

**ORDINANCE NO. 2020-21**

**ORDINANCE OF THE BOARD OF DIRECTORS OF TRABUCO CANYON WATER DISTRICT SUPPLEMENTING AND READOPTING WASTE DISCHARGE PRETREATMENT AND SOURCE CONTROL PROGRAMS FOR WASTEWATER FLOWS WITHIN THE BOUNDARIES OF TRABUCO CANYON WATER DISTRICT, ADOPTING THE TRABUCO CANYON WATER DISTRICT ENFORCEMENT RESPONSE PLAN IN CONNECTION THEREWITH, MAKING CERTAIN FINDINGS AND DETERMINATIONS, SUPERSEDING PRIOR ORDINANCES AND TAKING RELATED ACTIONS**

**WHEREAS**, the Trabuco Canyon Water District (“District”) is a county water district organized and operating pursuant to Water Code Sections 30000 and following; and

**WHEREAS**, the Board of Directors (“Board”) of the District has the statutory authority to provide for requirements for wastewater quality, pretreatment requirements and source control matters relating to wastewater flows received by or into District wastewater facilities within the District’s boundaries; and

**WHEREAS**, the District provides wastewater collection, transportation, treatment and disposal services to certain areas within the District; and

**WHEREAS**, the District is a member agency of the South Orange County Wastewater Authority (“SOCWA”), which is a joint powers agency responsible for various matters relating to wastewater collection, transportation, treatment and disposal, and various state and federal regulatory requirements, within the boundaries of its member agencies; and

**WHEREAS**, the District has been requested by SOCWA to supplement and update its wastewater discharge, pretreatment and source control program relative to wastewater discharges to public agency facilities within the District’s boundaries; and

**WHEREAS**, the District has previously adopted its Ordinances Nos. 92-16, 2000-17 2012-19, and 2015-20 providing for certain matters relative to wastewater discharge pretreatment and source control programs within the boundaries of the District; and

**WHEREAS**, notice of a Public Hearing, notice of the intention to adopt this Ordinance, and related notices have been provided as required by law and as further set forth herein; and

**WHEREAS**, on November 18, 2020, the Board conducted and completed a noticed Public Hearing to receive public input and comments with regard to the wastewater pretreatment quality and compliance requirements set forth herein; which Public Hearing was conducted at the District’s business offices located at 32003 Dove Canyon Drive, Trabuco Canyon, California, and comments concerning such matters could be provided in person, in writing and by teleconference; and

**WHEREAS**, the form of this Ordinance, the waste discharge pretreatment and source control program requirements, and the Enforcement Response Plan, as set forth herein have been reviewed with SOCWA; 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 has previously directed that a notice of Public Hearing and a notice of intention with regard to the adoption of this Ordinance be published, posted and otherwise provided as further described herein; and

**WHEREAS**, the Board has previously adopted the Rules and Regulations for Water and Wastewater Service of the Trabuco Canyon Water District (“Rules and Regulations”) pursuant to State law, which Rules and Regulations will be updated to reflect the adoption of this Ordinance and certain related matters as set forth herein upon the adoption hereof; 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 TRABUCO CANYON WATER DISTRICT DOES DETERMINE AND FIND, AND BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT, AS FOLLOWS:

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

**Section 2.** **Provision of Notice.** Pursuant to the provisions and requirements of Water Code Section 31141, and the directives of this Board, the District provided notice of the Public Hearing and the intention of the Board to adopt this Ordinance as follows:

- (a) Notice of the Public Hearing was posted at this District’s business offices posting location, located at 32033 Dove Canyon Drive, Trabuco Canyon, California 92679, on September 25, 2020, and remained so posted until the date and time of the Public Hearing. A copy of the executed Notice of Public Hearing is on file with the District Secretary.
- (b) Notice of the intention of the Board to adopt this Ordinance (“Notice of Intention”), together with a summary thereof, was published in the Orange County Register on September 25, 2020.
- (c) The Notice of Intention and summary, as described in (b) above, was posted at the District business offices posting location on September 25, 2020, and remained so posted until the date of the Public Hearing.
- (d) The Notice of Intention and summary, as described in (b) above, was posted on the District’s internet website beginning on September 25, 2020, and remained so posted until the date of the Public Hearing.

- (e) Copies of the Notice of Intention and the summary as described in (b) above and the proposed text of the Ordinance are on file with the District Secretary, and from and after September 25, 2020, were available for public review upon request.

The District also provided notice of such proposed revision to the waste discharge, wastewater pretreatment, quality, source control and compliance requirements set forth herein, as follows:

- (a) Notice of the Public Hearing and the Notice of Intention/Summary of Ordinance, the full text of this proposed Ordinance, with Exhibits, and the availability of supporting documentation therefor was posted on District's internet website located at <https://www.tcwd.ca.gov> for a period of more than thirty days (30) days prior to the date the Public Hearing was conducted; and
- (b) Notice of the date, time, place and nature of such Public Hearing and the Notice of Intention/Summary of Ordinance was also posted at the following locations within the District boundaries on the following dates:
  - (i) Dove Canyon Community Association - Dove Lake Park posting location October 16, 2020;
  - (ii) Trabuco Highlands Community Association Message Board – October 16, 2020; and
  - (iii) Ridgeline Pump Station at 19314 Ridgeline Road, Trabuco Canyon, California – entry drive posting location – October 16, 2020.

Such notices remained posted until the date and time of the Public Hearing.

**Section 3. Findings.** The Board hereby finds and determines as follows:

- (a) The District has complied, and will comply, with the notice requirements necessary for the adoption of this Ordinance.
- (b) Based on applicable legal standards, water and wastewater quality requirements and current best practices, it is in the best interests of the District to adopt this Ordinance.
- (c) The findings and determinations set out in the Exhibits hereto are incorporated herein at this point by this reference.

**Section 4. Adoption and Implementation; Prior Ordinances Superseded.**

- (a) The Trabuco Canyon Water District Waste Discharge Pretreatment and Source Control Program set out in Exhibit "A" is hereby adopted and shall be in effect from and after November 19, 2020.

- (b) The Trabuco Canyon Water District Enforcement Response Plan as set out in Exhibit “B,” attached hereto and incorporated herein by this reference, is hereby adopted and shall take effect on November 19, 2020.
- (c) The Board reserves the right to revise, amend, supplement and update the above-referenced Trabuco Canyon Water District Waste Discharge Pretreatment and Source Control Program and Trabuco Canyon Water District Enforcement Response Plan from time to time as the Board shall determine and direct.
- (d) Ordinance No. 92-16, Ordinance No. 2000-17 and Ordinance No. 2012-19 shall be superceded by this Ordinance No. 2020-21, effective as of November 19, 2020.

**Section 5. Amendment to District Rules and Regulations.** The Trabuco Canyon Water District Rules and Regulations for Water and Wastewater Service (“Rules and Regulations”) shall be amended to conform all references therein to Ordinance No. 92-16, Ordinance No. 2000-17, Ordinance No. 2012-19 and/or Ordinance No. 2015-20 to this Ordinance No. 2020-21. The General Manager, District Secretary, District officers and District consultants are authorized and directed to take such other and further actions as are necessary to carry out the directives of this Section 5.

**Section 6. Partial Invalidity; Severability.** If any one or more of the findings or directives set forth in this Ordinance to be performed should be contrary to law, then such findings or directives, or such portions thereof, shall be null and void and shall be deemed separable from the remaining findings and directives or portions thereof and shall in no way affect the validity of this Ordinance. The Board hereby declares that it would have adopted this Ordinance and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized and approve the findings or directives set forth herein irrespective of the fact that any one or more sections, paragraphs, subdivisions sentences, clauses or phrases of this Ordinance or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

**Section 7. Other Actions.** The District’s General Manager and other District officers and staff and District consultants are hereby authorized and directed to take all necessary and appropriate actions as may be required or desirable to carry out the directives of this Ordinance and the applicable requirements of State law. This shall include necessary publications and postings in conformance with State law.


**Section 8. Authority.** This Ordinance is adopted pursuant to the provisions of Water Code Sections 31000, 31001, 31024, 31025, 30523 and 31141.

**Section 9. Effective Date.** Except as otherwise set forth herein, this Ordinance shall be effective upon adoption.

ADOPTED, SIGNED, ORDAINED AND APPROVED this 18<sup>th</sup> day of November, 2020.

**BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT**

By: Michael F. Schransh  
President of the Board of Directors of the Trabuco Canyon Water District

By:   
Secretary of the Board of Directors of the Trabuco Canyon Water District

STATE OF CALIFORNIA    )  
                                  ) ss.  
COUNTY OF ORANGE    )

I, Michael Perea, Secretary, Board of Directors of the Trabuco Canyon Water District, do hereby certify that the foregoing Ordinance was duly adopted by the Board of Directors of the Trabuco Canyon Water District at a meeting thereof held on the 18<sup>th</sup> day of November, 2020, at which meeting a quorum of such Board was present and acting throughout and for which notice and an agenda was prepared and posted as required by law, and that such Ordinance was so adopted by the following vote:

AYES:            Safranski, Chadd, Dopudja, Mandich

NOES:            None

ABSTAIN:        None

ABSENT:         Acosta



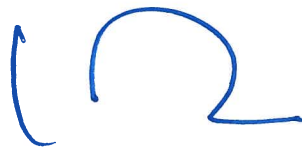
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Secretary, Board of Directors of the Trabuco Canyon  
Water District

STATE OF CALIFORNIA    )  
                                  ) ss.  
COUNTY OF ORANGE    )

I, Michael Perea, Secretary, Board of Directors of the Trabuco Canyon Water District, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 2020-21 of such Board and that the same has not been amended or repealed.

Dated this 18<sup>th</sup> day of November, 2020.



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Secretary, Board of Directors of the Trabuco Canyon  
Water District

**EXHIBIT "A"**

**TRABUCO CANYON WATER DISTRICT WASTE DISCHARGE  
PRETREATMENT AND SOURCE CONTROL PROGRAM**

**TRABUCO CANYON WATER DISTRICT  
(TCWD)**

**WASTE DISCHARGE PRETREATMENT AND  
SOURCE CONTROL PROGRAM**

*An Ordinance of  
Regulations for the Discharge of  
Wastewater to Sewerage Facilities of the  
Trabuco Canyon Water District Service Area*

**AS AMENDED NOVEMBER 18, 2020**

**Prepared by the  
South Orange County Wastewater Authority  
Industrial Waste Division  
for the  
Trabuco Canyon Water District**

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**THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT  
DOES ORDAIN AS FOLLOWS:**

**ARTICLE 1  
GENERAL PROVISIONS**

**101 INTRODUCTION**

- A. The Trabuco Canyon Water District ("TCWD") is a special district formed under provisions of the California Water Code in 1962. The TCWD provides water distribution and wastewater collection, treatment and disposal services to residential and commercial customers in Southeast Orange County.
- B. The TCWD is required to adopt and implement a waste discharge pretreatment and source control program to protect the environment, sewerage facilities, and worker health.
- C. The TCWD, a MA of the South Orange County Wastewater Authority (SOCWA), may opt to administer and enforce these provisions under SOCWA's oversight. The TCWD does have the option to contract with SOCWA to have these services provided directly to them, if they so desire. Interagency agreements have been adopted that defines each agency's duties and responsibilities. These interagency agreements are on file at the TCWD and SOCWA offices.

**102 OBJECTIVES**

- A. The objectives of this ordinance are to:
  - 1. Ensure compliance with various regulatory agencies and the National Pollutant Discharge Elimination System (NPDES) Requirements.
  - 2. Prevent the introduction of pollutants that may cause interference of sewerage operations.
  - 3. Identify the goals, objectives and procedures for complying with federal pretreatment standards.
  - 4. Prevent biosolids contamination.
  - 5. Promote the opportunity to recycle and reclaim wastewaters or biosolids from sewerage facilities.
  - 6. Encourage waste minimization and material substitution by users.
  - 7. Protect sewerage facility employees and the general public who may be affected by wastewater, biosolids and chemical hazards.
  - 8. Encourage the reuse, recycling and reduction of water, wastewater or solids that are discharged to sewerage facilities.
  - 9. Minimize the discharge of volatile organic compounds that could individually or collectively contribute to a decrease in the quality of air emission from sewerage facilities.
  - 10. Establish an effective monitoring program for the control of user discharges to sewerage facilities.
  - 11. Establish an enforcement response plan (ERP) to help ensure consistent application of the provisions of this Ordinance.
  - 12. Equitably distribute costs.
  - 13. Prevent the introduction of pollutants into sewerage facilities that may pass through a sewerage facility, inadequately treated, into the receiving waters, or otherwise be incompatible with sewerage facilities.

14. Incorporates the necessary laws and regulations in order to implement and enforce federal, State of California (State), TCWD and SOCWA standards.
15. Seek to identify users that discharge or have the potential to discharge toxic pollutants, non-compatible or excessive amounts of compatible wastes to sewerage facilities.

### **103 PURPOSE**

A. The purpose of this ordinance is to:

1. Provide for the maximum public benefit from the use of TCWD sewerage facilities. This is accomplished by regulating the use of sewerage facilities and wastewater discharges by providing equitable distribution of costs in compliance with applicable state and federal regulations and by providing procedures that will allow the TCWD to comply with requirements placed upon it by other regulatory agencies. Any revenues derived from the application of this ordinance may be used to recover the cost of providing services by the TCWD, which include but are not limited to administration, monitoring, and enforcement.
2. Comply with federal and state regulations, which allow the TCWD to meet applicable standards for the final effluent and ocean outfall quality. This ordinance establishes quality and quantity limitations on all wastewater discharges whether or not the discharges adversely affect the TCWD's sewerage facilities, processes, effluent quality, or inhibit the TCWD's ability to meet its specific discharge limitations. It is the intent of this ordinance to improve the quality of wastewater being received for treatment and to encourage water conservation by all users connected to a sewerage facility. It is the TCWD intent to discourage the increase in quantity (mass emission) of waste constituents being discharged. This ordinance also imposes pretreatment requirements on the degree of waste authorized to be discharged to the TCWD sewerage facilities; provides for the issuance of wastewater discharge permits or other controlling mechanism to impose additional case-by-case requirements, as appropriate, and establishes fees and other penalties for noncompliance and/or violation of this ordinance.

### **104 POLICY**

A. The policy of this ordinance is to be:

1. Interpreted in accordance with the definitions set forth in Article 2. The provisions of this ordinance shall apply to the discharge of all wastes carried to TCWD sewerage facilities, and have been liberally construed so as to effectuate the environmental purposes, objectives, and other provisions set forth herein.
2. Committed to wastewater reclamation and reuse in order to provide an alternate source of water supply. The adoption of programs for reclamation through secondary and tertiary wastewater treatment processes may necessitate more stringent quality requirements on wastewater discharges. In the event that more stringent quality requirements are necessary, this ordinance may be amended to reflect those changes.
3. Committed to the beneficial use of biosolids. The implementation of programs to land apply or provide for the marketing and distribution of biosolids may necessitate more stringent quality requirements on wastewater discharges. In the event that more stringent quality requirements are necessary, this ordinance may be amended to reflect these changes.
4. Committed to compliance with all applicable state and federal laws including the Clean Water Act in 33 United States Code 1251 et seq. and the general pretreatment regulations described in 40 CFR 403.

### **105 APPLICABILITY**

This ordinance may apply to users within the TCWD service area and to users outside the TCWD service area who, by wastewater discharge permit or other controlling mechanism, make use of TCWD sewerage facilities.

**106 AVAILABILITY OF SEWAGE FACILITIES**

If capacity in a sewerage facility as a whole is not available, the TCWD may restrict discharge of existing users until sufficient capacity can be made available. The TCWD may refuse immediate service to new users where their proposed quality or quantity of wastewater is unacceptable to the available sewerage facilities.

**107 NOTICE TO USERS**

- A. The TCWD may provide one (1) copy of this ordinance to each user, which has received a wastewater discharge permit, upon request.
- B. Users who are issued a wastewater discharge permit may make available to their employees, copies of this ordinance.
- C. A notice may be permanently posted in prominent places advising employees to call the TCWD in the event of an uncontrolled spill or discharge as soon as possible and to submit a report as indicated in section 803 or 804 of this ordinance. The notice shall provide for necessary instruction and information, including but not limited to:
  - 1. TCWD phone numbers.
  - 2. Recording the time of the incident.
  - 3. Name and location of user.
  - 4. Type, concentration and volume of the discharge.
  - 5. Corrective action taken.
  - 6. Name of person reporting the incident.

**ARTICLE 2  
DEFINITIONS AND ABBREVIATIONS**

**201 DEFINITIONS CONTAINED IN PUBLICATION**

- A. Unless otherwise defined herein, terms related to water quality shall be defined in the same manner as in the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association (APHA), The American Water Works Association (AWWA), and the Water Environment Federation (WEF).
- B. The testing procedure for waste constituents and characteristics shall be as described in 40 CFR 136.

**202 DEFINITION OF TERMS**

- A. Words used in this ordinance in the singular may include the plural and the plural singular. Use of masculine shall mean feminine and the use of feminine shall mean masculine.
- B. The definitions in this ordinance are not intended to narrow the scope of definitions set forth in federal or state regulations. Unless the context specifically indicates otherwise the following terms, or pronouns used in their place, shall be interpreted as follows:
  - 1. Act or "the Act". The Federal Water Pollution Control Act also known as the Clean Water Act (CWA) as well as any amendments, guidelines, limitation or standards promulgated by the EPA pursuant to the Act, (33 USC 1251 et seq.).
  - 2. Approval Authority. Refers to the US Environmental Protection Agency (EPA), the California State Water Resources Control Board (SWRCB), or the local California Regional Water Quality Control Board (RWQCB).
  - 3. Baseline Monitoring Report (BMR). A required report for all industrial users subject to a categorical pretreatment standard. A BMR provides information that documents an industrial user's compliance status with all applicable pretreatment standards.
  - 4. Batch Dump. The discharge of pollutants or compatible wastes in a manner or method that is not approved or is prohibited by the TCWD.
  - 5. Best Available Technology (BAT). A level of technology that is based on the very best (state of the art) control and treatment measures that have been developed or are capable of being developed for a particular industrial category.
  - 6. Best Management Practices (BMPs). A set of schedules of activities, prohibitions of practices, maintenance procedures, operating procedures and other management practices used to control a user or a group of similar users' discharge to sewerage facilities. BMPs may include, but are not limited to treatment requirements, operating procedures, and practices to control plant site runoff, spillage of leaks, sludge or waste disposal, or drainage from raw materials storage.
  - 7. Best Practicable Technology (BPT). A level of technology represented by the average of the best existing wastewater treatment performance levels within an industrial category.
  - 8. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter in wastewater using appropriate testing procedure and expressed as a concentration (m.g./L).
  - 9. Biodegradable. A material that can be decomposed by a biological process.
  - 10. Biohazardous Waste. A material that is likely to transmit etiologic agents that cause, or significantly contribute to the cause of, increased morbidity or mortality of human beings as set forth by the California Medical Waste Management Act.
  - 11. Board. The Board of Directors of the Trabuco Canyon Water District (TCWD).

12. Building Sewer. The entire length of private sewage service lateral extending from the building or structure that is connected to a sewerage facility.
13. By-Pass. Any intentional diversion of waste streams around any portion of a user's pretreatment equipment.
14. Categorical Industrial User (CIU). A user subject to a federal categorical pretreatment standard or categorical standard.
15. Chain of Custody. A document used to ensure the integrity of a sample, which includes a record of each person involved in the possession of a sample, securing the sample, and final disposal of the sample.
16. Chemical Oxygen Demand (COD). The quantity of oxygen required to oxidize all compounds, both organic and inorganic, in wastewater using the appropriate testing procedure and expressed as a concentration (e.g./L).
17. Class I User. Any user determined by the TCWD that meets the criteria of significant industrial user (SIU) as described in 40 CFR 403..
18. Class II User. Any user determined by the TCWD that is not a SIU and may discharge pollutants or non-compatible wastes, which may impact sewerage facilities.
19. Class III User. Any user determined by the TCWD that is not a SIU and may discharge compatible wastes or conventional pollutants which may impact sewerage facilities.
20. Class IV User. Any user determined by the TCWD that may discharge or is proposing to discharge special wastewater that may contain toxic or conventional pollutants or non-compatible or compatible wastes which may impact sewerage facilities.
21. Code of Federal Regulations (CFR). The code of the Federal Government of the United States of America, which contains all of the federal regulations including environmental regulations.
22. Company Authorized Representative (CAR). An individual designated by the user, who is responsible for signing all submittals to SOCWA and/or MA and who meets the criteria as described in 40 CFR 403.
23. Compatible Waste. Waste that does not contain toxic pollutants or non-compatible wastes. This may include a combination of, but not limited to, conventional pollutants or other wastes that the TCWD sewerage facilities are designed to accept and/or remove. Compatible wastes are non-compatible when discharged in quantities that have an adverse effect on sewerage facilities or NPDES Permit, or when discharged in quantities or quantities violating any National Pretreatment Standard or other discharge requirement or as determined by the TCWD.
24. Composite Sample. A collection of individual samples obtained at intervals based on an increment of either flow or time. The resulting mixture, a composite sample, forms a representative sample of the wastestream discharged during the sample period.
25. Control Authority (CA). The Trabuco Canyon Water District.
26. Conventional Pollutants. Those pollutants which are designated pursuant to section 304(a)(4) of the Act which include, biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform, pH, and oil and grease.
27. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

28. 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.

29. Discharger. Any entity which discharges or causes a discharge of wastewater that is directly or indirectly discharged to sewerage facilities. May be interchangeable with indirect discharger, industrial user, permittee, person or user.
30. Discharge Requirements. The requirements of federal, state or local public agencies having jurisdiction over the effluent discharged into sewerage facilities or the environment.
31. Dry Weather Nuisance Flow (nuisance flow) – Any water or other discharge which finds its way to storm drains from urban areas, composed primarily of runoff from lawn or landscape watering, washing of vehicles, hosing down of paved areas, storm drain infiltration, natural groundwater from sub-drain systems and a variety of other sources associated with urban activity. This nuisance flow may be high in bacteriological contamination, oil and grease, and may have high organic and inorganic mineral content. Nuisance flow does not include stormwater, as defined, unless stormwater is captured, treated, controlled (thereby becoming a non-stormwater, nuisance flow) and discharged to the sewer during dry weather. Nuisance flows may come in contact with people or the environment in undesirable ways. Nuisance flow is a component of urban runoff.
32. Disposal. A controlled release to sewerage facilities or to the environment
33. Effluent. Usually water or wastewater discharged partially or completely treated or untreated from an industrial user or treatment plant, or part thereof.
34. Enforcement. A series of progressively more stringent actions used to seek compliance with federal, state or local laws, regulations, limitations and this ordinance, guided by the Enforcement Response Plan, adopted as Resolution 2009-02. Any enforcement may include monetary fees, fines or penalties.
35. Environmental Protection Agency (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.
36. Existing Source. Any source of discharge that is not a “New Source.”
37. Fee. Any amount assessed to a discharger for the use of any portion of a sewerage facility which shall include, but not be limited to, connection fees, monthly sewer service, discharge permit, excess capacity fee, industrial wastewater treatment, laboratory testing, industrial inspection, and monitoring fees.
38. Flow Monitoring Equipment. Equipment and/or structures provided at the user’s sole expense to measure, totalize, record and/or sample incoming water to the user’s site or the wastewater discharged to sewerage facilities.
39. General Manager. The individual duly designated by the Board of the TCWD to administer this ordinance.
40. Grab Sample. A sample collected from a waste stream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
41. Grease. Includes, but is not limited to fats, oils and grease (FOG), waxes and other non-volatile materials as determined by the appropriate testing procedures.
42. Groundwater. Water that is beneath the surface of the earth.
43. Hazardous Waste. Any waste that is potentially damaging to of the environment or a person’s health due to toxicity, ignitability, corrosivity, chemical reactivity or other reasons.
44. Indirect Discharge or Discharge. The introduction of Pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

45. Industrial User. Any site that discharges industrial wastewater to sewerage facilities. May be interchangeable with discharger, indirect discharger, permittee, person or user.
46. Industrial Wastewater. All liquid-carried wastes or wastewater of the community, excluding domestic wastewater, and may include all wastewater from any producing, manufacturing, processing, agricultural, or other operation or location.
47. Inspector. A person authorized by the General Manager to inspect and/or monitor any industrial user's discharge or anticipated discharge to any sewerage facility.
48. Interference. A discharge that alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts any sewerage facilities, any treatment processes or operations, or any biosolids use or disposal and therefore, is a cause of violation of the TCWD's or SOCWA's NPDES permits (including an increase in the magnitude or duration of a violation) or prevents lawful biosolids or treated effluent use or disposal.
49. Interjurisdictional Agreements (Also referred to as Interagency Agreements). An agreement between the TCWD, SOCWA, any individual or combination of MAs, or any other local sewerage agency that defines the authority and responsibility to implement the waste discharge pretreatment and source control program and to enforce the regulations contained in this ordinance within the individual and/or combination of TCWD, SOCWA, MAs, or any other local sewerage agency's service area.
50. Local Limits. A set of specific discharge limits developed and enforces by the TCWD and/or SOCWA upon user sites in order to implement the general and specific discharge prohibitions as described in 40 CFR 403.
51. Local Sewering Agency. Any public agency or private company responsible for the collection, treatment or disposal of wastewater to sewerage facilities that are duly authorized under the laws of the State to construct and/or maintain sewerage facilities.
52. Lower Explosive Limit (LEL). The point where an explosive gas in an area of atmosphere that is at a sufficient concentration as to result in an explosion if a sufficient ignition source is present.
53. Mass Emission Rate. The weight of material discharged to sewerage facilities during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combinations of constituents.
54. May. Permissive or discretionary.
55. Member Agency (MA). Any one, combination, or all of the individual cities or districts which are members of SOCWA. They are: City of Laguna Beach (CLB), City of San Clemente (CSC), City of San Juan Capistrano (CSJC), El Toro Water District (ETWD), Emerald Bay Service District (EBSD), Irvine Ranch Water District (IRWD), Moulton Niguel Water District (MNWD), Santa Margarita Water District (SMWD), South Coast Water District (SCWD) and the Trabuco Canyon Water District (TCWD).
56. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during the month.
57. National Pollutant Discharge Elimination System (NPDES) Permit. The document issued in the control of discharges to surface waters of the United States as detailed in Section 402 of the Act.

58. National Pretreatment Standards. Includes the following terms established pursuant to 40 CFR 403.5 and 40 CFR 403.6: "Prohibited Discharges", "General Prohibitions", "Specific Prohibitions", "Local Limits", "Categorical Standards", "Categorical Pretreatment Standards", "Pretreatment Standards" and "Standards". These terms apply to any pollutant discharge regulations that are promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act that limits and/or prohibits the wastewater discharged by users into a sewerage facility.
59. New Source. Those sources that are new as defined by 40 CFR 403.3.
60. Non-Compatible Waste. Waste that contains toxic or non-compatible pollutants that may pass-through or cause interference if discharged to sewerage facilities.
61. Non-industrial Wastewater Discharge (NIWD) Form. A form issued to users that are considered to have wastewater of no concern discharging to sewerage facilities. This form may contain BMP's.
62. Non-Stormwater Discharge – Discharges that do not immediately originate from precipitation events unless precipitation is captured and discharged after a rain event. Including but not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.
63. Normal Working Day. Any period of time during which production or operation is taking place or any period which discharge to sewerage facilities is occurring.
64. North American Industry Classification System (NAICS). An industry classification system that groups establishments into industries based on the activities which they are primarily engaged.
65. Nuisance. Anything which may be injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
66. Ordinance. The document entitled "An Ordinance of Regulations for the Discharge of Wastewater to Sewerage Facilities of the Trabuco Canyon Water District Service Area" containing the TCWD's requirements, conditions and limitations for discharging to sewerage facilities, as may be amended and modified.
67. Pass Through. A discharge from a user which exits sewerage facilities into waters of the United States in quantities or concentrations which, alone or in conjunction with any discharge from other sources, is a cause of a violation of any requirement of the TCWD's or SOCWA's NPDES permits, including an increase in the magnitude or duration of a violation.
68. Permittee. A discharger who has received a wastewater discharge permit to discharge wastewater into the TCWD's sewerage facilities subject to the requirements and conditions established by the TCWD. May be interchangeable with discharger, indirect discharger, industrial user, person or user.
69. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, tenant, lessee, renter, governmental entity, or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local government entities. May be interchangeable with discharger, indirect discharger, industrial user, permittee or user.
70. Pesticides. Those compounds classified as such under federal or state law or regulations including, but not limited to, DDT (dichlorodiphenyltrichloroethane, both isomers), DDE (dichlorodiphenylethylene), DDD (dichlorodiphenyldichloroethane), Aldrin, Benzene Hexachloride (alpha, beta and gamma isomers), Chlordane, Endrin, Endrin aldehyde, TCDD (2,3,7,8 -tetrachlorodibenzo-p-dioxin), Toxaphene, Alpha-endosulfan, Beta-endosulfan, Endosulfan sulfate, Heptachlor, Heptachlor epoxide, Dieldrin Demeton, Guthion, Malathion, Methoxychlor, Merex and Parathion.

71. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
72. Pollutant. Any substance, constituent, compound or characteristic of wastewaters on which a discharge limitation may be imposed either by the TCWS, SOCWA or the regulatory agencies empowered to regulate the TCWD and SOCWA.
73. Polychlorinated Biphenyls (PCBs). Those compounds classified as such under federal and state law or regulation including, but not limited to Aroclors 1016, 1221, 1228, 1232, 1242, 1248, 1254, 1260 and 1262.
74. 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 sewerage facilities. This reduction, elimination or alteration of pollutants can be obtained by physical, chemical, or biological process, by process changes or by other means except as described by 40 CFR 403.
75. Pretreatment Equipment. Any equipment, structures or devices used for the treatment or flow limitation of industrial wastewater prior to discharge to sewerage facilities.
76. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a national pretreatment standard.
77. Prohibited Discharges. Any prohibitions against the discharge of certain substances; these prohibitions appear in Article 5.
78. Public Agency. The State and any city, county, district, agency, other local authority or public body of or within this state.
79. Rainwater. Water resulting from precipitation which directly falls upon any surface.
80. Regulatory Agencies. Those Agencies having jurisdiction over the operation of the TCWD and/or SOCWA, including, but not limited to, the following:
  - a. United States Environmental Protection Agency (EPA).
  - b. State Water Resources Control Board (SWRCB).
  - c. Regional Water Quality Control Board (RWQCB).
  - d. South Coast Air Quality Management District (SCAQMD).
  - e. Department of Health Services (DOHS).
  - f. California Environmental Protection Agency, Cal-EPA)
81. Representative Sample Point. A location set forth in the user's wastewater discharge permit or other control mechanism from which wastewater can be collected that is as nearly identical in content and consistency as possible to that of the entire flow of wastewater being sampled. For categorical users, this point shall be at the end of each regulated process, and for all other users shall be determined on a case-by-case basis.
82. Resource Conservation and Recovery Act (RCRA). The RCRA Act of 1976 (42 U.S.C. 6901, et seq.) to implement the Conservation and Recovery of used or spent resources and as amended.
83. Routine Sampling. Any sampling conducted by the TCWD SOCWA to verify compliance of a user's discharge to sewerage facilities. Sampling may consist of either grab or composite samples or a combination of both.

84. Sampling Equipment. Equipment or structure provided at the user's sole expense for the TCWD, SOCWA or the user to measure and record wastewater constituents, collection of samples or provide access to plug or terminate the discharge.
85. Scum. Any layer of matter or combination of air and matter that forms on or rises to the surface of a liquid or body of water.
86. Sewage. Wastewater.
87. Sewerage Facilities. Any and all systems used for collecting, conveying, pumping, reclamation, recycling, reuse, storage, transportation, treatment or disposal of sewage, industrial waste of a liquid nature, wastewater, sludge or biosolids that is owned and operated by the TCWD, SOCWA, or other public agency which is tributary to systems operated by the TCWD or SOCWA. This definition includes, but is not limited to, publicly owned treatment works (POTW's) as defined by Section 212 of the Act (33 U.S.C. Section 1292), public sewers, trunk lines, sewer mains, wet wells, treatments plants and ocean outfalls which are owned by the TCWD or SOCWA.
88. Shall. Mandatory.
89. Significant Industrial User (SIU). A user as defined by 40 CFR 403.3(v), except as provided in paragraphs c and d of this definition, which includes the following:
- a. An industrial users subject to categorical pretreatment standards; or
  - b. An industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the TCWD (excluding sanitary, noncontact cooling water, and boiler blowdown wastewater); contributes a process wastestream which makes up five (5%) percent or more of the average dry weather hydraulic or organic capacity of TCWD's sewerage facilities; or is designated as such by the TCWD on the basis that the industrial user has a reasonable potential for adversely affecting the TCWD's operation or for violating any pretreatment standard or requirement.
  - c. The TCWD may determine that an industrial user subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User (NSCIU) 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, noncontact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
    - i. The industrial user, prior to TCWD's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
    - ii. The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
    - iii. The industrial user never discharges any untreated concentrated wastewater.
  - d. Upon a finding that an industrial user meeting the criteria in paragraph b above of this definition has no reasonable potential for adversely affecting the TCWD's operation or for violating any pretreatment standard or requirement, The TCWD may at any time, on its own initiative or in response to a petition received from a industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user should not be considered a significant industrial user.
90. Significant Non-Compliance. A violation by a significant industrial user (or any industrial user which violates paragraphs c, d, or h of this definition) as described in 40 CFR 403.8(f)(2)(viii) which meets one or more of the following criteria:

- a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as described in 40 CFR 403.3(l);
  - b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standards or requirements including instantaneous limits, as defined in 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
  - c. Any other violation of a pretreatment standard or requirement as defined in 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the TCWD determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of TCWD personnel or the general public;
  - d. Any discharge of pollutants that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the TCWD's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.
  - e. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit, other control mechanism 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, required reports, including but not limited to, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - g. Failure to accurately report noncompliance;
  - h. Any other violation or group of violations, which may include a violation of Best Management Practices, which the TCWD determines will adversely affect the operation or implementation of the local pretreatment program.
91. Sludge. Any solid, semi-solid or liquid decant, subnate, or supernate from an industrial manufacturing process, utility service or pretreatment equipment.
92. Slug Discharge. Any discharge of a non-routine, episodic nature, that may exceed the standards and prohibitions contained in Article 5 of this ordinance and significantly exceeds the usual industrial user flow or pollutant loading, either mass or concentration 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 regulations, local limits or permit conditions associated with sewerage facilities.
93. Solvent. Any substance that is used to dissolve another substance in it.
94. South Orange County Wastewater Authority (SOCWA). The Joint Powers Authority (JPA) which is formed by the participating MAs. The MAs individually and/or collectively use SOCWA's sewerage facilities. SOCWA is the holder of the NPDES permits, which state the pretreatment and waste discharge requirements for sewerage facilities.
95. Spent Solutions. Any concentrated industrial wastewater.
96. Spill Containment. Any protection equipment provided and installed at the user's sole expense to prohibit the discharge of non-compatible wastes to sewerage facilities.

97. Standard Methods. Procedures described in the current edition of Standard Methods for the Examination of Water and Wastewater, as published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.
98. Stormwater. Any flow occurring during or immediately following any form of natural precipitation, , which runs off, or travels over the ground surface to a drainage area or channel or drains uncontrolled to a municipal storm drain system for disposal in a river, stream, lake or creek and ultimately to the Pacific Ocean.
99. Street Drainage. Water resulting from surface runoff generated by rainwater, stormwater or other sources.
100. Subsurface Drainage. A method of draining that is situated under the ground (e.g., leachate control system).
101. Surface Runoff. Runoff other than that which is caused by rainfall, stormwater, or street drainage (e.g., car wash runoff, washdown runoff) originating from a user.
102. Trabuco Canyon Water District (TCWD). The agency that is responsible for the adoption of this ordinance and is a MA of SOCWA.
103. Total Organic Carbon (TOC). The measure of total organic carbon in domestic or other wastewater as determined by the appropriate testing procedure.
104. Total Suspended Solids. Any insoluble material contained as a component of wastewater and capable of separation from the liquid portion by laboratory filtration as determined by the appropriate testing procedures and expressed in terms of milligrams per liter (mg/L).
105. Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic by the EPA under the provisions of Section 307(a) of the Act or other acts or that can harm human health, aquatic life or the biological treatment processes.
106. Unpolluted Water. Water to which no constituent has been added either intentionally or accidentally.
107. Upset. Any upset that meets the criteria as described in 40 CFR 403.
108. User. Any person or entity which discharges or causes a discharge of wastewater to a sewerage facility , as defined by EPA regulations. May be interchangeable with discharger, indirect discharger, industrial user, permittee or person.
109. Volatile. Natural (plant or animal origin) or synthetic substances that is capable of being evaporated or changed to vapor at relatively low temperatures.
110. Waste. Sewage and any other waste substances, liquid, solid, gaseous or radioactive.
111. Waste Manifest. A receipt which is retained by the generator of hazardous wastes as required by the State or the United States Government pursuant to RCRA or the California Hazardous Materials Act or that receipt which is retained by the generator for recyclable wastes or liquid non-hazardous wastes as required by the TCWD
112. 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 discharged into or permitted to enter sewerage facilities..
113. Wastewater Constituents and Characteristics. The individual chemical, physical, bacteriological, radiological, volume, flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.
114. Wastewater Discharge (WD) Permit. The form of authorization from the TCWD issued to an industrial user for the discharge wastewater. This wastewater discharge permit sets forth the limits and conditions under which the industrial user shall be able to discharge wastewater into sewerage facilities.

203 **ABBREVIATION**

A. The following abbreviations shall have the designated meanings:

1.	<u>"BAT"</u>	Best Available Technology	
2.	<u>"BMP"</u>	Best Management Practice	
3.	<u>"BMR"</u>	Baseline Monitoring Report	
4.	<u>"BOD"</u>	Biochemical Oxygen Demand	
5.	<u>"BPT"</u>	Best Practicable Technology	
6.	<u>"CA"</u>	Control Authority	
7.	<u>"CAR"</u>	Company Authority Representative	
8.	<u>"CFR"</u>	Code of Federal Regulation	
9.	<u>"CIU"</u>	Categorical Industrial User	
10.	<u>"COD"</u>	Chemical Oxygen Demand	
11.	<u>"CWF"</u>	Combined Wastestream Formula	
12.	<u>"DO"</u>	Dissolved Oxygen	
13.	<u>"EPA"</u>	Environmental Protection Agency	
14.	<u>"ERP"</u>	Enforcement Response Plan	
15.	<u>"FOG"</u>	Fats, Oils and Grease	
16.	<u>"FROG"</u>	Fats, Roots, Oils and Grease	
17.	<u>"gpd"</u>	Gallons per Day	
18.	<u>"gpm"</u>	Gallons per Minute	
19.	<u>"IU"</u>	Industrial User	
20.	<u>"lb/day"</u>	Pounds Per Day	
21.	<u>"JPA"</u>	Joint Powers Authority	
22.	<u>"LEL"</u>	Lower Explosive Limit	
23.	<u>"MA"</u>	Member Agency	
24.	<u>"MGD"</u>	Million Gallons Per Day	
25.	<u>"MSDS"</u>	Material Safety Data Sheet	
26.	<u>"NAICS"</u>	North America Industrial Classification System	
27.	<u>"NPDES"</u>	National Pollutant Discharge Elimination System	
28.	<u>"NSCIU"</u>	Non-Significant Categorical Industrial User	
29.	<u>"O&amp;G"</u>	Oil and Grease	
30.	<u>"PCBs"</u>	Polychlorinated Biphenyls	
31.	<u>"POTW"</u>	Publicly Owned Treatment Works	
32.	<u>"PSES"</u>	Pretreatment Standards for Existing Sources	
33.	<u>"PSNS"</u>	Pretreatment Standards for New Sources	
34.	<u>"RCRA"</u>	Resource Conservation and Recovery Act	
35.	<u>"RWQCB"</u>	Regional Water Quality Control Board	
36.	<u>"SOCWA"</u>	South Orange County Wastewater Authority	
37.	<u>"SIU"</u>	Significant Industrial User	
38.	<u>"SNC"</u>	Significant Non-Compliance	
39.	<u>"SWRCB"</u>	State Water Resources Control Board	
40.	<u>"TCWD"</u>	Trabuco Canyon Water District	
41.	<u>"TDS"</u>	Total Dissolved Solids	
42.	<u>"TOC"</u>	Total Organic Carbon	
43.	<u>"TOMP"</u>	Toxic Organic Management Plan	
44.	<u>"TRC"</u>	Technical Review Criteria	
45.	<u>"TSS"</u>	Total Suspended Solids	
46.	<u>"TTO"</u>	Total Toxic Organics	
47.	<u>"USC"</u>	United States Code	
48.	<u>"mg/L"</u>	Milligrams per Liter	(0.001)
49.	<u>"ug/L"</u>	Micrograms per Liter	(0.000001)
50.	<u>"ng/L"</u>	Nanograms per Liter	(0.000000001)
51.	<u>"pg/L"</u>	Picograms per Liter	(0.000000000001)

**ARTICLE 3  
AUTHORITIES AND POWERS**

**301 AUTHORITY**

- A. The TCWD is regulated by Agencies of the United States Federal Government and the State under provisions of federal and state law. Federal law requires the TCWD, and the state grants the TCWD the authority to regulate and/or prohibit by adoption of ordinances, resolutions, and issuance of wastewater discharge permits or other control mechanisms, the discharge of any waste, directly or indirectly, to the TCWD's sewerage facilities. That authority includes, but is not limited to, the right to establish local limits, conditions, prohibitions, flow rates, prohibit flows discharged to the TCWD's sewerage facilities, and enforce federal, state and local requirements. This may require the implementation of compliance schedules for the installation of flow monitoring equipment by users and for the TCWD to take all actions necessary to enforce its authority, whether within or outside the TCWD's service area, including those users that are tributary to the TCWD or within areas for which the TCWD has contracted to provide sewerage facility services.
- B. The TCWD has the authority under California Health and Safety Code 5471 and 5474 to prescribe, revise, and collect all regulatory fees and to charge for services and sewerage facilities furnished by the TCWD either within or without its service area.
- B. Administration and enforcement of the pretreatment program may be carried out on a daily basis by any individual and/or combination of TCWD personnel.
- D. The TCWD shall have the authority to seek compliance with 40 CFR 403, its NPDES permit and the provisions of this ordinance by, but not limited to, the following:
  - 1. Issue wastewater discharge permits.
  - 2. Require the installation of pretreatment equipment.
  - 3. Require the installation of monitoring and/or sampling equipment and/or structures.
  - 4. Require self-monitoring and reporting of the user's discharge.
  - 5. Require the implementation of spill containment plans.

**302 DELEGATION OF AUTHORITY**

Whenever any authority or power is granted to or a duty imposed upon the General Manager, that authority or power may be exercised or that duty may be performed by a person authorized by the General Manager.

**303 ENFORCEMENT POWERS**

- A. Enforcement action against a user for being in non-compliance with the provision of this ordinance may include, but is not limited to, the following:
1. Issuing a Warning Notice of Non-compliance letter.
  2. Issuing a notice of non-compliance (NON) form.
  3. Issuing a notice of violation (NOV) form.
  4. Issuing an administrative order (AO), which may also include, but are not limited to, the following:
    - a. Probation Order (PO).
    - b. Show Cause Order (SCO).
    - c. Cease and Desist Order (CDO).
  5. Petition the courts for injunction or civil penalties.
  6. Signing criminal complaints.
  7. Suspension or revocation of an issued wastewater discharge permit or other control mechanism.
  8. Termination of services.
  9. Administrative complaints.
- B. The issuance of an enforcement action shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

## ADMINISTRATION

### 401. TRABUCO CANYON WATER DISTRICT (TCWD)

- A. The TCWD may implement pretreatment and source control programs in accordance with federal, state, TCWD and SOCWA regulations, and the provisions of this ordinance, and any multijurisdictional agreements.
- B. If the TCWD desires to perform its own pretreatment and source control program, it shall do so pursuant to an interjurisdictional agreement with SOCWA, under the oversight of SOCWA.
- C. The TCWD, when operating its own pretreatment and source control program, shall keep SOCWA apprised of all activities on a regular and consistent basis. This may be accomplished by, but not limited to, correspondence, meetings, and submittal of periodic reports.
- D. The TCWD shall have the authority to use fees and charges provided for within this ordinance when a user is in non-compliance.
- E. The TCWD shall provide SOCWA any and all information and submittals by users for review and central filing.
- F. The TCWD, which may operate its own sewerage facilities, shall coordinate with SOCWA the establishment of technically based local limits. These limits shall be established in accordance with Section 402 H of this ordinance. These limits are to ensure that any user's effluent that is discharged to sewerage facilities does not cause, but is not limited to, the following:
  - 1. Upset, pass through or interference of the biological treatment processes.
  - 2. Upset, pass through or interference of the sludge digestion processes.
  - 3. Reclaimed or recycled water or generated biosolids to be unable to meet regulatory standards for beneficial reuse or unlimited distribution as defined by regulatory agencies.
  - 4. Violation of any TCWD or SOCWA NPDES permit limitations.
  - 5. Pass-through or interference causing the TCWD or SOCWA to violate any discharge limits of the SOCWA ocean outfalls.

### 402. SOCWA

- A. SOCWA has the authority to implement pretreatment and source control programs in accordance with federal and State regulations and the provisions of this ordinance, SOCWA's pretreatment and source control program ordinance, and interjurisdictional agreements with the TCWD.
- B. SOCWA has the authority to approve all forms used in the pretreatment and source control programs.
- C. SOCWA has the authority to, at any time, assume administration and enforcement of this ordinance within the service area of the TCWD.
- D. SOCWA has the authority to locate and terminate any non-compliant discharge that is not discontinued, upon notification that a non-compliant discharge is occurring.
- E. SOCWA has the authority to review all applications, wastewater discharge permits, other control mechanism and any enforcement actions that have been taken.

- F. SOCWA has the authority to review all ordinances pertaining to pretreatment and source control programs before adoption or implementation by the TCWD.

- G. SOCWA has the authority to audit the TCWD when performing its own waste discharge pretreatment and source control program.
- H. SOCWA shall oversee the establishment of technically based local limits for the TCWD. A review of the local limits may be conducted every five years or in conjunction with the renewal of SOCWA's NPDES Permits.

**403 PROGRAM ENFORCEMENT**

- A. The TCWD shall have first priority to enforce the regulations contained within this ordinance in accordance with, but not limited to, the following:
  - 1. The TCWD, when performing its own program, shall inform SOCWA of all program activity.
  - 2. The TCWD, when performing its own program, may conduct routine sampling of permitted users for constituents the industry must sample and analyze for as part of their self-monitoring program, and inform SOCWA of such activity.
  - 3. SOCWA shall conduct the pretreatment and source control program for the TCWD unless otherwise directed by the interjurisdictional agreement with the TCWD.

**404 APPLICATIONS**

All applications for wastewater discharge permits may be reviewed by the TCWD and SOCWA.

**405 WASTEWATER DISCHARGE (WD) PERMITS**

- A. All proposed WD permits may be reviewed by the TCWD and SOCWA before being issued to the user.
- B. All issued WD permits shall be signed, identified and/or numbered by the TCWD or SOCWA.

**406. INSPECTIONS, MONITORING AND ENFORCEMENT**

- A. SOCWA shall be notified by the TCWD when inspecting, monitoring, or enforcement activities will or have already occurred. This may be done by, but not limited to, the following:
  - 1. Phone contact or correspondence.
  - 2. Submittal of written schedule reports or status reports.
- B. Emergency enforcement actions by the TCWD shall be reported to SOCWA by phone within twenty-four (24) hours during weekdays and within seventy-two (72) hours during weekends, and by written report within five (5) days of following notice to the user.

**407 FUNDING**

- A. The TCWD may establish a schedule of wastewater discharge permit application fees, annual fees, sample analysis charges, and any other fees or charges required to recover reasonable costs of implementing this waste discharge pretreatment and source control program.
- B. Costs incurred by the TCWD for its pretreatment activity may be collected by, but not limited to invoicing directly to the industrial user.

**408**    **APPEALS**

- A.    The TCWD shall handle appeals in accordance with the provisions of this ordinance.
  - 1.    Appeals on staff action shall be directed to the General Manager.
  - 2.    Appeals on the General Manager action shall be directed to the Board.
  - 3.    Actions by the Board shall be final.
  
- B.    SOCWA shall have the authority to handle appeals where the TCWD has no jurisdiction, or fails to enforce against a user in accordance with the provisions of this ordinance or the interjurisdictional agreements.

**ARTICLE 5**  
**GENERAL DISCHARGE PROHIBITIONS AND LIMITATIONS**

**501 PROHIBITED DISCHARGES**

- A. These prohibitions apply to all users of sewerage facilities whether or not they are subject to categorical pretreatment or any other national, state or local pretreatment standard or requirements.
- B. No user shall discharge directly or indirectly a quality or quantity of wastes, solids, viscous substances, wastewater or pollutants to sewerage facilities, either alone or by interaction with other substances, which cause or will cause:
1. Obstruction of flow.
  2. Pass through or interference.
  3. Inhibition of biological activity.
  4. The final effluent to fail a toxicity test.
  5. Corrosive or physical structural damage to sewerage facilities.
  6. Danger to life and/or safety of any person.
  7. Impairment of the effective maintenance or operation of any sewerage facility.
  8. A fire or explosion hazard based upon a closed cup flashpoint of less than 140 degrees Fahrenheit (60°C) using the test method specified in 40 CFR 261.21.
  9. The presence of toxic gases, vapors, fumes, or poisonous, noxious or malodorous gas producing substances that may cause acute worker health and safety problems.
  10. Any product of any sewerage facility including, but not limited to, the final effluent biosolids, residue, sludge, or scum to be unsuitable for reclamation, reuse, or disposal.
  11. Discoloration or any other condition which affects the quality of the final effluent in such a manner that discharge requirements established by regulatory agencies cannot be met.
  12. Conditions which violate any statute, rule, regulation, or ordinance of any public agency or regulatory agency having jurisdiction over the discharge of wastewater through sewerage facilities.
  13. The discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, which cause interference or pass through.

**502 PROHIBITION ON DILUTION**

Except where expressly authorized to do so by an applicable standard, no user shall discharge directly or indirectly to sewerage facilities an increase in the use of water to attempt to dilute a waste being discharged, as a partial or complete substitute for treatment to achieve compliance with this ordinance, a wastewater discharge permit, other control mechanism or to establish an artificially high flow rate for mass emission rates.

**503 PROHIBITION ON BIOHAZARDOUS WASTE**

No user shall discharge directly or indirectly to sewerage facilities a biohazardous waste without rendering it nonbiohazardous prior to discharge if the biohazardous waste is deemed to pose any threat to public health and safety or will result in any violation of applicable waste discharge requirements.

**504 PROHIBITION ON TOXIC OR HAZARDOUS WASTE**

No user shall discharge directly or indirectly to sewerage facilities, any substance that is defined as a toxic or hazardous waste by regulatory agencies, except those wastes which meet the requirements of 40 CFR 403.

**505 PROHIBITION ON WARFARE AGENTS**

No user shall discharge directly or indirectly to sewerage facilities any radiological, chemical, or biological warfare agent.

**506 LIMITATIONS ON DISPOSAL OF SPENT SOLUTIONS AND SLUDGES**

- A. Any spent solutions, sludges, and/or other wastes generated by the user that are a hazardous waste and not treated on site shall be hauled by a registered hazardous waste transporter. The user shall complete and maintain a hazardous waste manifest that documents the removal and transport of the waste.
- B. All hazardous waste manifests shall be retained for a minimum of three (3) years and shall be made available to the TCWD upon request. The TCWD may require a longer period of retention if litigation is being considered.
- C. No user shall batch dump to sewerage facilities without written approval from the TCWD.

**507 LIMITATIONS ON THE USE OF GRINDERS**

Wastes from industrial or commercial grinders shall not be discharged into sewerage facilities, except wastes generated in packing or preparing food or food products on a case by case bases as approved by the TCWD. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the sewerage facilities.

**508 LIMITATION ON RAINWATER, STORMWATER, AND STREET DRAINAGE**

No user shall discharge or cause to be discharged directly or indirectly into sewerage facilities any rainwater, stormwater, or street drainage that exceeds the first one-tenth (1/10) of an inch of precipitation from any storm event.

**509 LIMITATIONS ON GROUNDWATER AND SUBSURFACE DRAINAGE**

- A. Groundwater and subsurface drainage shall not be discharged directly or indirectly to sewerage facilities except as provided herein.
- B. the TCWD may approve the discharge of such water, by wastewater discharge permit or other control mechanism only, when no alternate method of disposal is reasonably available or to mitigate an environmental risk or health hazard.
- C. The discharge of such water shall require the following:
  - 1. A Class IV Special Wastewater Discharge Permit or other control mechanism issued by the TCWD, and
  - 2. Documentation from the user or user's consultant that all other alternate methods of disposal have been exhausted, and User shall pay all applicable fees and charges and shall meet any other conditions as required by the TCWD.

**510 LIMITATIONS ON TRUCKED OR HAULED WASTES**

- A. No user shall discharge trucked or hauled wastes directly or indirectly to sewerage facilities without written approval from the TCWD. Written approval may be in the form of an individual special wastewater discharge permit or other control mechanism.
- B. No user shall transport waste from one location to another for the purpose of treating or discharging it directly or indirectly to sewerage facilities without written approval from the TCWD. Written approval may be in the form of an individual special wastewater discharge permit or other control mechanism.

**511 LIMITATIONS ON POINT OF DISCHARGE**

No user shall discharge any wastewater directly or indirectly into a manhole or other opening in a sewerage facility other than through an approved building sewer, unless approved in writing by the TCWD.

**512 LIMITATIONS ON RADIOACTIVE WASTES**

- A. No user shall discharge directly or indirectly to sewerage facilities any radioactive waste except as provided herein:
  - 1. When the user is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials, and
  - 2. When the waste is discharged in strict conformity with current California Radiation Control Regulations (Cal. Adm. Code Title 17) for safe disposal, and
  - 3. When the user is in compliance with all other rules and regulations of all other applicable regulatory agencies, and

**513 LIMITATION ON UNPOLLUTED WATER**

- A. Unpolluted water such as deionized, steam waste, distilled, single pass cooling water in excess of laboratory usage, blow-down or bleed water from cooling towers, other evaporating coolers, or commercial swimming pool water drainage shall not be discharged directly or indirectly to sewerage facilities except provides herein.
- B. The TCWD may approve the discharge of such water when no alternate method of disposal or reuse is reasonably available or there is need to mediate an environmental risk or health hazard.
- C. The discharge of such water shall require the following:
  - 1. A Class IV Special Wastewater Discharge Permit or other control mechanism, and
  - 2. Documentation from the user or user's consultant that all other alternate methods of disposal have been exhausted, and
  - 3. User shall pay all applicable fees and charges and shall meet any other conditions as required by the TCWD.

**514 MASS EMISSION LIMIT DETERMINATION**

- A. Mass emission limits for non-compatible and compatible wastes that are present or anticipated in the user's wastewater discharge may be set for each user and made an applicable part of each user's wastewater discharge permit or other control mechanism. These limits shall be based on Table I, local limits or national pretreatment standards and the user's average daily wastewater discharge for the past three (3) years, the most recent representative data, or other data acceptable by the TCWD.

- B. To verify the user's operating data, the user may be required to submit an inventory of all wastewater streams and production data.
- C. The TCWD may revise local limit concentration limits or mass emission limits previously established in the user's wastewater discharge permit or other control mechanism at any time, based on current and/or anticipated operating data, the ability to meet NPDES Limits, and/or changes in the requirements of regulatory agencies.
- D. The increased use of water to establish an artificially high flow rate database for mass emission limit determinations is prohibited.

**515 WASTEWATER STRENGTHS AND CHARACTERISTICS**

- A. No user shall discharge wastewater directly or indirectly to sewerage facilities with the following strengths and characteristics:
  - 1. Having a temperature higher than 140 degrees Fahrenheit (60 degrees centigrade) or which causes the temperature at the influent to a wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees centigrade).
  - 2. Containing substances that may precipitate, solidify, or become viscous at temperatures between 50 degrees Fahrenheit (10 degrees centigrade) and 104 degrees Fahrenheit (40 degrees centigrade).
  - 3. Containing materials which will readily settle or cause an obstruction to flow in sewerage facilities or be detrimental to the proper operation of a sewerage facility. These materials may include, but are not limited to, asphalt, dead animals, offal ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, bones, hair, coffee grounds, egg shells, flashings, diatomaceous earth, seafood shells, and paper products not intended for use in sewerage facilities.
  - 4. Producing a gaseous mixture that is ten percent (10%) or greater of the lower explosive limit (LEL). Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, ketones, and alcohols.
  - 5. Having a pH less than 5.0 or greater than 11.0.
  - 6. Containing recognizable portions of human or animal anatomy.
  - 7. Containing excessive flow, constituents or other materials, including but not limited to, biological oxygen demand, chemical oxygen demand, total organic carbon, toxic pollutants, suspended solids, grease and oil of animal or vegetable origin, total dissolved solids, detergents, surface active agents, phenolic compounds or other substances that are released in a discharge at a flow rate and/or concentration which will cause problems, pass-through or interference with sewerage facilities.
  - 8. Containing PCBs in excess of 0.01 mg/L as a daily maximum.
  - 9. Containing pesticides in excess of 0.01 mg/L as a daily maximum.
  - 10. Violation of any applicable national pretreatment standards, state standards, or other local regulations covering wastewater disposal.

**516 SPECIFIC LOCAL LIMITS**

- A. TCWD in coordination with SOCWA is authorized to establish local limits pursuant to 40 CFR 403.
- B. No user shall discharge directly or indirectly a quality or quantity of wastes or wastewater containing toxic pollutants, non-compatible or compatible wastes in excess of table I, specific local limits. All local limits for the metal pollutants are for "total" amount analyzed, unless indicated otherwise.

Table I - Specific Local Limits

<u>Pollutant</u>	<u>Limit (mg/L)</u>
Arsenic	3.4
Cadmium	0.93
Chromium	4.9
Copper	7.2
Lead	4.9
Mercury	0.19
Nickel	9.5
Silver	2.8
Zinc	7.9
Cyanide	4.3
Oil and Grease	300

- C. Local limits are subject to more stringent standards as established by national pretreatment standards. Local limits are deemed to be pretreatment standards for the purposes of Section 307(d) of the Act, and are enforceable under Section 309 of the Act, potentially subjecting an IU to a penalty of \$25,000 per day for each violation.
- D. The TCWD may place more stringent standards within any wastewater discharge permit or other control mechanism issued to a user at any time, based on current and/or anticipated operating conditions presented in the wastewater discharge permit application, the ability to meet NPDES permit limits, and/or changes in the requirements of regulatory agencies.
- E. TCWD may develop Best Management Practices (BMP's) for use in any wastewater discharge permit or other control mechanism to implement local limits and the requirements contained in this ordinance.

**517 STATE REQUIREMENTS**

Upon the adoption of any state requirements on user discharges that are more stringent than federal requirements or the limitations contained in this ordinance, that state standard shall then immediately supersede the federal standard and the limitations of this ordinance.

**518 FEDERAL REQUIREMENTS**

- A. Upon adoption of a national pretreatment standard more stringent than those contained in this ordinance, the federal standard shall immediately supersede the limitations listed in this ordinance and the affected significant industrial users shall be notified of the new standards and applicable reporting requirements.
- B. The significant industrial user shall comply with the national pretreatment standard within the time provided in the federal regulations that establish such standards even if their wastewater discharge permit has not yet been modified to incorporate the new requirement or standard.
- C. The significant industrial user shall comply with any applicable requirements under Sections 204(b) and 405 of the Act and Subtitles C and D of the RCRA.

**ARTICLE 6  
WASTEWATER DISCHARGE PERMITS**

**601 WRITTEN AUTHORIZATION**

- A. Users may be required to obtain written authorization to use sewerage facilities. This written authorization may be in the form of a wastewater discharge permit or other control mechanism issued by the TCWD. No vested right shall be given or be granted by issuance of wastewater discharge permit or other control mechanism as provided for in this ordinance.
- B. When written authorization is granted, all the types of wastewater discharge permits and any other control mechanisms shall be expressly subject to all provisions of this ordinance and all other regulations, charges for use and fees established by the TCWD. The requirements contained in wastewater discharge permits or other control mechanisms are subject to enforcement under this ordinance and under state and federal law.
- C. All users that have obtained written authorization shall discharge their process wastewater only as provided for by their wastewater discharge permit or other control mechanism.
- D. Compliance with wastewater discharge permit or other control mechanism provisions does not relieve the user from complying with any other applicable federal, state or local requirement.

**602 TYPES OF WASTEWATER DISCHARGE PERMITS**

- A. The wastewater discharge permit may be in one of four (4) types and is dependent upon process, volume and pollutant characteristics of the users discharge. The four types of wastewater discharge permits are:
  - 1. Class I – Wastewater Discharge (WD) Permit
  - 2. Class II – Wastewater Discharge (WD) Permit
  - 3. Class III – Wastewater Discharge (WD) Permit
  - 4. Class IV – Special Wastewater Discharge (SWD) Permit

**603 TRANSFER PROHIBITION**

Wastewater discharge permits issued under this ordinance are for a specific user, for a specific operation at a specific location. Wastewater discharge permits shall not be transferred for an operation at a different location.

**604 CHANGE OF OWNERSHIP**

- A. Upon the sale or transfer of ownership of any business operating under a wastewater discharge permit issued by the TCWD, the user shall notify the TCWD in writing prior to the change of ownership. The successor owner shall be required to apply for a new wastewater discharge permit prior to the sale or transfer of ownership.
- B. In the event that the original owner fails to notify the TCWD of the sale or transfer of ownership than said original owner may be jointly liable for any charges incurred by the new owner.
- C. This does not relieve the new owner of any liability for non-compliance with any federal, state, or local regulations or the provisions of this ordinance.

**605 EXCESS CAPACITY REGULATORY FEE**

New users or existing users that expand operations that require substantial sewerage facility capacity may be subject to an excess capacity regulatory fee in an amount and method to be solely determined by the TCWD on a case-by-case basis.

**606 OUT OF SERVICE AREA WASTEWATER DISCHARGE PERMITS**

Wastewater discharge permits for users located outside of the TCWD's service area but tributary to the TCWD's sewerage facilities shall only be issued after approval by the TCWD. Inspection and sampling of the user's discharge to determine compliance with discharge regulations will be made under a coordinated plan developed by the TCWD, SOCWA and the local sewerage agency. The more stringent discharge regulations and effluent limitations of affected agencies shall apply to the user. The fees for use shall be determined by the TCWD and set forth in a multijurisdictional agreement.

**607 REQUIRED INFORMATION**

A. To provide for the equitable use of sewerage facilities, the TCWD shall have the right to require a user to provide all information necessary to maintain compliance with the provisions of this ordinance, including treatability studies to determine whether the wastewater would be compatible with all sewerage facilities. This information shall include, but is not limited to the following:

1. Wastewater discharge flow rates, peak flow rates and volume over any period of time.
2. Physical, chemical or bacteriological analysis of wastewater.
3. Information on raw materials, processes and products.
4. Quantity, disposition and waste manifests of specific liquids, sludge, oil, solvent or other materials.
5. Details of any pretreatment equipment.
6. Details of systems to prevent and control the loss of material through spills and slug discharges.
7. Review of all types of water bills.

**608 CONFIDENTIAL INFORMATION**

All user information and data on file shall be available to the public and governmental agencies without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the TCWD that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position. The demonstration of the need for confidentiality made by the user must meet the burden necessary for withholding such information from the general public under applicable state and federal law. Any such claim must be made at the time of submittal of the information by marking "Confidential Business Information" on each page containing such information within the submittal. Information, which is demonstrated to be confidential, shall not be transmitted to any governmental agency without prior notification to the user. Information concerning wastewater quality and quantity shall not be recognized as confidential information and shall be available to the public without reservation.

**609 CLASS I - WASTEWATER DISCHARGE (WD) PERMIT**

No user requiring a Class I WD Permit shall discharge wastewater without obtaining a Class I WD Permit. A Class I user, as determined by the TCWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a WD Permit by filing an application and paying any applicable fees before discharging.

**610 CLASS II - WASTEWATER DISCHARGE (WD) PERMIT**

No user requiring a Class II WD Permit shall discharge wastewater without obtaining a Class II WD Permit. A Class II user, as determined by the TCWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a WD Permit by filing an application and paying any applicable fees before discharging.

**611 CLASS III - WASTEWATER DISCHARGE (WD) PERMIT**

No user requiring a Class III WD Permit shall discharge wastewater without obtaining a Class III WD Permit. A Class III user, as determined by the TCWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a WD Permit by filing an application and paying any applicable fees before discharging.

**612 CLASS IV - SPECIAL WASTEWATER DISCHARGE (SWD) PERMIT**

- A. No user requiring a Class IV SWD Permit shall discharge wastewater without obtaining a Class IV Permit. A Class IV user, as determined by the TCWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a SWD Permit by filing an application and paying any applicable fees before discharging.
- B. The SWD Permit may be issued when no alternative method of disposal is reasonably available or to mitigate an environmental risk or health hazard.
- C. A user proposing to discharge diverted urban nuisance water may be issued a nuisance special wastewater discharge (NSWD) permit only after they have completed the requirements contained in the "Nuisance Flow Diversion Policy."
- D. A user proposing to discharge trucked or hauled wastes may be issued a hauled special wastewater discharge (HSWD) permit only after they have completed all requirements set forth by the TCWD on a case by case basis. All trucked or hauled waste users shall comply with the terms, conditions and limitation set forth in a HSWD Permit as determined by the TCWD to be necessary to protect sewerage facilities. A trucked or hauled waste user proposing to discharge waste into a TCWD sewerage facility may be required to obtain both a valid Orange County Health Department permit (where applicable) and a HSWD Permit prior to any discharge.

**613 NON-INDUSTRIAL WASTEWATER DISCHARGE (NIWD) FORM**

- A. At the sole discretion of the TCWD, any user that is considered to have wastewater of no concern discharging to sewerage facilities may be classified as an NIWD user and issued an NIWD form.
- B. Any user that has had a Class I, II, or III WD Permit that no longer has a discharge containing noncompatible wastes to the TCWD's sewerage facilities may be classified as an NIWD user and issued an NIWD form.
- C. The main functions of the NIWD form are to assist in maintaining the TCWD's user survey data base and to track and verify by inspection any user that is considered to have wastewater of no concern discharging to sewerage facilities.

**614 APPLICATION FOR WASTEWATER DISCHARGE PERMIT**

- A. Users required to obtain a WD Permit shall complete and file with the TCWD, prior to commencing discharge, if applicable, an application on a form prescribed by the TCWD.
- B. Users seeking a WD Permit may be required to submit, in unit and terms appropriate for evaluation, the following information:
  - 1. Name, address of the site, NAICS numbers (if applicable), and a description of the manufacturing process or service activity.
  - 2. Name, address of any and all, (whichever is applicable) principals/owners/major share holders of company; articles of incorporation; most recent report of the Secretary of State and business license.
  - 3. Flow, volume, time, duration and type of wastewater to be discharged.
  - 4. Name, address and contact information of the individual who shall serve as the CAR.

5. Name and address of property owner, landlord and/or manager of the property.
  6. Water supplier and water account numbers.
  7. Wastewater constituents and characteristics as required or deemed necessary by the TCWD, including but not limited to, those mentioned in this ordinance. These constituents and characteristics shall be determined by a laboratory of the discharger approved by the TCWD, if applicable.
  8. Number of employees and average hours of work per employee per day.
  9. Waste minimization, best management practices and water conservation practices.
  10. All production records, if applicable.
  11. Waste manifests, if applicable.
  12. Tons of cooling tower capacity, if applicable.
  13. List of other environmental control permits and EPA Hazardous Waste Generator number, if applicable.
  14. Application signed by the CAR of the user and contains the certification statement in Section 802 E.
  15. Any other information as specified.
- C. Users may be required to submit site floor, mechanical, plumbing, toxic organic management, and spill containment plans for evaluation.
- D. After evaluation of the data furnished, the TCWD may issue a WD Permit, a NIWD Form or other control mechanism subject to the terms and conditions set forth in this ordinance and as otherwise determined by the General Manager to be necessary to protect sewerage facilities.
- E. The WD Permit application may be denied if the user fails to establish to TCWD's satisfaction that adequate pretreatment equipment is included within the user's plans to ensure that the discharge limits will be met or if the user has, in the past demonstrated an inability to comply with applicable discharge limits or has in the past demonstrated an inability to keep current with invoices for items such as WD Permit fees, non-compliance fees, civil penalties, administrative civil penalties or charges for use.

**615 APPLICATION FOR SPECIAL WASTEWATER DISCHARGE PERMIT**

- A. Users required to obtain a SWD Permit shall complete and file with the TCWD, prior to commencing discharge, if applicable, an application on a form prescribed by the TCWD.
- B. Users seeking a SWD Permit may be required to submit, in unit and terms appropriate for evaluation, the following information:
1. Name, address and a description of the wastewater to be discharged.
  2. Name, address and contact information of the individual who shall serve as the CAR.
  3. Volume, time and duration of wastewater to be discharged.
  4. Construction and plumbing plans if applicable.
  5. Detailed analysis of the alternatives for wastewater disposal if applicable.

- 6. Wastewater constituents and characteristics as required or deemed necessary by TCWD, including but not limited to, those mentioned in this ordinance. These constituents and characteristics shall be determined by a laboratory selected by the user acceptable to the TCWD.
- 7. Any other data as specified.
- C. Users may be required to submit site, mechanical, plumbing, toxic organic management, and spill containment plans for evaluation if applicable.
- D. After evaluation of the information furnished, TCWD may issue a SWD Permit or other control mechanism subject to the terms and conditions set forth in this ordinance and as otherwise determined by the General Manager to be necessary to protect sewerage facilities.
- E. In the case of diverted urban nuisance water, after evaluation of the information furnished, TCWD may issue a NSW Permit, subject to the terms and conditions set forth in this ordinance and the "Nuisance Flow Diversion Policy" as otherwise determined by the General Manager to be necessary to protect sewerage facilities.
- F. The SWD Permit application may be denied if the user fails to establish to TCWD's satisfaction that adequate pretreatment equipment is included within the user's plans to ensure that the discharge limits will be met or if the user has, in the past demonstrated an inability to comply with applicable discharge limits or has in the past demonstrated an inability to keep current with invoices for items such as SWD Permit fees, non-compliance fees, civil penalties, administrative civil penalties or charges for use .

**616. APPLICATION FOR NON-INDUSTRIAL WASTEWATER DISCHARGE (NIWD) FORM**

- A. Users meeting the criteria for a NIWD form, may be asked to complete and file with the TCWD an application on a form prescribed by the TCWD.
- B. Information on users that meet the criteria for a NIWD form may be obtained solely by the TCWD during site inspections or by other means.
- C. After evaluation of the data furnished by the user or from information collected solely by the TCWD an NIWD form may be issued.

**617 WASTEWATER DISCHARGE PERMIT TERMS, CONDITIONS, AND LIMITATIONS**

- A. All wastewater discharge permits shall be expressly subject to all terms, conditions, and limitations of this ordinance, other regulatory agencies, Best Management Practices, charge for use, and fees established by the TCWD. The terms' conditions, and limitations in a wastewater discharge permit are subject to enforcement by the TCWD in accordance with this ordinance, and applicable state and federal regulations. Any wastewater discharge permit violation shall be a violation of this ordinance.
- B. The terms, conditions and limitations of any issued wastewater discharge permit may be subject to modification and changes by the TCWD during the life of the wastewater discharge permit based on:
  - 1. The discharger's current or anticipated operating data.
  - 2. The TCWD's current or anticipated operating data.
  - 3. Changes in the requirements of regulatory agencies.
- C. Users may request a modification to the terms, conditions and limitations of an issued wastewater discharge permit. The request shall be in writing stating the requested change, and the reasons for the change. The TCWD shall review the request, make a determination and respond in writing. A request for a wastewater discharge permit modification does not relieve a user from complying with its existing wastewater discharge permit terms, conditions and limitations.

- D. Any changes to the terms, conditions, limitations in a wastewater discharge permit shall include a reasonable time schedule for compliance where allowed under applicable federal, state and local law.
- E. A wastewater discharge permit may contain any, but is not limited to, the following terms, conditions and limitations:
1. Effluent limits, including mass emission rates, concentration limits or best management practices based on applicable pretreatment standards for regulating pollutants.
  2. Discharge limits based upon the combined wastestream formula (CWF).
  3. Limits on rate and time of discharge or requirements for flow regulation and equalization.
  4. Requirements for the user to make notification in writing prior to the physical expansion or any change to any wet processes. Notification is also required in the event of changes in production if production-based limits are being applied.
  5. Requirements for the user to construct and maintain, at the user's own expense, pH control, flow monitoring and/or sampling equipment and/or structures.
  6. Requirements for submission of technical reports, discharge reports and waste manifests.
  7. Location of sampling point(s) and the requirements to self-monitor.
  8. Requirements for maintaining plant records relating to wastewater discharge and waste manifests as specified by the TCWD.
  9. Predetermined rates or values for wastewater strength characteristics.
  10. Requirements to submit copies of water bills.
  11. Other provisions which may be applicable to ensure compliance with this ordinance.
  12. Other terms, conditions and limitations determined by the TCWD to be necessary to protect sewerage facilities.
  13. Predetermined rate or value for BOD and suspended solids.
  14. Requirements for notification of bypass discharges.
  15. Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of wastewater constituents.
  16. Requirements to meet compliance schedules.
  17. Requirements for the user to control slug discharges by developing and implementing a slug discharge control plan if determined by the TCWD to be necessary as described in 40 CFR 403.8(f)(1)(iii)(B)(6).
  18. Requirements for the user to control toxic organic discharges by developing and implementing a toxic organics management plan if determined by the TCWD to be necessary.

**618 WASTEWATER DISCHARGE PERMIT DURATION**

All wastewater discharge permits shall not exceed a duration of five (5) years. Any wastewater discharge permit may be issued for a shorter period of time at the sole discretion of the TCWD.

**619 WASTEWATER DISCHARGE PERMIT RENEWAL**

- A. The user may file a new application prior to the expiration date of any existing wastewater discharge permit for renewal.
- B. Discharge after the termination date of a wastewater discharge permit is prohibited except:
  - 1. If the user filed a timely application which is complete, and:
  - 2. The TCWD, through no fault of the user, does not issue a new wastewater discharge permit with an effective date on or before the expiration date of the previous wastewater discharge permit.

**620 TCWD'S RIGHT OF REVISION**

- A. The TCWD reserves the right to establish, by ordinance, or by wastewater discharge permit or by Best Management Practices, or by any other control mechanism more stringent standards or requirements on the discharge of users to sewerage facilities
- B. The terms, conditions and limitations contained in any wastewater discharge permit, Best Management Practices or other control mechanism may be modified by TCWD at any time. This modification shall be by written notification to the user.

## PRETREATMENT EQUIPMENT REQUIREMENTS

### 701 PRETREATMENT

- A. All pretreatment equipment or devices may be reviewed by the TCWD. Such review shall not absolve the user of any responsibility of meeting prohibitions, limitations, requirements, standards and local limits on discharges.
- B. User shall provide wastewater treatment as necessary which may include, but is not limited to, the use of best available technology (BAT) or best practicable technology (BPT) concepts to comply with this ordinance and shall achieve compliance with all prohibitions, limitations, standards and local limits before discharging to any sewerage facility. Any equipment required to pretreat, sample, control or transport wastewater shall be provided and maintained in proper operating condition at all times at the user's sole expense.
- C. User may be required to submit waste analysis plans, contingency plans, and meet other requirements to ensure proper operation of pretreatment equipment and compliance with their wastewater discharge permit limits and this ordinance.
- D. No user shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this ordinance a wastewater discharge permit or other control mechanism.

### 702 SPILL CONTAINMENT

- A. Each user shall provide spill containment for protection against the discharge of prohibited materials or other wastes regulated by this ordinance. This protection shall be designed in accordance with reasonable engineering standards to secure the discharges and to prevent them from entering into a sewerage facility. This equipment shall be provided and maintained at the user's sole expense.
- B. If it can be shown that a user's spill containment equipment did not prevent a discharge which caused the TCWD to violate its requirements, incur additional operational expenses, or suffer loss or damage to sewerage facilities, that user shall be responsible for any costs or expenses, including assessment by other agencies or any costs incurred by the TCWD.
- C. A notice may be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a prohibited discharge. Employers shall ensure that all employees who may cause or suffer such a prohibited discharge to occur are advised of the emergency notification procedure.

### 703 MONITORING AND METERING EQUIPMENT

- A. The user may be required to construct and maintain in proper operating condition at the user's sole expense, flow and/or constituent monitoring and/or sampling equipment.
- B. Any sample taken from a user's sample point shall be considered to be representative of the discharge to sewerage facilities.
- C. Monitoring or metering equipment may be required to include a security enclosure that can be locked with a TCWD provided lock during any sampling and monitoring periods.
- D. Location of the monitoring or metering equipment shall be subject to approval by the TCWD.
- E. The TCWD shall be provided clear and uninterrupted access to monitoring or metering locations.

- F. When one or more users discharge into a sewerage facility, those users may be required to install a separate monitoring location for each user. Also in the judgment of the TCWD, if there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, that user may be

required to install separate monitoring locations for each operation. Separate monitoring may also be required for different processes subject to categorical pretreatment standards.

- G. Users with the potential to discharge flammable solutions may be required to install and maintain at their sole expense a combustible gas detection meter.
- H. All wastewater samples shall be representative of the user's discharge. Wastewater monitoring and flow measurement equipment shall be operated, kept clean, and maintained in good working order at all times. Failure by the user to keep its monitoring equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

#### **704 DRAWING SUBMITTALS**

- A. Detailed plans of any proposed construction of pretreatment, spill containment, monitoring and metering equipment and operating procedures shall be submitted for review by the due date contained within a written request from the TCWD.. The review of the plans and procedures shall in no way relieve the user of the responsibility of modifying the equipment or procedures in the future as necessary to meet the requirements of this ordinance or any other requirement of other regulatory agencies.
- B. All drawings shall include:
  - 1. North arrow.
  - 2. Scale size.
  - 3. User name and address.
  - 4. Date drawn or revised.
  - 5. Location of proposed pretreatment, spill containment, monitoring and metering equipment.
- C. The TCWD may require drawings to scale depicting the manufacturing process (waste generating source), spill containment, pretreatment, and/or monitoring or metering equipment.
- D. The TCWD may require a schematic drawing of the pretreatment, spill containment, monitoring and metering equipment.
- E. The TCWD may require the drawings be prepared by a California registered chemical, mechanical, or civil engineer.

#### **705 WASTE MINIMIZATION, RECYCLING, AND TREATMENT**

- A. User shall provide waste minimization plans to conserve water, investigate product and/or materials substitution, maintain inventory control records and implement employee education, and other steps as necessary to minimize waste produced by the due date contained within a written request from the TCWD.
- B. Waste minimization, recycling and treatment shall be demonstrated wherever feasible in the following priority:
  - 1. Source reduction which includes, but is not limited to, substitution of less hazardous materials, spill prevention and control measures, proper storage and handling of chemicals and raw materials.
  - 2. Recovery and reuse which includes, but is not limited to, substitution of less hazardous materials, spill prevention and control measures, proper storage and handling of chemicals and raw materials.
  - 3. Treatment that includes, but is not limited to, pretreatment techniques as to render hazardous wastes harmless or suitable for disposal to sewerage facilities.

## **801 INSPECTION AND MONITORING**

- A. The TCWD may inspect and sample the wastewater generating and disposal equipment of any user's site to ascertain whether the requirements of this ordinance are being met and the user is complying with all requirements.
- B. Where a user has instituted security measures requiring proper identification and clearance before entry onto the premises, the user shall make all necessary arrangements with its security in order that the inspectors of the TCWD shall be allowed to enter the premises without delay for the purpose of performing their authorized duties.
- C. The TCWD shall have the right to set up on the user's property or any other locations, as determined by the TCWD, such devices as are necessary to conduct sampling or metering operations of the user's discharge to sewerage facilities.
- D. In order for the TCWD to determine the wastewater characteristics of a discharge for compliance with this ordinance, wastewater discharge permit, or other control mechanism requirements, the user may be required to make available for inspection and copying all records including, but not limited to, production records, required self-monitoring and chain of custody records, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, documents associated with Best Management Practices and waste manifests without restriction, but subject to the confidential provisions set forth in this ordinance. All records shall be maintained by users for a minimum of three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user, or where the user has been notified by written request from the TCWD. Such records shall be made available to the TCWD upon request.
- E. Any temporary or permanent obstruction to safe and easy access to the user's site to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the TCWD and shall not be replaced. The costs of cleaning such access shall be at the sole expense of the user.
- F. Inspection and/or sampling of any user's site shall be conducted at any time, by any means, in any amount, at any location, on any limit, requirement or pollutant in a manner and frequency as determined at the sole discretion of the TCWD.

## **802 SELF-MONITORING AND REPORTING**

- A. Self-monitoring of wastewater pollutants, constituents and characteristics of the user needed for determining compliance with any limitations and requirements as specified in the user's wastewater discharge permit, federal regulations, or this ordinance may be required. The self-monitoring requirement, frequency, forms and reporting shall be set forth in the user's wastewater discharge permit or other control mechanism. These reports may include, but are not limited to, the following:
  - 1. Baseline monitoring reports (BMR's).
  - 2. Compliance schedule progress reports.
  - 3. 90-day compliance reports.
  - 4. Self-monitoring reports contained monitoring and analysis to demonstrate continued compliance as described in 40 CFR 403.12(g)(1-6).
  - 5. Other reports as required by the TCWD, other regulatory agencies or applicable law.

- B. Failure by the user to perform any self-monitoring or reporting required by the TCWD shall be a violation of this ordinance, and is deemed to be a violation for each parameter and each day in the time period for which monitoring was required, and cause for the TCWD to initiate all necessary tasks and analysis to determine the

wastewater pollutants, constituents and characteristics for any limitations and requirements specified in the user's wastewater discharge permit or in this ordinance. The user shall be responsible for any and all expenses incurred by the TCWD in undertaking such monitoring analysis and preparation of reports.

- C. All users required to sample and analyze their wastewater shall use the sampling methods and the sampling locations as set forth in their wastewater discharge permit. For each sample collected and analyzed, the user shall maintain a record of:
  - 1. Date, exact place, method and time of sampling and the name of the person taking the sample.
  - 2. Date analysis performed.
  - 3. Identity and address of the person who performed the analysis.
  - 4. The analytical methods used.
  - 5. Results of the analysis.
- D. Samples taken shall be representative of conditions occurring during the reporting period. Users shall submit all monitoring data, even if user samples more frequently than required by its wastewater discharge permit. User is required to provide advance notice of any substantial change in the volume or character of pollutants in their discharge.
- E. When required, all submitted applications and user reports shall be signed by the CAR as defined in this ordinance. Each application and any required user report shall contain the following certification:

"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."

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

User Name: \_\_\_\_\_

User Site  
Address: \_\_\_\_\_

User Mailing  
Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Permit No: \_\_\_\_\_

- F. Self-monitoring reports shall be subject to the provisions of 18 U.S.C. Section 1001 relating to false statements and fraud and the provisions of Section 309(c)(2) of the Act governing false statements.
- G. The analysis of a user's wastewater pollutants, constituents and characteristics shall be done by a laboratory

approved by the TCWD.

- H. If self-monitoring indicates a violation, the user shall notify the TCWD within 24 hours of becoming aware of the violation. The user shall repeat the sampling and analysis and submit the results of the repeat analysis to the TCWD within 30 days after becoming aware of the violation. Resampling by the user is not required if the TCWD performs the sampling at the user's site at least once a month, or if the TCWD performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the TCWD receives the results of the sampling, or if the TCWD has performed the sampling and analysis in lieu of the user.
- I. The analysis of wastewater pollutants, constituents and characteristics and the preparation of the self-monitoring report shall be done at the sole expense of the user.
- J. The user shall establish and maintain a sample point on each discharge line at a location representative of the discharge to sewerage facilities. The maintenance of any sample point equipment shall be done at the sole expense of the user. Any sampling location shall be set forth in the user's wastewater discharge permit.
- K. Any user subject to the reporting requirements of this ordinance shall retain all records of monitoring activities and results for a minimum of three (3) years and shall make them available to the TCWD upon request. The TCWD may require a longer period of retention if litigation is being considered or has resulted.
- L. Any user subject to self-monitoring reporting requirements may be required to submit self-monitoring reports on forms approved by the TCWD.
- M. Any user determined to be a non-significant categorical industrial user (NSCIU) by the TCWD pursuant to Section 202.B.87.c. and 808.B shall annually submit the following certification statement signed by the CAR as defined in this ordinance. This certification shall accompany an alternative report required by SOCWA:

"Based on my inquiry of the person or persons directly responsible for managing compliance with categorical pretreatment standards under 40 CFR \_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from January 1, \_\_\_\_ to December 31, \_\_\_\_:

(a) The facility described as \_\_\_\_\_ met the definition of non-significant categorical industrial user as described in Section 202.B.87.c.;

(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.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

This compliance certification is based on the following information.

\_\_\_\_\_  
\_\_\_\_\_

**803 REPORT OF SPILL, SLUG DISCHARGE, BATCH DUMPING, OR UPSET**

- A. In the event the user is unable to comply with any of the wastewater discharge permit conditions due to a breakdown of equipment, accidents caused by human error, or intentional action by any party, or acts of God, or any other cause, the discharger shall notify the TCWD as soon as possible of any spill, slug discharge, batch

dumping or upset.

- B. Confirmation of this notification shall be made in writing within five (5) working days of the original notification unless waived by the TCWD. The written notification shall contain:
1. Date of the incident.
  2. Reason for the spill, slug discharge, batch dumping or upset.
  3. The steps that were taken to immediately correct the problem.
  4. The steps that are being taken to prevent the problem from recurring.
  5. Any other information the TCWD deems relevant.
- C. Such notification shall not relieve the user of any expense, loss, damage, liability or fees which may be incurred as a result of damage or loss to sewerage facilities or any damage or loss to persons or property. Such notification shall never relieve the user from any fees or liability that may be imposed by this ordinance, other regulatory agencies or other applicable law.
- D. Significant industrial users shall notify the TCWD immediately of any changes at its site affecting the potential for a spill, slug discharge, batch dumping or upset.

**804 REPORTING OF BY-PASS**

- A. By-pass of industrial wastewater through the pretreatment equipment to sewerage facilities is prohibited. Enforcement action may be taken against the user, unless:
1. By-pass was unavoidable to prevent loss of life, personal injury, or severe property damage, and
  2. There were no feasible alternatives to the by-pass, such as the use of auxiliary treatment equipment, 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 by-pass which occurred during normal periods of equipment downtime or preventative maintenance, and
  3. The user submitted notice as required by this ordinance, or;
  4. The bypass did not exceed user discharge limits and was required for essential maintenance.
- B. If a user knows in advance of the need for a by-pass, it shall submit prior notice to the TCWD at least ten (10) days before the date of the by-pass.
- C. The TCWD may approve an anticipated by-pass after considering its adverse effects, if the TCWD determines that it will meet the conditions listed within this section.
- D. A user shall submit notice of an unanticipated by-pass that exceeds their wastewater discharge permit limitation to the TCWD within 24 hours from the time the user becomes aware of the by-pass. A written report shall also be provided within five (5) working days of the time the permittee becomes aware of the by-pass. The report shall contain:
1. Description of the by-pass and its cause.
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2. Duration of the by-pass, including exact dates and times.
  3. Anticipated time it is expected to continue if the by-pass has not been corrected.
  4. Steps taken or planned to reduce, eliminate, and prevent recurrence of the by-pass.

- E. Failure to submit notice and/or written report may be grounds for wastewater discharge permit suspension or revocation. Failure to provide timely notice under Section 804 D. is deemed a waiver of the bypass defense for the user violation.
- F. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to sewerage facilities or any other damage or loss to person or property. Such notification shall never relieve the user from any fees or liability that may be imposed by this ordinance or other applicable law.

**805 BASELINE MONITORING REPORTS (40 CFR 403.12(b))**

- A. Within either one hundred eighty (180) days after the effective date of a categorical standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, an existing categorical industrial user currently discharging to or scheduled to discharge shall submit to the TCWD a report containing the information listed below. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard shall submit to the TCWD a report containing the information listed 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. The baseline monitoring report shall include, but is not limited to, the following:
  - 1. Identifying information. The name and address of the site, including the name of the operator and owner.
  - 2. Permits. A list of any environmental control permits held by or for the site.
  - 3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram, which indicates points of discharge to sewerage facilities from the regulated processes.
  - 4. Flow Measurements. Information showing the measured average daily and maximum daily flow, in gpd, to sewerage facilities from regulated process streams and other streams as necessary.
  - 5. Measurement of Pollutants. The categorical pretreatment standards applicable to each regulated process and the results and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the TCWD, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass where required, shall be reported. The sample shall be representative of daily operations. In cases where the standards requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the TCWD or the applicable standards to determine compliance with the standard.
  - 6. Certification. A statement, reviewed by the user's CAR 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.
  - 7. Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be latter than compliance date established for the applicable pretreatment standard.
  - 8. Signature and certification. All monitoring reports shall be signed and certified in accordance with Section 802 E. of this ordinance.

**806 REPORT ON PROGRESS IN MEETING COMPLIANCE SCHEDULES(40 CFR 403.12(c))**

- A. All Class I users required to submit compliance schedules shall report their progress no later than fourteen (14) days after each due date contained in their compliance schedule.
- B. The schedule shall contain increments of progress 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 comply with the applicable pretreatment standards.

- C. No increment referred to above shall exceed nine (9) months.
- D. In no event shall more than nine (9) months elapse between progress reports to the TCWD.

**807. REPORT ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARDS DEADLINE (40 CFR 403.12(d))**

- A. Within ninety (90) days following the date for final compliance with the applicable categorical standards or within ninety (90) days of the introduction of wastewater into sewerage facilities, the affected user shall submit a report containing the information listed below. This report shall include, but is not limited to the following:
  - 1. Flow Measurements. Information showing the measured average daily and maximum daily flow, in gpd, to sewerage facilities from regulated process streams and other streams.
  - 2. Measurement of Pollutants. The categorical pretreatment standards applicable to each regulated process and the results and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the TCWD, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass where required, shall be reported. The sample shall be representative of daily operations.
  - 3. Certification. A statement, reviewed by the user's CAR 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. Signature and certification. All monitoring reports shall be signed and certified in accordance with Section 802 E. of this ordinance.

**808. PERIODIC COMPLIANCE REPORT**

- A. All Class I users subject to federal pretreatment standards (except a non-significant categorical user) as a minimum shall submit reports containing the information required in 40 CFR 403.12 during the months of June and December, or as required in their wastewater discharge permit or other control mechanism.
- B. A Class I user determined to be a non-significant categorical industrial user by the SMWD pursuant to Section 202.B.867.c. shall annually submit a report containing information as required in their wastewater discharge permit or other control mechanism.
- C. All users may be required to submit periodic compliance reports containing information as required in their wastewater discharge permit, other control mechanism or as required by the TCWD.

**809 RIGHT OF ENTRY**

TCWD shall have the right to enter the premises of any user to determine whether the user is complying with the requirements of this ordinance and any individual wastewater discharge permit, other control mechanism or order issued hereunder. Users shall allow the TCWD ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any other duties.

**810 ANALYTICAL REQUIREMENTS**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit 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 TCWD or other parties approved by the EPA.

**811 SAMPLE COLLECTION**

- A. Samples collected by the user to satisfy reporting requirements contained in this ordinance, their wastewater discharge permit or other control mechanism shall 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.
- B. Except as indicated in Section 811.C. and 811.D. below, the user shall collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by TCWD. Where time-proportional composite sampling or grab sampling is authorized by the TCWD, the samples shall be representative of the discharge. Using protocols specified in 40 CFR 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 and oil 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 TCWD, as appropriate. In addition, grab samples may be required at any time to show compliance with instantaneous discharge limits.
- C. Samples for analysis of oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds shall be obtained using grab sample collection techniques.
- D. For sampling required in support of baseline monitoring and 90-day compliance reports required by this ordinance and 40 CFR 403.12(b) and (d), a minimum of four (4) grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for users for which historical sampling data do not exist; for users for which historical sampling data are available, The TCWD may authorize a lower minimum. For reports required by this ordinance and 40 CFR 403.12(e) and (h), the user shall collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

**812**    **TIMING**

Reports shall be deemed to have been submitted on the date postmarked. For reports that are not mailed or delivered with postage prepaid, the date of receipt of the report shall govern.

**813**    **NOTIFICATION OF CHANGED DISCHARGE**

All users that have been issued a wastewater discharge permit shall notify the TCWD in advance of any substantial change in the volume or character of pollutants in their discharge in accordance with 40 CFR 403.12(j)

**814.**    **NOTIFICATION OF THE DISCHARGE OF HAZADOUS WASTE (40 CFR 403.12(p)(1)**

- A. The industrial user shall notify the TCWD, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into sewerage facilities of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to sewerage facilities, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after a discharge to sewerage facilities commences. Any notification under this section need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 813 of this ordinance and as listed in 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections 805, 807 and 808 of this ordinance and as listed in 40 CFR 403.12(b), (d), and (e).
- B. Dischargers are exempt from the requirements of Section 814. A., above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the TCWD, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This section does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

## ENFORCEMENT

### 901 ENFORCEMENT SCOPE

- A. The TCWD finds that in order for it to comply with the laws, regulations, and rules imposed upon it by regulatory agencies and to ensure that sewerage facilities and treatment processes are protected and are able to operate with the highest efficiency, specific enforcement provisions must be adopted to regulate discharges from industrial users.
- B. The TCWD is willing to cooperate with all users on improvements in wastewater quality, yet must be in a position to ensure that uncooperative users shall comply with this ordinance and any conditions set forth in a wastewater discharge permit.
- C. The TCWD intends to ensure that all interested parties are afforded due process of law and that any noncompliance or violation is resolved as soon as possible. . Enforcement shall be guided by the ERP, adopted by TCWD/SOCWA as Resolution No. 2009-02.
- D. All users have a right of appeal pursuant to the procedures set forth in this ordinance.
- E. Each non-compliance or violation per day and each day of noncompliance or violation shall be taken as a separate noncompliance or violation for determining the amount of fees, charges, fines or penalties and/or which enforcement actions may be taken. A violation of a weekly average is considered seven (7) days of violation for that parameter and a violation of a monthly average is based upon the number of days in that month. A violation of multiple parameters caused by a single operational upset is considered one violation.
- F. The issuance or exercise of any type of an enforcement action provided for under this ordinance shall not be a bar against, or a prerequisite for, taking any other or additional enforcement action against a user under this ordinance or any other local, state or federal law. The remedies provided for in this ordinance are not exclusive and the TCWD is empowered to take more than one enforcement action against any noncompliant user.

### 902 NOTICE OF NONCOMPLIANCE (NON)

- A. In the event that it is determined that a user is in noncompliance with any provision of this ordinance, or the terms, conditions and limitations of its wastewater discharge permit, the TCWD may issue a NON form, whereby the user shall comply with all directives, conditions and requirements therein within the time prescribed.
- B. The issuance of a NON form may contain terms and conditions including, but not limited to, installation of pretreatment equipment, sampling structures, submittal of drawings or technical reports, payment of fees or administrative fines, limits on rate and time of discharge or any other provisions to ensure compliance with this ordinance and the user's wastewater discharge permit. This action is not a prerequisite to taking other or more severe enforcement actions.

### 903 NOTICE OF VIOLATION (NOV)

- A. In the event that it is determined that a user has not responded to a NON form that was previously issued to them or that noncompliance of any pretreatment standards requires their immediate attention, the TCWD may issue a NOV form, whereby the user shall comply with all directives, conditions and requirements therein within the time prescribed.
- B. The issuance of a NOV form may contain terms and conditions including, but not limited to, installation of pretreatment equipment and facilities, submittal of drawings or technical reports, payment of fees, administrative fines, limits on rate and time of discharge or any other provisions to ensure compliance with this ordinance. This action is not a prerequisite to taking other or more severe enforcement action.

### 904 ADMINISTRATIVE ORDER (AO)

- A. The AO is an enforcement document from the TCWD directing the noncompliant user to undertake or to cease specific activities required to bring the user into compliance with this ordinance or the terms, conditions and limitation of a wastewater discharge permit as determined by the TCWD. The terms and conditions of the AO are not negotiable by the user. The circumstances of a user's noncompliance may dictate which theme the administrative order will takes to achieve the earliest possible return to compliance by the user. AOs may include administrative complaints. Types of AOs may include, but are not limited to, the following:
1. Probation Order (PO)
    - a. The PO directs the noncompliant user to achieve compliance by a date specified in the order. The PO is usually issued when a user is in non-compliance of this ordinance, or the terms, conditions and limitations of its wastewater discharge permit or other enforcement action, or has not made payment of all amounts owed to the TCWD which include, but are not limited to, any fees, charges, fines and/or penalties. This action is not a prerequisite t taking other or more severe enforcement actions.
  2. Show Cause Order (SCO)
    - a. The SCO directs the noncompliant user to appear at a formal meeting, usually at a TCWD location, to explain its noncompliance, and to show cause why more severe enforcement actions against the user should not go forward. This action is not a prerequisite to taking other or more severe enforcement actions.
  3. Cease and Desist Order (CDO)
    - a. The CDO directs the noncompliant user to cease illegal or unauthorized discharges immediately, or to terminate its discharge altogether. A CDO may be issued in situations where a particular discharge could cause interference or pass through, or threaten human safety or the environment. The CDO may be issued immediately upon discovery of the problem. In an emergency, a CDO may be issued by any means, however, such an order should be followed by a written CDO on the user. If necessary, the TCWD may order immediate cessation of any discharge to a sewerage facility, regardless of the user's compliance status. If a user fails to comply with the CDO, the TCWD may take any independent action to halt the discharge. This action is not a prerequisite to taking other or more severe enforcement actions.

## **905 WASTEWATER DISCHARGE PERMIT SUSPENSION OR REVOCATION**

### **A. Grounds**

1. The TCWD may suspend or revoke any wastewater discharge permit, but is not limited to the following, when it as determined that a user:
  - a. Violated an administrative order.
  - b. Provided a false statement, representation, record, report or other document to the TCWD.
  - c. Refused to provide records, reports, plans or other documents required to determine wastewater discharge permit terms, conditions, or limitations, discharge compliance, or compliance with this ordinance.
  - d. Discharged effluent that causes pass-through or interference with sewerage facilities.
  - e. Falsified, tampered with, or knowingly rendered inaccurate any monitoring device or sample collection method.
  - f. Discharged effluent that endangers human health or the environment.
  - g. Failed to report significant changes in operations or wastewater constituents and characteristics.
  - h. Failed to comply with the terms and conditions of any enforcement action.
  - i. Refused reasonable access to the permittee's premises for the purpose of inspection and monitoring.

- j. Failed to make timely payment of any fees, charges, fines or penalties owed to the TCWD.
- k. Violated any conditions or limitations of its wastewater discharge permit or any provision of this ordinance.
- l. Discharged batch dumps to sewerage facilities not authorized or permitted by the TCWD.

B. Notice of Wastewater Discharge Permit Suspension/Revocation

- 1. When the TCWD has reason to believe that grounds exist for suspension/revocation of a wastewater discharge permit, written notice shall be given by certified mail to the user setting forth a statement of facts and grounds deemed to exist together with a description of the time and place where the charge shall be heard by the General Manager. The hearing date shall not be less than fifteen (15) days nor more than sixty (60) days after the mailing of such notice.

C. Hearing on Permit Suspension/Revocation

- 1. At the wastewater discharge permit suspension/revocation hearing, the user shall have an opportunity to respond to the allegations set forth in the notice. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by the TCWD's General Counsel.
- 2. After the hearing, the General Manager's designee shall submit a written report to the General Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
- 3. Upon receipt of the written report, the General Manager shall make his determination. Should he find that the grounds exist for suspension/ revocation of the wastewater discharge permit, he shall issue his decision and order, in writing within thirty (30) days after the hearing by his designee. A copy of the written decision shall be sent by personal delivery or certified mail to the user.

D. Effect of Wastewater Discharge Permit Suspension

- 1. Upon the issuance of an order of suspension by the General Manager, the user shall have no right to discharge any industrial wastewater, directly or indirectly to sewerage facilities for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the user.
- 2. An order of wastewater discharge permit suspension issued by the General Manager shall be deemed final upon delivery to the user, unless appealed to the Board as specified in Section 913 of this ordinance.

E. Effect of Wastewater Discharge Permit Revocation

- 1. On the effective date of a wastewater discharge permit revocation being final, the user shall permanently lose all rights to discharge any industrial wastewater directly or indirectly to sewerage facilities. All costs for physical termination shall be paid by the user.
- 2. Each owner and employee of the user shall be bound by the order of wastewater discharge permit revocation.
- 3. Any future application from any user subject to an order of wastewater discharge permit revocation will only be considered by the TCWD after fully reviewing the records of revocation. Such records may be the basis for denial of a new wastewater discharge permit.
- 3. An order of wastewater discharge permit revocation issued by the General Manager shall be deemed final upon delivery to the user, unless appealed to the Board as specified in Section 913 of this ordinance.

**906 TERMINATION OF SERVICE**

The TCWD may physically terminate water or sewer service to any user that violates or continues to violate the provisions of this ordinance, a term of any order of suspension or revocation of a wastewater discharge permit or other control mechanism. All costs for physical termination shall be paid for by the user as well as all costs for reinstating services. Service may commence only after the user has satisfactorily demonstrated its ability to comply.

**907 EMERGENCY SUSPENSION**

- A. The TCWD may suspend water or sewer service when such suspension is necessary, in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, cause interference to sewerage facilities, or cause the TCWD to violate any state or federal law or regulation.
- B. An emergency suspension order is final and has no right of appeal.

**908 INJUNCTION**

Whenever a discharge of wastewater is in violation of the provisions of this ordinance, the TCWD may petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate to restrain the continuance of such discharge.

**909 CIVIL FINES AND PENALTIES**

- A. Authority.
  - 1. All users of sewerage facilities are subject to administrative or judicial enforcement actions by the TCWD, EPA, Regional Water Quality Control Board or the District Attorney of Orange County. Actions may be taken pursuant to the authority and provisions of several laws, including but not limited to:
    - a. Federal Water Pollution Control Act (Clean Water Act).
    - b. California Porter-Cologne Water Quality Act (California Water Code).
    - c. California Hazardous Waste Control Law.
    - d. Resource Conservation and Recovery Act (RCRA).
- B. Recovery of Fines or Penalties.
  - 1. Payment of fines or penalties by the TCWD due to enforcement actions of other regulatory agencies based upon a violation by the TCWD whose cause can be established as the discharge of any user which is in violation of any provisions of this ordinance or a wastewater discharge permit shall entitle the TCWD to recover from the user all cost and expenses, including, but not limited to the full amount of fines and penalties which the TCWD has been subjected to.
  - 2. Each violation shall constitute a new and separate violation and shall be subject to the fines and penalties contained herein.
- C. Civil Liability
  - 1. Pursuant to the authority of California Government Code Sections 54739-54740, any user, permittee, discharger or other person who violates any provision of this ordinance, any wastewater discharge permit condition, prohibition or effluent limitation, or any order, compliance schedule, suspension or revocation shall be civilly liable for a sum not to exceed twenty-five thousand dollars (\$25,000) per violation for each day in which such violation occurs.

2. Pursuant to the authority of Act. 33 U.S.C. Section 1251 st seq., any user, permittee, discharger or other person who violates any provision of this ordinance, any wastewater discharge permit condition, prohibition or effluent limitation, or any order, compliance schedule, wastewater discharge permit suspension or revocation shall be civilly liable for a sum not to exceed twenty-five thousand dollars (\$25,000) per violation for each day in which such violation occurs.
3. The TCWD may petition the superior court to impose, assess and recover penalties or other such penalties as the TCWD may impose, assess and recover pursuant to federal and/or state legislative authorization.
4. Notwithstanding any other provisions of law, all civil penalties imposed by the court for a violation of this ordinance shall be distributed to the TCWD.
5. Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recovered under this section for any violation for which liability is recovered under Section 909 D. of this ordinance.

#### D. Administrative Complaint

1. Pursuant to the authority of California Government Code Sections 54740.5 and 54740.6, the TCWD may issue an administrative complaint to any user, permittee, discharger or other person who violates any provision of this ordinance, any wastewater discharge permit condition, prohibition or effluent limitation, or any administrative, suspension or revocation order or other control mechanism.
2. The administrative complaint shall be served by personal delivery or certified mail on such person and shall inform the person 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 civil penalty. The matter shall be heard by the General Manager or his designee. The person to whom an administrative complaint has been issued may waive the right to a hearing, in which case a hearing shall not be conducted.
3. At the hearing, the person 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 established by the General Manager and approved by the TCWD's General Counsel.
4. After the conclusion of the hearing, the General Manager's designee shall submit a written report to the General Manager setting forth a brief statement of the facts found to be true, a determination of the issues presented, conclusions and a recommendation. Upon receipt of the written report, the General Manager shall make his determination and should he find that grounds exist for assessment of a civil penalty, he shall issue his decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. If not appealed, the order shall be final thirty-one (31) days after it is served on the person.
5. A person dissatisfied with the decision of the General Manager may appeal to the Board pursuant to Section 913 of this ordinance within thirty (30) days of notice of the General Manager's decision.
6. If, after the hearing or appeal, if any, it is found that the person has violated reporting or discharge requirements or other provisions of the this ordinance, the General Manager or Board may assess a civil penalty against that person.
7. In the determination of the amount of the civil penalty, all relevant circumstances may be taken into consideration, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any non-compliance, the nature and persistence of the violations, the length of time over which the violation occurs and the corrective action(s), if any, attempted or taken by the person.
8. Civil penalties may be assessed 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 (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule

- 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, wastewater discharge permit condition, or requirement issued, reissued or adopted by the TCWD.
  - d. In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspensions, cease and desist order or other orders, or prohibition issued, reissued or adopted by the TCWD.
9. Payment of civil penalties shall be due within thirty (30) days of the date of the order assessing the penalties becomes final. The amount of any administrative civil penalties imposed which have remained delinquent for a period of sixty (60) days from the date they are due shall constitute a lien against the real property of the discharger from which the discharge resulting in the imposition of the penalty originated. The lien shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for ten (10) years and be renewable in accordance with law.
  10. Copies of the administrative order shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy of the order.
  11. Any party aggrieved by a final order issued by the Board after granting review of the order of the General Manager may obtain review of the order of the Board in the Superior Court, by filing in the court a petition for writ or mandate within thirty (30) days following the service of a copy of the decision and order issued by the Board.
  12. Any party aggrieved by a final order issued by the General Manager, for which the Board denies review, may obtain review of the order of the General Manager in the Superior Court, by filing in the court a petition for writ of mandate within thirty (30) days following service of a copy of a decision and order denying review by the Board.
  13. No administrative civil penalties shall be recoverable under this section for any violation for which civil liability is recovered under Section 909 C. of this ordinance.

**910 CRIMINAL PENALTIES**

- A. Any person who violates any provision of this ordinance is guilty of a misdemeanor, which upon conviction is punishable by a fine not to exceed one thousand dollars (\$1,000) or imprisonment for not more than thirty (30) days or both.
- B. Each violation shall constitute a new and separate violation and shall be subject to the penalties contained herein.

**911 PUBLIC NUISANCE**

- A. Discharge of wastewater in a manner that is in noncompliance or violation of this ordinance or of any order issued by the TCWD, in accordance with this ordinance, shall hereby be declared a public nuisance and shall be corrected or abated as directed by the TCWD.
- B. Any person creating a public nuisance is guilty of a misdemeanor and is subject to the criminal penalties identified in Section 910 of this ordinance.

**912 APPEALS TO THE GENERAL MANAGER**

- A. General
  1. Any user affected by a decision, action or determination made by TCWD staff may file with the General Manager a written request for an appeal hearing.
  2. Request must be made within fifteen (15) days of the mailing of the original decision.

3. Request for hearing shall set forth details of all facts supporting the appellant's request for hearing.

B. Notice

1. The General Manager shall, within fifteen (15) days of receiving the request for appeal provide written notice to the user of the hearing date, time, and place.
2. The hearing time shall not be more than thirty (30) days from the mailing of such notice by certified mail to the appellant unless a later date is agreed to by the appellant.
3. If the hearing is not held within the time set due to actions of the appellant, then the TCWD's decision shall be deemed final.

C. Hearing

1. The appellate shall have the opportunity to present information supporting its position concerning the TCWD's original decision, action or determination.
2. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by the TCWD's General Counsel.

D. Written Determination

1. After the hearing the General Manager shall make a determination whether to uphold, modify or reverse original decision, action or determination as issued by TCWD staff.
2. This decision shall be put into writing within a brief statement of facts found to be true, the determination of the issues presented, and the findings.
3. The final determination of the General Manager upon his approval shall be executed as the order.
4. A copy shall be mailed or delivered to the appellant.
5. The order of the General Manager shall be final in all respects fifteen (15) days after it is mailed to the appellant, unless appealed under Section 913 of this ordinance.

E. Wastewater Discharge Permit Suspension/Revocation Appeals

1. Appeals regarding wastewater discharge permit suspension or revocation are covered under Section 905 and Section 913 as specified in this ordinance.

**913 APPEALS TO THE BOARD**

A. General

1. The user may, within thirty (30) days after the date of notification of the General Manager's order upholding the TCWD's determination, file a written appeal to the Board.
2. A fee of one hundred dollars (\$100) shall accompany the written appeal which shall be refunded if the Board of Directors reverses or modifies the order of the General Manager.
3. A request for appeal to the Board shall set forth details of the past record and that new arguments cannot be raised on appeal to the Board that could have been, but were not, raised in the prior appeal to the General Manager.
4. Pending the hearing on appeal, the user shall not be entitled to discharge into sewerage facilities beyond the effective date of the original order determined by the General Manager, unless it has been determined by the General Manager that the user is pursuing good faith arguments and approves such discharge.

B. Notice

1. The Board Secretary, within fifteen (15) days of receiving the request for appeal, will provide written notice to

the user of the hearing date, time and place.

2. The hearing date shall not be more than forty-five (45) days from the mailing of such notice by certified mail to the appellate unless a later date is agreed to by the appellant.
3. If the hearing is not held within the time set due to action of the appellant, the General Manager's decision shall be deemed final.

C. Hearing

1. The appellant shall have the opportunity to present information supporting its position concerning the General Manager's determination.
2. The hearing shall be conducted in accordance with procedures established by the Board and approved by the TCWD's General Counsel.

D. Written Determination

1. After the hearing, the Board shall make a determination whether to uphold, modify or reverse the original decision, action or determination as ordered by the General Manager.
2. The decision of the Board shall be reduced to writing within thirty (30) days after the hearing.
3. It shall contain a brief statement of facts found to be true, the determination of the issues presented, and the findings. The decision shall be submitted to the appellant.
4. The order of the Board shall be final upon its adoption.

**914 JUDICIAL REVIEW**

A. Purpose and Effect

1. Pursuant to Section 1094.6 of the California Code of Civil Procedure, the time in which a user may bring an administrative mandamus action shall be limited to ninety (90) days following the final decision in the adjudicative administrative hearing in question.

B. Time Limit for Judicial Review

1. Judicial review of any decision of the TCWD's Board may be made pursuant to Section 1094.5 of the California Code of Civil Procedure only if the petition for writ of mandate is filed no later than ninety (90) day following the date on which any decision becomes final.

C. Preparation of Records

1. The complete record of the proceedings shall be prepared by the TCWD and shall be delivered or mailed to the petitioner within one hundred-ninety (190) days after they have filed a written request.
2. The TCWD shall recover from the petitioner its actual costs for preparing and transcribing the record.

D. Extension

1. If the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition may be filed, pursuant to Section 1094.5 of the California Code of Civil Procedures, shall be extended to no later than thirty (30) days following the date on which the record is delivered or mailed, by the TCWD, to the petitioner or the petitioner's attorney of record, if appropriate.

E. Notice

1. In making a final decision, the TCWD shall provide notice to the user whose wastewater discharge permit

has been denied, suspended or revoked, that the time in which judicial review must be sought is governed by Section 1094.6 of the California Code of Civil Procedures.

F. This section does not apply to action taken under Section 909 of this ordinance.

**915 PAYMENT AND COLLECTION OF FEES AND CHARGES**

- A. Except as otherwise provided, all fees and charges are due and payable upon receipt of an invoice or notice thereof. All such amounts are delinquent if unpaid forty-five (45) days after date of invoice or notice.
- B. Any invoice or notice that becomes delinquent may have added to it an assessment in accordance with the following:
  - 1. Forty-six (46) days after the date of invoice or notice, an assessment of ten percent (10%) of the base amount, not to exceed a maximum of \$1,000.
  - 2. Ninety (90) days after the date of invoice or notice, a total of twenty-five percent (25%) of the base amount, not to exceed a maximum of \$2,500.
- C. Any invoice or notice that is outstanding and unpaid after ninety (90) days may be cause for immediate initiation of wastewater discharge permit revocation proceedings or immediate wastewater discharge permit suspension.
- D. Delinquent assessments under this section may not accrue to those invoices or notices successfully appealed, provided the TCWD received written notice of appeal prior to the payment due date.
- E. Payment of disputed fees and charges are still required by the due date during review of any appeal submitted by permittee.
- F. This section does not apply to Section 909 of this ordinance.

**916 RECOVERY OF ENFORCEMENT COSTS**

In the event a user fails to comply with any of the terms and conditions of this ordinance, wastewater discharge permit, administrative order, wastewater discharge permit suspension or revocation, other control mechanism or any other enforcement action, the TCWD shall be entitled to reasonable attorney's fees and costs which may be incurred during enforcement of any terms and conditions with or without filing proceedings in court.

**917 FINANCIAL SECURITY CONDITIONS**

- A. Compliance Deposit
  - 1. Users that have been subject to enforcement actions and/or fees, charges, penalties or fines may be required to deposit with the TCWD an amount determined by the General Manager as necessary to guarantee payment of all charges, fees, costs and expenses that may be incurred in the future.
  - 2. A compliance deposit shall be received by the TCWD before the TCWD either issues a wastewater discharge permit, other control mechanism or grants the user permission for further discharge to sewerage facilities.
- B. Delinquent Accounts
  - 1. Any user who fails to make payment in full of all fees, charges, penalties or fines assessed by the TCWD including reconciliation amounts, delinquency fees, and other costs or fees, may be required to obtain the issuance of an amendment to their wastewater discharge permit.

- C. Bankruptcy
  - 1. Any user filing any legal action in any court of competent jurisdiction, including the United States Bankruptcy Court, for purposes of discharging its financial debts or obligations or seeking court-ordered protection from

its creditors, shall within ten (10) days of filing such action, apply for and obtain the issuance of an amendment to its wastewater discharge permit by the TCWD.

D. Wastewater Discharge Permit Amendments

1. An amendment issued to the user's wastewater discharge permit shall be in accordance with the provision of this ordinance.

E. Security Deposit

1. An amendment to a wastewater discharge permit issued in accordance with this ordinance may be conditional upon the permitted user depositing financial security in an amount equal to the total fees and charges from the preceding year.
2. Such a deposit shall be used to guarantee payment of all fees and charges incurred for future services and sewerage facilities provided by the TCWD and shall not be used by the TCWD to recover outstanding fees and charges incurred prior to the user filing and receiving protection from creditors in the United States Bankruptcy Court.

F. Return of Security Deposit

1. If the user makes full payment in time of all fees and charges incurred over a period of two (2) years following the issuance of an amendment to the user's wastewater discharge permit prescribed by this ordinance, the user's security deposit shall be returned or credited to the user's account.

**918 REPORT OF ANALYSIS**

All collected data from inspection and monitoring sampling conducted by the TCWD may be reported to the user. This data, if given to the user, shall be kept by the user and the TCWD and made available during inspections by the TCWD or any other regulatory agency.

**919 DAMAGE TO FACILITIES OR INTERRUPTION OF NORMAL OPERATIONS**

- A. When a discharger of wastes causes an obstruction, interference, damage, or other impairment to sewerage facilities or to the operation of sewerage facilities, the TCWD may assess the costs against the user for the work required to clean, replace or repair the sewerage facility together with expenses incurred to resume normal operations. This shall also be grounds for wastewater discharge permit revocation. A service charge of twenty-five percent (25%) of costs shall be added to the costs and charges to cover the TCWD's overhead, including administrative personnel and record keeping. The total amount shall be payable within forty-five (45) days of invoicing by the TCWD
- B. If it can be shown that the discharge of any user is the cause of the TCWD violating its NPDES permit and pretreatment requirements established by any Regulatory Agency or incurring additional expenses or suffering losses or damage to TCWD sewerage facilities, then that user shall be responsible for any costs, expenses, or assessments incurred by the TCWD, made by other agencies or a court.
- C. Where two or more dischargers cause a single and indivisible harm to sewerage facilities, each is jointly and severally liable for the damages. The burden of proof is on the dischargers to demonstrate that the harm is divisible.

**920 INDUSTRIAL WASTE PASS THROUGH**

- A. If an industrial waste discharge results in a "pass through" event in sewerage facilities, all costs associated with the event, including but not limited to treatment costs, fines, regulatory fines, and other indirect costs may be charged against the user.

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- B. The user shall submit plans, which prevent future recurrences to the satisfaction of the TCWD.
- C. A second occurrence shall be grounds for wastewater discharge permit revocation without the right of appeal.

**921 BATCH DUMPS**

- A. When the TCWD determines that a user has discharged concentrated noncompatible wastes into sewerage facilities in a manner or method that is not approved by the TCWD, any enforcement action may be taken as set forth in this ordinance.
- B. The user shall be subject to wastewater discharge permit suspension or revocation in accordance with this ordinance as well as any other legal enforcement penalties or remedies available to the TCWD.

**922 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE (SNC)**

- A. To comply with the requirements of 40 CFR 403, the TCWD shall annually publish the names of all industrial users that are in SNC of federal pretreatment standards.
- B. Publication of this SNC notice shall be in the newspaper of general circulation that provides meaningful public notice within the TCWD service area.
- C. The determination of SNC is based upon the definition set forth in Section 202 B.87. of this ordinance.

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ARTICLE 10  
FEES AND CHARGES**

**1001 APPLICATION FEE**

- A. All application fees shall be in an amount as established by the TCWD.

- B. Payment of the application fee must be received before the issuance of a new or renewal of a wastewater discharge permit.
- C. User shall pay any delinquent invoices in full, prior to the wastewater discharge permit renewal.

**1002 ANNUAL WASTEWATER DISCHARGE PERMIT FEE**

- A. The annual wastewater discharge permit fee shall be in an amount as established by the TCWD.
- B. The annual wastewater discharge permit fee shall be due on or before the date set by the TCWD.

**1003 INSPECTION, MONITORING AND SAMPLING CHARGES**

- A. Any and all costs incurred by the TCWD to inspect, monitor and sample a user for the purpose of assuring compliance with this ordinance, the user's wastewater discharge permit, other control mechanism or other regulations, shall be paid for by the user only upon receipt of an invoice or bill from the TCWD or its representative.

**1004 DELINQUENCY FEES**

- A. Any fees that become delinquent may have added to it an amount as set forth in Section 915 of this ordinance.
- B. Any delinquent fee and all assessments including court costs and legal fees thereon may be collected by lawsuit in the name of the TCWD.

**1005 ADDITIONAL FEES AND CHARGES**

- A. The user will be required to pay all applicable additional fees and charges that are established by the TCWD only upon receipt of an invoice or bill.
- B. Any wastewater discharge permit issued for a location where the user is not the property owner, may be conditioned upon depositing financial security to guarantee payment of all additional fees and charges to be incurred, in accordance with the provisions of Section 917 of this ordinance.

**1006 RECORDING OF FEES AND CHARGES**

- A. The TCWD may keep a permanent record and account of all fees and charges received under this ordinance.
- B. Record information shall include, but is not limited to:
  - 1. Name and address of user.
  - 2. Date and amount of fee or charge.
  - 3. Purpose for which fees or charges were paid.

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ARTICLE 11  
SEVERABILITY**

**1101 SEVERABILITY**

- A. If any provisions of this ordinance or the application thereof to any user or circumstances is held invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance or the

application of such provision to other users or other circumstances shall not be affected.

- B. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance. The Board declares that they would have passed said ordinance by section, subsection, sentence, clause or phrase thereof.

**ARTICLE 12  
REPEAL**

**1201 REPEAL**

- A. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as of the effective date set forth in Section 1301 to the extent that they are inconsistent with the provisions of this ordinance.

**ARTICLE 13  
EFFECTIVE DATE**

**1301 EFFECTIVE DATE**

- A. This ordinance shall become effective thirty (30) days after adoption.
- B. Amendments to this ordinance shall become effective thirty (30) days after there adoption.
- C. Action on this Ordinance was completed on and witnessed by the following:

**TRABUCO CANYON WATER DISTRICT**

Dated \_\_\_\_\_ by \_\_\_\_\_  
President

Dated \_\_\_\_\_ by \_\_\_\_\_  
Secretary



**EXHIBIT "B"**

**TRABUCO CANYON WATER DISTRICT ENFORCEMENT RESPONSE PLAN**



**TRABUCO CANYON WATER DISTRICT**  
**ENFORCEMENT RESPONSE PLAN**

**1. Introduction**

The Trabuco Canyon Water District's (TCWD) Enforcement Response Plan (ERP) has been developed pursuant to the requirements set forth in 40 CFR 403.8(f)(5). This ERP is intended to support TCWD's primary responsibility to enforce all applicable pretreatment requirements. Included herein are procedures for investigating instances of noncompliance, and information on the types of escalating enforcement responses available to TCWD, including the time frames for implementation of these responses.

The purpose of the ERP is to provide guidance to TCWD staff in the application of enforcement measures relative to the Waste Discharge Pretreatment and Source Control Program. General enforcement guidance is provided in "An Ordinance of Regulations for the Discharge of Wastewater to Sewerage Facilities of the Trabuco Canyon Water District Service Area", but specific application of that general guidance to the range of possible enforcement actions is set forth in this ERP.

The goals in developing this ERP are to ensure that compliance monitoring and enforcement actions are executed in a consistent, fair and timely manner for all industrial users (IU).

**2. Industrial User (IU) Sampling and Inspections**

While the main part of this ERP will deal with enforcement responses to IU violations after they have occurred, an important prerequisite is determining a violation. The TCWD has implemented either a sampling and/or inspection program for all users who are permitted to discharge industrial wastewaters to sewerage facilities. The number of sampling events scheduled for a particular IU is set forth in their wastewater discharge (WD) permit.

IU inspections are done to determine compliance with applicable regulations, to verify information submitted to the TCWD by the IU in reports and applications, and to review waste disposal manifests for materials generated by IUs that are prohibited from discharge to sewerage facilities. Inspections are also used as a mechanism to allow follow up on instances of IU noncompliance. Documentation of each inspection is made by the inspector and evaluated for potential violations. Sampling is done to determine compliance with specific discharge limitations for applicable pollutants. Sampling is also used as a mechanism to follow up instances of IU 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 TCWD for compliance verification.

**3. Compliance Screening**

The compliance screening process involves reviewing all available information to identify any noncompliance. The review process should assess, as appropriate, compliance with schedules, reporting requirements, and applicable pretreatment standards. This review, conducted by TCWD staff is primarily to identify apparent violations and not to determine the appropriate enforcement response.

The screening process should verify that all reports from IUs are submitted on schedule, cover the proper time period, include all information required, and are properly signed. If self monitoring reports (SMR) are submitted, they should be carefully reviewed for accuracy and completeness, and compared to the appropriate discharge limitations to verify compliance. Laboratory results from IU samples should be carefully reviewed and compared to applicable discharge limitations. All violations or potential violations should receive an appropriate enforcement response as described later in this ERP.

**4. Significant Noncompliance**

Although all violations must be identified and responded to, the circumstances of the occurrence must be identified before an enforcement action is taken. Consider the "what, when, where, how, who, and why" of the situation, the IU's response to the noncompliance and notification of the control authority, and the number of times the noncompliance has occurred in the last twelve months. Remember that any noncompliance can place the IU in significant noncompliance (SNC). All IUs in SNC must be included in the public notification that must be published at least annually in a newspaper(s) of general circulation that provides meaningful public notice within the TCWD service area. For the purpose of this ERP, a significant industrial user (SIU) (or any IU which violates paragraphs C, D or H below) is in SNC

if its violation meets one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined in 40 CFR 403.3(l);
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standards or requirement, including instantaneous limits, as defined in 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement as defined in 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limits, or narrative standard) that the TCWD determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of TCWD personnel or the general public;
- D. Any discharge of pollutant that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the TCWD's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit, other control mechanism 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, required reports, including, but not limited to, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance;
- H. Any other violation or group of violations, which may include a violation of Best Management Practices, which TCWD determines will adversely affect the operation or implementation of the local pretreatment program.

#### **5. Enforcement Response Summary**

TCWD's pretreatment ordinance provides specific limitations on discharges to sewerage facilities. Provisions of ordinance require IUs to obtain a WD permit by which the TCWD can impose industry specific conditions and prohibitions on IU discharges. Violations by an IU of the TCWD's ordinance, their WD permit conditions, or federal pretreatment regulations, including the requirements imposed on federal categorical industries and their relative numerical discharge limits, must all receive an appropriate enforcement response by the TCWD.

The general enforcement responses available to the TCWD are discussed in the pretreatment ordinance, which provides the legal authority necessary to implement any and all measures required to ensure IU compliance. The most common enforcement response mechanisms are:

- o Warning Notice of Noncompliance Letter (WNON)
- o Notice of Noncompliance Form (NON)
- o Notice of Violation Form (NOV)
- o Administrative Order (AO)
- o Administrative Complaint
- o Permit Suspension or Revocation
- o Termination of Service
- o Emergency Suspension
- o Injunction
- o Civil Action
- o Criminal Action

The enforcement mechanisms are implemented according to a progressive enforcement philosophy. To ensure consistency of enforcement application, and to meet the requirements promulgated by 40 CFR 403.8 (f)(5), the TCWD has developed an Enforcement Response Guide (ERG), included as Appendix A, as part of its ERP. This guide is a useful tool that presents proper enforcement responses for a variety of noncompliance scenarios.

## **6. Enforcement Response Mechanisms**

- A. **Warning Notice of Noncompliance Letter** – The Warning Notice of Noncompliance Letter (WNON) is a written communication from the TCWD to the noncompliant IU stating that a violation of the pretreatment program has occurred and that correction of the noncompliance is necessary. A WNON may include specific corrective actions required of the IU, as well as a statement that additional enforcement actions may be pursued if corrective actions are not accomplished. A copy of the WNON may be maintained in the IUs permanent file.
- B. **Notice of Noncompliance Form** – The Notice of Noncompliance Form (NON) is a formal, written communication from the TCWD to the noncompliant IU stating that a violation of the pretreatment program has occurred and that a response to the noncompliance is required. A NON may include specific corrective actions required of the IU, as well as a statement that additional enforcement actions may be pursued if corrective actions are not accomplished. NONs may be sent via certified mail with return receipt requested and serve as proof that the IU received the NON in the event that additional enforcement actions become necessary. A copy of the NON may be maintained in the IUs permanent file.
- C. **Notice of Violation Form** – The Notice of Violation Form (NOV) is an official, written communication from the TCWD to the violating IU stating that they have failed to respond to a previously issued enforcement action or that a violation of the pretreatment program requires their immediate attention for compliance. A response is required of the IU. The NOV may include specific corrective actions required of an IU, as well as a statement that additional enforcement actions may be pursued if corrective actions are not accomplished as scheduled. NOV's may inform the IU that Administrative Fines are pending or have been levied against them. NOV's may be sent via certified mail with return receipt requested and may serve as proof that the IU received the NOV in the event that more formal enforcement proceedings become necessary. A copy of the NOV and the return receipt may be maintained in the IUs permanent file.
- D. **Administrative Order** – The Administrative Order (AO) is an official written enforcement document from the TCWD directing the noncompliant IU to undertake or to cease specific activities required to bring the IU into compliance as determined by the TCWD. The terms and conditions of the AO are not negotiable. The circumstances of an IU noncompliance may dictate which additional theme the AO may take to achieve the earliest possible return to compliance. The AO may be sent via certified mail with return receipt requested. A copy of the AO and the return receipt may be maintained in the IUs permanent file. The AO may include Administrative Fines and may include, but are not limited to, the following:
  - 1. **Probation Order (PO)** – The PO directs the violating IU to achieve compliance by a date specified in the order. The PO is usually issued when an IU is in violation of the pretreatment ordinance, or the terms, conditions and limitations of its WDP or other enforcement action, or has not made payment of all amounts owed to the TCWD for user charges, noncompliance fees or any other fees, charges or fines. Additional administrative fines may also be assessed in the conditions of the PO.
  - 2. **Show Cause Order (SCO)** – The SCO directs the noncompliant IU to appear at a formal meeting, usually at a TCWD location, to explain its noncompliance, and to show cause why more severe enforcement actions against the IU should not go forward. This action, however, is not a prerequisite to taking other or more severe enforcement actions. Administrative fines may also be assessed in the conditions of the SCO.
  - 3. **Cease and Desist Order (CDO)** – The CDO directs the noncompliant IU to cease all process discharges immediately. A CDO may be issued in situations where a particular discharge could cause interference or pass through, or threaten human health or the environment. The order may be issued immediately upon discovery of the problem or following a hearing. In an emergency, a CDO may be issued by telephone, however, such an order may be followed by a written CDO served on the IU, either in person or by certified mail with return receipt requested. If necessary, the TCWD may order immediate cessation of any discharge to sewerage facilities, regardless of the IU compliance status. If an IU fails to comply with the CDO, the TCWD may take independent action to halt the discharge, such as terminating the service by plugging the IU's connection to sewerage facilities.

- E. **Administrative Complaint** – The administrative complaint is the process by which monetary fines or penalties are assessed by the TCWD for violations of the pretreatment program. These fines or penalties are assessed at the discretion of the TCWD and the amount of the fines or penalties may be determined on a case by case basis. These fines or penalties do not require court intervention unless the IU contests the action or refuses to pay the fine or penalty. Fines or penalties are punitive in nature and are not related to a specific cost born by the TCWD. Instead, fines or penalties are to recapture the full or partial economic benefit of an IU's noncompliance, and to deter future violations. Fines or penalties may be assessed as a condition of any enforcement action taken by the TCWD against any IU for any reason.
- F. **Permit Suspension or Revocation** – Suspension or revocation of an IU's WD permit is an enforcement tool that may be used when attempts to bring an IU into compliance do not succeed, and that more severe measures, such as civil or criminal action or termination of service seem imminent. Without a valid WD permit, the IU cannot legally discharge their wastewaters to sewerage facilities. If an IU continues to discharge without a WD permit, grounds then exist to take more stringent enforcement action. Additionally, once compliance can be assured, the IU may reapply for a WD permit, a process that may require the payment of fees and/or baseline sampling and monitoring.
- G. **Termination of Service** – Termination of service is the revocation of an IU's privilege to discharge any and all wastewaters to sewerage facilities. Termination may be accomplished by physically severing or plugging an IU's connection to sewerage facilities, by using an AO compelling the IU to cease all discharges, or by court ruling. Termination of service may require the IU to halt operation and may force closure. Accordingly, the TCWD should carefully consider all legal and operational implications of service termination prior to using this enforcement response.
- H. **Emergency Suspension** – The emergency suspension of an IU's sewerage facility service is deemed necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, cause interference to the sewerage facilities, or cause the TCWD to violate any state or federal law or regulation. Suspension of service may be accomplished by physically severing or plugging an IU's connection to any sewerage facility. An emergency suspension order is final and the IU has no right of appeal.
- I. **Injunction** – This is the formal process of filing a petition with the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate to restrain the IU from continuing a discharge that is in violation of the pretreatment ordinance, federal, state or local law.
- J. **Civil Action** – Civil litigation is the process of filing lawsuits against an IU to secure court ordered action to correct violations and secure penalties for violations including the recovery of costs to the TCWD relative to the noncompliance. Civil action is normally taken when the corrective action required is costly and complex, the penalty to be assessed exceeds that which the TCWD can assess administratively or when the IU is considered recalcitrant or unwilling to cooperate. Civil litigation may also include enforcement measures that require involvement or approval of the courts, such as injunctive relief and settlement agreements. Civil litigation requires the cooperation of the TCWD's legal counsel and may result in court trials of an IU and assessment of penalties. Civil litigation however, unlike criminal prosecution, does not require proof of intent or negligence for the TCWD to prevail.
- K. **Criminal Action** – Criminal prosecution is the formal process of charging individuals and/or organizations with violations of ordinance that are punishable, upon conviction, by fines and/or imprisonment. Section 309(c) of the Clean Water Act authorizes the Federal Government to seek criminal punishment for any person who willfully or negligently violates pretreatment standards, among other standards, or for any person who knowingly makes false statements regarding any report, application, record, or other document required by the general pretreatment regulations. There are two elements required for criminal conviction; (1) an act is in violation of the law; and (2) criminal intent. Acts which might themselves be characterized as "criminal" may not result in prosecution if the prosecutor cannot prove intent or criminal negligence. In other words, the IU either must have intended to break the law or was so indifferent to the nature and implications of its act, that it could be deemed criminally negligent. Unless a prosecutor can prove both of these elements, criminal prosecution is not a viable option.
- L. **Supplemental Responses** – Article 9 of the TCWD pretreatment ordinance allows the TCWD to implement enforcement measures in addition to or in lieu of those described above as long as the measures are provided for by local, state or federal law. 40 CFR 403.8(f)(2)(vii) requires the TCWD to annually publish a list of IUs in significant noncompliance. Specific legal authority to use this supplemental response measure is set forth in Section 922 of the TCWD's pretreatment ordinance.

## **7. Enforcement Response Guide (ERG)**

The ERG is the centerpiece of the TCWD's ERP. The guide itself is a matrix which describes violations and indicates a range of appropriate enforcement options based on the nature and severity of a violation and other relevant factors. The ERG is designed to promote consistent and timely use of enforcement remedies for a variety of noncompliance scenarios. The ERG, divided into four general noncompliance categories, is included as "Appendix A"

### **A. ERG Application**

When using the ERG to determine the appropriate enforcement response for a particular noncompliance event you will notice that for many violations there are several acceptable response options. There are a number of factors to consider when selecting a response from these options, and in this way the ERG allows for some flexibility in its application. Some factors that require consideration are:

- o Good faith of the IU.
- o Compliance history of the IU.
- o Previous success of enforcement actions taken against the particular IU (e.g., if NON's have not succeeded in returning the IU to compliance, an AO may be a more appropriate response).
- o The IUs violation's effect on the receiving waters.
- o The IUs violation's effect on sewerage facilities.

Since the responses designated in the ERG are all considered appropriate, the TCWD must weigh each of the above factors in deciding whether to use a more or less stringent response.

Additionally, there may be violations and/or noncompliance scenarios that are not reflected in the ERG. For these instances, the general intent of the ERG should be evaluated and the enforcement response should be implemented consistent with those which would be applied to violations similar in magnitude.

The primary objectives in developing an ERG are to ensure that violators return to compliance as quickly as possible, to penalize noncompliant IUs, to deter future noncompliance and to recover any additional expenses incurred by the TCWD relative to an instance of noncompliance.

### **B. Response Time Frames**

The ERG is designed to promote a consistent methodology of enforcement for all IUs, in the sense that similar violations require similar enforcement responses. To promote consistent application of the ERG a time frame for enforcement is established below:

1. All noncompliance events may be identified and documented within fifteen (15) working days of receiving compliance information (e.g. lab results, self monitoring data, inspections, etc).
2. Initial enforcement responses may occur within thirty (30) working days of noncompliance detection.
3. Follow up actions for noncompliance may be taken within sixty (60) working days of the initial enforcement response. For all continuing noncompliance events, the response may include a compliance schedule.
4. Noncompliance which threaten health, property or environmental quality are considered emergencies and may receive an immediate response as required.
5. All noncompliance meeting the criteria for significant noncompliance may be addressed with an enforcement action within forty-five (45) working days of the identification of significant noncompliance.

### **C. Enforcement Personnel Responsibilities**

A variety of individuals contribute to the TCWD's pretreatment program and activities related to enforcement. The authorized personnel of the TCWD who conducts the pretreatment program may review and sign all enforcement action documents prior to them being issued to the IU. General supervision of the pretreatment program is provided by the TCWD General Manager. Enforcement documents and correspondence may also be reviewed by the General Manager. The pretreatment program staff is responsible for conducting the day to day implementation of the

pretreatment program. The pretreatment staff will generate the majority of the written correspondence and enforcement documentation for management to review. Informal communications between TCWD and the IU is also the responsibility of the pretreatment staff. Accurate and complete records of enforcement actions and related compliance monitoring are maintained in individual IU files by the TCWD pretreatment staff. Other TCWD staff, including treatment plant operators, lab technicians, collection personnel, and contract laboratory personnel may provide assistance to the TCWD pretreatment staff as requested to complete the required sampling and analysis associated with enforcement activities.

## OUTLINE FOR THE DETERMINATION OF NONCOMPLIANCE

1. Review of reports required of the IU by the TCWD.
  - a. Failure to report.
  - b. Failure to report by the required date.
  - c. Failure to report all of the required information.
  - d. Failure to monitor all of the required parameters.
  - e. Failure to meet discharge limitations or prohibitions.
  - f. Failure to state reasons for noncompliance.
  - g. Failure to state when compliance will be achieved.
  - h. Failure to be signed by the authorized representative.
  
2. Review through the inspection program.
  - a. Failure to admit authorized Control Authority personnel.
  - b. Failure to admit authorized Control Authority personnel in a timely manner.
  - c. Failure to adequately operate the IU pretreatment system:
    - i) Inadequately manned.
    - ii) Inadequately or incorrectly operated.
  - d. Failure to sample/monitor regulated discharges.
  - e. Failure to sample/monitor according to permitted procedures:
    - i) Sample/monitor in inappropriate location(s).
    - ii) Sample/monitor at inappropriate times.
    - iii) Sample/monitor using unapproved methods.
    - iv) Failure to use approved analytical procedures.
    - v) Failure to use approved laboratories.
  - f. Failure to report all sampling/monitoring results obtained by approved methods.
  - g. Inappropriate procedures utilized for handling chemicals or hazardous wastes.
  - h. Inappropriate notification to the TCWD of a spill.
  - i. Failure to retain proper documentation on site.
  - j. Failure to provide the proper documents to TCWD personnel.
  - k. Failure to discharge by approved methods:
    - i) Discharging to sewerage facilities by way of unapproved/unpermitted location.
    - ii) Discharge of unapproved wastes outside of sewerage facilities.
    - iii) Bypass of IUs pretreatment system.
    - iv) Discharge during unapproved discharge schedule.

**OUTLINE FOR THE DETERMINATION OF NONCOMPLIANCE  
(cont)**

3. Review of schedule activities of the IU.
  - a. Failure to submit a Baseline Monitoring Report (BMR).
  - b. Failure to submit any required reports.
  - c. Failure to submit compliance schedule(s).
  - d. Failure to meet scheduled deadlines.
  - e. Failure to sample, monitor, submit information, or any other activity required by the TCWD, the pretreatment ordinance, the WD permit, or any other pretreatment standards or requirements.
4. Evaluating and examining the results of TCWD sampling.
  - a. Failure to meet local limits.
  - b. Failure to meet WD permit limits.
  - c. Failure to meet Federal Standards or categorical limits.
5. Evaluating and examining sewerage facility upsets or interferences.
  - a. Failure to report spill.
  - b. Discharge of unapproved material.
6. Information from other agencies, sewerage facility workers, IU workers, and citizens.
7. Other action(s) in violation of the pretreatment ordinance.
  - a. Failure to appear to a show cause hearing or informal meeting in lieu of show cause hearing.
  - b. Failure to comply with an AO issued by the TCWD.

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**APPENDIX A**  
**ENFORCEMENT RESPONSE GUIDE - SAMPLING, MONITORING AND REPORTING VIOLATIONS**

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>ENFORCEMENT RESPONSE</u>
Failure to sample, monitor or report (routine reports, BMR's, etc...)	Isolated or infrequent	WNON or NON NOV Fines
Failure to provide reports for compliance schedules or self monitoring; failure to resubmit incomplete, inaccurate or improper reports returned to IU by TCWD	Report not submitted or properly resubmitted for 45 days or more after due date	NON NOV AO Fines per day until report submitted
Failure to sample, monitor, report or notify	IU does not respond to letters, AO or other requirements	AO Show Cause Fines Revoke Permit/Terminate Service
Failure to notify of applicable pretreatment standard violation as a result of self monitoring	Isolated or infrequent - no known sewerage facility or environmental effects	WNON or NON NOV Fines
Failure to notify of slug discharge	Isolated or infrequent - no known sewerage facility or environmental effects	WNON or NON Fines
Failure to notify of slug discharge	Known interference or pass-through or threat to human safety or the environment	NOV AO Fines Civil Action to recover Damages
Sampling, monitoring or reporting deficiencies (missing info, late reports, etc...)	Isolated or infrequent	NON Fines
Sampling, monitoring or reporting deficiencies (missing info, late reports, etc...)	Continued or remain uncorrected.	NOV AO Fines

**ENFORCEMENT RESPONSE GUIDE - COMPLIANCE SCHEDULE/PERMIT CONDITION VIOLATIONS**

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>ENFORCEMENT RESPONSE</u>
Reporting false information	Any instance	AO Fines Criminal Action if evidence of intent or willful deception exists
Missed interim milestone date	Shall not cause late final or other interim dates to be missed	NON
Missed interim milestone date	Shall result in other missed interim or final date - violation for good or valid cause	NOV Fines
Missed interim milestone date	Shall result in other missed interim or final date - no good cause or valid cause	AO Fines
Missed final compliance date	45 days or more outstanding – failure or refusal to comply without good or valid cause	AO Fines Revoke Permit Terminate Service Civil/Criminal Action
Failure to install monitoring facilities or pretreatment equipment as required	45 days or more past required installation date	AO Fines
Report slug discharge or accidental spill	Isolated without known interference, pass-through or threat to human safety or the environment.	WNON or NON
Report slug discharge or accidental spill.	Isolated with known interference, pass-through or threat to human safety or the Environment	NOV Fines Civil Action
Report slug discharge or accidental spill	Recurring with known interference, pass-through or with threat to human safety or the environment	AO Fines/Civil Action Revoke Permit
Discharge without a permit or approval	IU unaware of requirement - no known interference, pass through or threat to human safety or the environment	WNON or NON with permit application

**ENFORCEMENT RESPONSE GUIDE - DISCHARGE STANDARD VIOLATIONS**

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>ENFORCEMENT RESPONSE</u>
Exceeding final effluent limits Categorical, local, prohibited	Infrequent or isolated violation	WNON or NON NOV Fines
Exceeding final effluent limits	Recurring violation or violation causing interference, pass through or threat to human safety or the environment.	NOV AO Fines/Civil Action
Exceeding final effluent limits	Violation(s) which place IU in Significant Noncompliance	NON NOV AO Public Notification Fines or Civil Action
Discharge without a permit or approval	Continuing with known environmental or sewerage facility damage	Terminate Service Criminal Action

**VIOLATIONS DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS**

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>ENFORCEMENT RESPONSE</u>
Permit condition violation	No evidence of negligence or intent	WNON or NON
Permit condition violation	Evidence of negligence or intent	NOV Fines Civil/Criminal Action
Discharge without a permit or approval	One time with known interference, pass through or environmental damage	NOV Fines AO Terminate Service Civil/Criminal Action
Refusal of access to TCWD personnel	Failure or refusal to comply with the right of access of TCWD personnel to the IU site.	NOV AO Fines Revoke Permit Terminate Service Inspection Warrant Criminal Action

