC may be assessed at any level of enforcement upon presentation to the User of documentation of the nature and amount of such District-incurred costs.

5.7. Annual Publication of Significant Noncompliance. A list of all Users found to be in Significant Noncompliance during a calendar year will be published annually in a local area newspaper prior to June 30 of each year for the previous year. A User will be considered in Significant Noncompliance if its violations meet one or more of the criteria set forth in the Ordinance, and specified under the definition of Significant Noncompliance in Appendix II of this ERP.

SECTION 6 - ENFORCEMENT RESPONSE GUIDE (ERG)

6.1 The ERG in Appendix I of this ERP designates several EA options for each type (or pattern) of User Noncompliance. The intent of the ERG is to provide direction for appropriate enforcement responses and to ensure consistent enforcement for similar violations and circumstances. However, when selecting an appropriate EA, the following factors will be evaluated by District personnel to provide some flexibility in determining the appropriate response:

- A. The good faith of the User: A User's effort to eliminate Noncompliance are factored into the enforcement response decision;
- B. User compliance history: A User's compliance history includes the User's efforts to maintain pretreatment equipment and the development and implementation of pollution prevention and waste minimization program;
- C. Past success of the EA against the User: (e.g., if historically NOV's have not been effective in returning the User to compliance in a reasonable period of time, an AO might be a more appropriate response.);
- D. The effect of the Noncompliance on the environment and/or public health: The actual or potential effect of a violation on public health or the environment is a significant factor in determining the appropriate response level. Enforcement actions necessary to correct violations endangering the public health or the environment are elevated to correct the situation in a timely manner;
- E. The effect of the Noncompliance on the POTW or District Personnel: Violations which jeopardize the POTW or District personnel requires a response which minimizes the extent of the damage and immediately restores User compliance;
- F. Magnitude of the of the Noncompliance event at issue: Violations must be evaluated against the potential or actual threat created by the noncompliance. While some violations are isolated and insignificant others, even as a single isolated event require higher level enforcement because of the magnitude of the impact created by the violation;
- G. Duration/frequency of Noncompliance event: Regardless of the magnitude, the duration of the violation must be considered in determining the enforcement response. Escalating EAs are available to discourage repeat or long duration violations.

6.2 **ERG Response Time Frames.** To promote consistent application of the ERG, a time frame for enforcement is established below:

- A. All Noncompliance events will be identified and documented within five (5) days of receiving compliance information (e.g., self-monitoring report data, lab testing results, conducting inspections and/or User notification).
- B. Initial EAs will occur within five (5) to fifteen (15) days of identifying a Noncompliance event.
- C. Follow up actions for continuing or recurring Noncompliance will be taken within 30 days of the initial EA.
- D. Noncompliance EVENTS which threaten health, property or environmental quality are considered emergencies and will receive immediate response with an EA, such as an ESO halting the discharge, or Discharge Termination.
- E. All Noncompliance meeting the criteria for Significant Noncompliance will be addressed with at least issuance of an EA at the moderate or severe enforcement level (as circumstances warrant) within (thirty) 30 days of the identification of Significant Noncompliance.

APPENDIX I
Enforcement Response Guide (ERG)

The following Tables list possible types of Noncompliance and the EAs usually indicated. However, it is only a recommended guide and all types of enforcement responses are available for instances of Noncompliance if circumstances warrant. The District may take any, all or any combination of enforcement response(s) against a noncompliant User; however, prior to taking any enforcement action, including Informal Notices, District Pretreatment Staff must consult with the Director to ensure that the type of EA proposed is consistent with this ERG and is appropriate to address the Noncompliance, taking into account the factors set forth in Section 6.1 of the ERP. The District may assess Non-Compliance Costs (NCC) (where appropriate) at any level of enforcement.

Table A – Reporting Violations

Item	Type of Noncompliance	Enforcement Action/Response
A1	Unacceptable report. Improper signature, incomplete or other deficiency.	Informal Notice (if very minor deficiency) Issue WNON with time schedule for submittal of complete report (not to exceed 30 days).
A2	Report not submitted within time frame set in WNON (see A1).	Issue NOV with time schedule (not to exceed 15 days).
A3	Reports (BMR, periodic compliance, annual certification, technical reports, etc.) submitted more than 30 days late	Issue NOV with time schedule (not to exceed 15 days).
A4	Violation of NOV (see A2 and A3).	Issue AO. Issue AC for ACPs
A5	Chronically late or unacceptable reports.	Proceed with any of the following: Issue AO; Issue AC for ACPs; Issue SCHO; Invoke Discharge Termination WDP Revocation Civil action.
A6	Failure to properly/promptly report Slug Load or Slug Discharge (isolated incident; no harm or damage to POTW or environment)	Issue NOV (may require development or modification of Slug Discharge control plan); Conduct appropriate sampling, monitoring, or inspections
A7	Failure to properly and promptly report Slug Load or Slug Discharge (repeated occurrences or resulting in harm/damage to POTW or environment).	Invoke emergency enforcement if necessary to abate discharge and proceed with any of the following: Issue ESO; Issue NOV and conduct appropriate sampling, monitoring, or inspections; Issue AO; Issue AC for ACPs; Issue SCHO; Invoke Discharge Termination; WDP Revocation; Civil/Criminal action.

Table B - Septic Tank and Industrial Wastewater Haulers

Item	Type of Violation/Noncompliance	Enforcement Action/Response
B1	Failure to discharge wastewater in compliance with Ordinance/General Manager Direction (if no WDP required).	Proceed with any of the following: Issue NOV; Issue AO; Issue AC for ACPs Issue SCHO; Civil/Criminal action.
B2	Violation of WDP requirements.	Proceed with any of the following: Issue NOV; Issue AO; Issue AC for ACPs Issue SCHO; WDP Revocation; Civil/Criminal Action.

APPENDIX I
Enforcement Response Guide (ERG)

Table C – Non-Permitted Discharge Violations

Item	Type of Violation/Noncompliance	Enforcement Action/Response
C1	Industrial Wastewater discharge without WDP	Issue WNON with time schedule. Deadline for application submittal not to exceed 30 days.
C2	Industrial wastewater discharge without WDP resulting in damage to POTW or environment.	Invoke emergency enforcement if necessary to abate discharge and proceed with any of the following: Issue ESO; Issue AO; Issue SCHO; Issue AC and ACPs; Invoke Discharge Termination; Civil/Criminal action.
C3	Industrial wastewater discharge without a WDP and evidence of intentional dumping or discharge of toxic pollutants of concern (metals and/or priority organics).	Invoke emergency enforcement if necessary to abate discharge and proceed with any of the following: Issue ESO; Issue AO; Issue SCHO; Issue AC and ACPs; Invoke Discharge Termination; Civil/Criminal action.
C4	Failure to submit satisfactory WDP application by deadline (see C1).	Issue NOV with time schedule. Deadline for application submittal not to exceed 15 days. Conduct sampling, monitoring, and/or inspections as appropriate.
C5	WDP expires or significant change in discharge occurs. Failure to submit satisfactory renewal application.	Issue NOV with time schedule (Deadline for application submittal not to exceed 30 days). Conduct appropriate sampling, monitoring, and/or inspections
C6	Failure to submit WDP renewal application by NOV deadline (see C5)	Issue AO; Issue AC for ACPs;
C7	Failure to comply with AO (see C6)	Issue SCHO; Invoke Discharge Termination Civil/Criminal action.
C8	Discharge of prohibited substance (volume, concentration, or content) isolated incident or repeated incidents not causing harm or damage to POTW or environment.	Issue WNON; Issue NOV. Conduct appropriate follow up sampling, monitoring, and/or inspections Modify WDP; Issue AO; Issue AC for ACPs; Issue SCHO; Invoke Discharge Termination Revoke WDP; Civil/Criminal Action.
C10	Discharge of prohibited substance (volume, concentration, or content) resulting in damage to POTW or environment.	Invoke emergency enforcement if necessary to abate discharge. Proceed with any of the following: Issue ESO; Take steps to minimize or abate discharge if no voluntary compliance with ESO Issue AO; Issue AC; Assess ACPs; Issue SCHO; Invoke Discharge Termination; Revoke WDP; Civil action/Criminal Action.

APPENDIX I
Enforcement Response Guide (ERG)

Table D – WDP Discharge Limit/Monitoring Violations

Item	Type of Violation/Noncompliance	Enforcement Action/Response
D1	Discharge in excess of WDP limit; no harm	Issue NOV. Require follow-up sampling. Conduct monitoring or inspections as appropriate.
D2	Discharge in excess of WDP limits resulting in damage to the sewerage system or environment.	Invoke emergency enforcement as necessary to abate discharge. Proceed with any of the following: Issue ESO; Issue NOV. Conduct follow up sampling, monitoring, or inspections as appropriate; Issue AO; Issue AC for ACPs; Issue SCHO; Invoke Discharge Termination; WDP Revocation Civil/Criminal action.
D3	Improper monitoring procedures or failure to sample.	Issue NOV. Require follow-up sampling. Conduct monitoring or inspections as appropriate.
D4	Failure to meet requirements specified in NOV (D1, D3).	Issue AO. Issue AC for ACPs
D5	Discharge is in Significant Noncompliance.	Issue AO; Publish in Newspaper at least once annually.

Table E - Administrative Order Violations

Item	Nature of Violation	Enforcement Action/Response
E1	Failure to comply with CO or CMO.	If milestone date missed by 30 days or less and will not affect final compliance date: Issue WNON. If milestone date missed by more than 30 days and/or violation will affect final compliance date, proceed with any of the following: Issue modified AO; Issue AC for ACPs Issue SCHO; Invoke Discharge Termination; WDP Revocation; Civil/Criminal action.
E2	Failure to comply with CDO.	Proceed with any of the following: Issue modified CDO; Issue AC for ACPs; Issue SCHO; WDP Revocation; Invoke Discharge Termination; Civil/Criminal action.
E3	Failure to Respond to SCHO.	Proceed with any of the following: Issue AC for ACPs; WDP Revocation; Invoke Discharge Termination; Civil/Criminal action

APPENDIX I
Enforcement Response Guide (ERG)

Table F – Miscellaneous Violations

Item	Nature of Violation	Enforcement Action/Response
F1	Failures to install, operate, and/or maintain pretreatment equipment.	Issue NOV with time schedule.
F2	Failure to install, operate and/or maintain sampling and monitoring equipment.	Issue NOV with time schedule.
F3	Violations of WDP requirements not listed elsewhere.	Issue NOV with time schedule.
F4	Failure to comply with conditions of NOV (See F1, F2 or F3)	Issue AO. Issue AC for ACPs
F5	Dilution of waste discharge in lieu of treatment.	Proceed with any of the following: Issue WNON Issue NOV. Conduct follow up sampling, monitoring, or inspections as appropriate. Issue AO; Issue AC for ACPs; Issue SCHO; Invoke Discharge Termination; WDP Revocation Civil/Criminal action.
F6	Denial of entry or adequate access for inspection of facility or records.	Proceed with any of the following: Issue WNON Issue NOV. Conduct follow up sampling, monitoring, or inspections as appropriate. Issue AO; Issue AC for ACPs; Issue SCHO; Invoke Discharge Termination WDP Revocation Civil/Criminal action.
F7	Continued denial of entry or adequate access for inspection of facility or records and/or District has reasonable suspicion that a violation is occurring.	Proceed with the following: Obtain and conduct inspection under warrant; Issue NOV. Conduct sampling, monitoring and additional inspections as appropriate Issue AO; Issue SCHO; WDP Revocation Invoke Discharge Termination; Civil/Criminal action.
F8	Concealment of violations, equipment tampering, intentional falsification of statements or reports.	Invoke emergency enforcement as necessary to abate discharge. Proceed with any of the following: Issue NOV; Issue ESO ; Issue SCHO; Invoke Discharge Termination WDP Revocation; Civil/Criminal action.

APPENDIX II GLOSSARY

Abbreviations/Acronyms:

AC – Administrative Complaint	FDS – Fixed Dissolved Solids
ACP – Administrative Civil Penalty	gpd – gallons per day
AO – Administrative Order	mg/l – milligrams per liter
BOD – Biochemical Oxygen Demand	NOV – Notice of Violation
BMP – Best Management Practices	NPDES – National Pollutant Discharge Elimination System
BMR – Baseline Monitoring Report	NCC – Non-Compliance Costs
CDO – Cease and Desist Order	POTW – Publicly Owned Treatment Works
CFR – Code of Federal Regulations	RCRA – Resource Conservation and Recovery Act
CO – Consent Order	SIU – Significant Industrial User
CMO – Compliance Order	SCHO – Show Cause Hearing Order
CP – Civil Penalties	TSS – Total Suspended Solids
EA – Enforcement Action	U.S.C. – United States Code
EPA – U.S. Environmental Protection Agency	WDR – Waste Discharge Requirements
ESO – Emergency Suspension Order	WDP – Wastewater Discharge Permit

Definitions:

Administrative Civil Penalty (ACP). A civil penalty assessed by the District against a User in conjunction with issuance of an Administrative Complaint pursuant to the Ordinance and California Government Code section 54740.5.

Administrative Complaint (AC). A formal administrative complaint issued by the District pursuant to California Government Code section 54740.5 to Users who violate or continue to violate provisions the Ordinance, a WDP or order issued thereunder, or any other Pretreatment Standard or Requirement. An AC alleges the act or failure to act that constitutes the violation(s), sets forth the provisions of law authorizing civil liability to be imposed, and the proposed ACP.

Administrative Order (AO). An enforcement document which directs a User to implement corrective or remedial measures.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B of the Ordinance [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Cease and Desist Order (CDO). An AO issued by the District requiring a User to halt the discharge of wastewater that is in violation of the provisions of this ordinance or take other actions to remedy violations.

Civil Penalties (CP). Monetary penalties which can be imposed and recovered by the District through filing a petition in the superior court under the authority of California Government Code sections 54739 and 54740.

Compliance Order (CMO). An AO directing the User to achieve or restore compliance by a specified date. Such an order may include a compliance schedule with specific milestones for achieving steps toward compliance and for tracking and recording progress. The District issues a CMO unilaterally when noncompliance cannot be resolved without construction, repair, or process changes and when the User is not making a good faith effort to achieve compliance.

Consent Order (CO). An AO establishing a written agreement with any User responsible for noncompliance and specifying action to be taken by the User to correct the noncompliance within a time period also specified in the order.

Enforcement Action (EA). Any of a series of progressively more stringent measures taken by the District to obtain compliance with the provisions of the Ordinance, a Wastewater Discharge Permit or order issued thereunder, or any other Pretreatment Standard or Requirement adopted or ordered by the District. EAs include, without limitation, informal and written warning notices (WNONs), NOV's, AOs, ACs, civil and/or criminal actions and may include monetary fees, costs, fines or penalties.

Industrial User or User. Any Person who discharges or causes a discharge of Industrial Wastewater directly or indirectly to the POTW.

Industrial Wastewater. Any water-carried wastes and wastewaters, excluding Domestic Wastewater derived from any producing, manufacturing, processing, institutional, agricultural or other operation.

APPENDIX II GLOSSARY

Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the District's NPDES or WDR permit, or prevents reuse of the treated effluent in compliance with California Code of Regulations Title 22, or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; and the California Porter-Cologne Water Quality Act.

Local Limits. Specific discharge limits developed and enforced by the District upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b) and to specifically protect the POTW from Interference and Pass Through based on site-specific design and disposal limits and conditions of the POTW. Local Limits are developed to assure that Industrial User discharges to the POTW do not upset the Treatment Plant's biological, chemical or physical treatment processes, prevent the disposal of biosolids (sludge), impact worker health and safety, or harm the POTW infrastructure.

Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the District's NPDES permit or WDR conditions, including an increase in the magnitude or duration of a violation.

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards or Standard. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned and/or operated by the District. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a Treatment Plant.

Noncompliance. Any violation of the District Ordinance, a Wastewater Discharge Permit or order issued by the District under the Ordinance, or a Pretreatment Standard or Requirement.

Non-Compliance Costs (NCC). Charges issued to a User to recover costs incurred by the District to address User noncompliance, including but not limited to: (1) costs arising out of a User's violations (such as penalties and fines imposed on the District by regulatory agencies and costs of replacing POTW facilities or equipment damaged by a User's noncompliant discharge); (2) the District's administrative costs (staff time) associated with pursuing EAs and investigating/resolving User noncompliance; and (3) actual costs incurred by the District for conducting monitoring, testing, sampling, investigation and inspections required as result User noncompliance.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards specified in Section 2.1 of the Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Show Cause Hearing Order (SCHO). An order requiring a User to appear before the General Manager at a hearing to explain any noncompliance and show cause why specified enforcement actions should not be taken. The General Manager may designate a hearing officer to hear testimony for the show cause hearing.

Significant Industrial User (SIU). Except as provided in paragraphs (3) and (4) of this definition, a Significant Industrial User is:

- (1) An Industrial User subject to Categorical Pretreatment Standards; or
- (2) An Industrial User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

APPENDIX II
GLOSSARY

- b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or
- c. Is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) The District may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- a. The Industrial User, prior to the District's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- b. The Industrial User annually submits the certification statement required in Section 6.14 B of the Ordinance [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
- c. The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the District may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

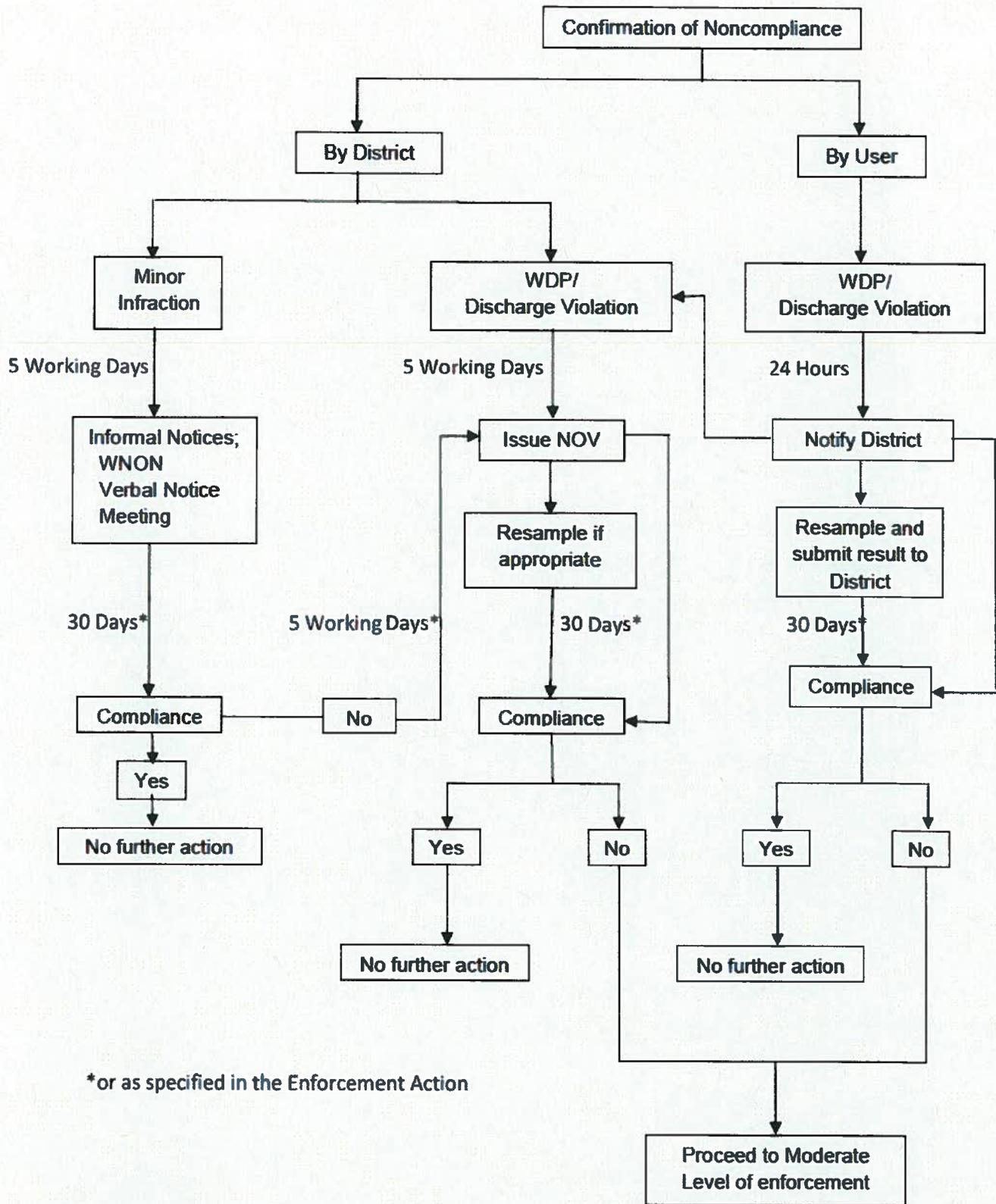
Significant Noncompliance For purposes of this ERP, Significant Noncompliance is applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this definition) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits.
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the General Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the General Manager's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including BMRs, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the General Manager determines will adversely affect the operation or implementation of the local pretreatment program.

Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste, including the Industrial Wastewater Treatment Plant located at the Southern California Logistics Airport in the City of Victorville, and any permitted facility owned or operated by the District that is designed to treat municipal and/or Industrial Wastewater.

APPENDIX III

Diagram A – Minor Enforcement Action Processing



Ordinance No. VWD-010

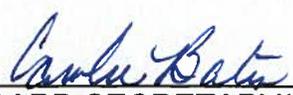
THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT ON NOVEMBER 20, 2014.

PASSED, APPROVED AND ADOPTED THIS 21ST DAY OF OCTOBER, 2014



CHAIRMAN OF THE BOARD OF DIRECTORS

ATTEST:



BOARD SECRETARY/CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

I, CAROLEE BATES, Board Secretary to the Victorville Water District of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. VWD-010 which was introduced at a meeting held on October 7, 2014 and duly adopted at a meeting held on the 21st day of October 2014 by the following roll call vote, to wit:

AYES: Board Members Cox, Garcia, Kennedy, McEachron and Valles

NOES: None

ABSENT: None

ABSTAIN: None



BOARD SECRETARY/CITY CLERK