



PRETREATMENT ORDINANCE

FOR THE

**ENCINA WASTEWATER AUTHORITY
6200 AVENIDA ENCINAS
CARLSBAD, CALIFORNIA 92011**

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**SECTION 1
GENERAL PROVISIONS AND DEFINITIONS**

1.1 GENERAL PROVISIONS

A. PURPOSE AND POLICY

This Ordinance sets forth uniform requirements for Discharges into the Encina Sewerage System and enables the Encina Wastewater Authority ("EWA") to comply with all applicable State and federal laws, including the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*, as amended, and regulations promulgated thereunder.

The primary objectives of this Ordinance are:

1. To prevent the introduction of Pollutants into the Encina Sewerage System which would interfere with the operation of the components of the Encina Sewerage System or treatment processes or contaminate the resulting Biosolids;
2. To prevent the introduction of Pollutants into the Encina Sewerage System which would pass-through into receiving waters or the atmosphere;
3. To protect and preserve the well-being of the community, and EWA and Member Agency personnel;
4. To promote and protect the ability to reuse, recycle and reclaim Wastewater, Biosolids and Wastewater byproducts; and
5. To provide for collection of the cost of the EWA Pretreatment Program incurred for the regulation of Users of the Encina Sewerage System.

This Ordinance provides for the regulation of Discharge to the Encina Sewerage System through the issuance of Discharge Permits to certain non-Domestic Users and through enforcement of general requirements for other non-Domestic Users; authorizes monitoring and enforcement activities; requires User reporting; and provides for the setting of fees, fines, costs and deposits.

This Ordinance shall apply to EWA, the Member Agencies and to Persons outside the Member Agencies who are, by contract or agreement with a Member Agency, Users of the Encina Sewerage System.

B. AUTHORITY

The Clean Water Act, EPA regulations and EWA's NPDES Permit require the implementation of a Pretreatment Program, which may impose the following: limits, conditions and prohibitions on industrial Discharge to the Encina Sewerage System; compliance schedules for the installation of Pretreatment equipment which will enable Users to comply with their Discharge Permits; and/or actions necessary to enforce EWA's authority.

Any such limits, conditions, or prohibitions apply to Users that are tributary to the Encina Sewerage System or within areas for which EWA has contracted to provide sewerage services.

California Government Code Sections 54725 *et seq.* allow EWA to (1) require Users to implement Pretreatment of industrial waste in order for EWA to meet state and federal standards and to protect its treatment works or the proper and efficient operation thereof, or the health or safety of its employees or the environment; (2) prevent the entry of industrial waste into the Encina Sewerage System; and (3) collect excess costs to the Encina Sewerage System as a result of allowing Users to Discharge to the Encina Sewerage System.

Under the authority of Government Code Section 6509, EWA has established that it shall exercise its powers subject to the restrictions upon the manner of exercising the powers of a county water district pursuant to the County Water District Law (Water Code Sections 30000 *et seq.*). Water Code Sections 31105-31106 authorize EWA to adopt and enforce ordinances and provide that violation of any ordinance may be a misdemeanor.

C. SEVERABILITY

If any provision of this Ordinance or the application to any Persons or circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other Persons or other circumstances shall not be affected.

D. GENERAL RULES OF INTERPRETATION

1. Any gender includes the other gender.
2. "Shall" is mandatory; "may" is permissive.
3. The singular number includes the plural and the plural the singular.
4. Words used in the present tense include the past and future tense, and vice versa.
5. Words and phrases used in this Ordinance and not specifically defined shall be construed according to the context and approved usage of the language.

E. DATE RECEIVED

1. Any report, notice, invoice, order or other written communication which is sent via U.S. Postal Service is deemed received by the User on the third day following the postmark date, and is deemed received by EWA on the date indicated by the EWA date stamp. EWA shall stamp all mail received on the actual date received by EWA at its administrative offices.

2. Any report, notice, invoice, order or other written communication which is not sent via U.S. Postal Service is deemed received on the date actually received by EWA at its administrative offices or by the User at its business office.

1.2 DEFINITIONS

The following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

1. **Applicant.** Any Person who requests from EWA a Discharge Permit as required by this Ordinance.
2. **Authorized Representative.** Any Person who is: (a) a principal executive officer of at least the level of vice-president; (b) a general partner or proprietor; or (c) a duly authorized representative of an individual designated above if such representative is responsible for the overall operation of the facilities from which the Discharge originates.
3. **Baseline Monitoring Report (BMR).** A report that documents a User's compliance status with all applicable Pretreatment Standards.
4. **Best Management Practice (BMP).** Pollution prevention/waste reduction measures as set forth by EWA in Section 4.5 (B) of this Ordinance or in individual Wastewater Discharge Permits.
5. **Best Professional Judgment (BPJ).** A determination made after consideration of all reasonably available and pertinent data or information.
6. **Biochemical Oxygen Demand (BOD).** A measurement of the oxygen utilized during a five day incubation period for the biochemical degradation of organic and inorganic material.
7. **Biosolids.** The non-hazardous and recyclable organic matter resulting from the treatment of Wastewater.
8. **Brine Line.** A sewer line that is wholly or partially dedicated to the transport of Wastewater saturated with salts, but otherwise free of Pollutants, directly to the Encina Ocean Outfall.
9. **Bypass.** The intentional diversion of wastestreams from any portion of a User's treatment facility.
10. **Carbonaceous Biochemical Demand (CBOD).** A measurement of the oxygen utilized during a five day incubation period for the biochemical degradation of organic material.
11. **Categorical Standard.** A standard specifying quantities or concentrations of Pollutant or Pollutant properties which may be Discharged to the Encina Sewerage System by Users in specific industrial subcategories, as set forth in Title 40, C.F.R., Chapter I, Subchapter N.

12. **Collection System.** The combined pipes, conduits, manholes and other structures, usually underground, which convey Wastewater to the Encina Sewerage System.
13. **Connection Permit.** A permit issued to a User by a Member Agency authorizing the User to connect to the Encina Sewerage System.
14. **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.
15. **Director.** EWA's Director, who is responsible for the administration, implementation and enforcement of this Ordinance.
16. **Discharge.** The introduction of Pollutants into the Encina Sewerage System from any non-Domestic source.
17. **Discharge Permit.** The permit issued by EWA stipulating the conditions under which a User may Discharge to the Encina Sewerage System.
18. **Domestic Wastewater.** The liquid and solid waterborne wastes derived from the ordinary living processes of humans of such character as to permit satisfactory disposal, without special Pretreatment, into the public sewer or by means of a private Wastewater disposal system.
19. **Encina Service Area.** All areas tributary to the Encina Sewerage System.
20. **Encina Sewerage System.** The sewerage system for the Encina Service Area, owned by the Member Agencies and operated by EWA and the EWA Member Agencies, which includes the Encina Water Pollution Control Facility (EWPCF), the Gafner Water Reclamation Plant (GWRP), the Meadowlark Water Reclamation Facility (MWRF), the Shadowridge Water Reclamation Plant (SWRP), the Carlsbad Water Reclamation Facility (CWRF), the Encina Ocean Outfall and any conveyances that convey Wastewater to the EWPCF, the GWRP, the MWRF, the SWRP, the CWRF and/or the Encina Ocean Outfall. For the purposes of this Ordinance, this definition also shall include any conveyances that convey Wastewater to the Encina Sewerage System by contract or agreement with a Member Agency. Such conveyances may be owned or operated by a Member Agency or by other public agencies.
21. **Encina Water Pollution Control Facility (EWPCF) Service Area.** All areas in the Encina Service Area that are not also within the Vallecitos Water District service area.

22. **Environmental Protection Agency (EPA).** The federal agency charged by law with carrying out and obtaining compliance with the Clean Water Act and other federal environmental laws and promulgating, interpreting and enforcing regulations implementing such statutes.
23. **General Manager.** The Person designated by EWA to manage the EWPCF.
24. **Groundwater.** Water beneath the surface of the ground, whether or not flowing through known and definite channels.
25. **Instantaneous Limit.** The maximum concentration of a Pollutant allowed to be Discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
26. **Interference.** A Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, both: (a) inhibits or disrupts the Encina Sewerage System, its treatment processes or operations or its Biosolids processes, including either the use, reuse or disposal of Biosolids, Wastewater treatment byproducts or reclaimed water; and (b) therefore is a cause of a violation of any requirement of the NPDES Permit (including an increase in the magnitude or duration of a violation) or of the prevention of Biosolids use or disposal in compliance with the following statutory provisions and ordinance or permits issued hereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) [including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA], the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
27. **Local Discharge Limits.** Those limitations developed by EWA to implement any general or specific prohibitions, set forth in 40 C.F.R. Section 403.5(a)-(b), or to satisfy any other discharge requirement imposed upon EWA by the EPA, the State or a local agency, as set forth in Section 2.12.
28. **Mass Emission Rate.** The weight of material Discharged to the Encina Sewerage System during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.
29. **Meadowlark Water Reclamation Facility (MWRF) Service Area.** All areas in the Encina Service Area that are also within the Vallecitos Water District service area.

30. **Member Agency.** Any of the local agencies that are members of EWA, including the Cities of Carlsbad, Vista and Encinitas, the Vallecitos Water District, the Leucadia Wastewater District and the Buena Sanitation District.
31. **National Pollutant Discharge Elimination System (NPDES) Permit.** The permits issued to or administered by EWA pursuant to Section 402 of the Clean Water Act (33 U.S.C. § 1342).
32. **New Source.** A source of Discharge to the Encina Sewerage System meeting the requirements set forth in 40 C.F.R. Section 403.3(m).
33. **Non-Contact Cooling Water.** Water used for cooling purposes that does not come into direct contact with any source of Pollutants.
34. **Non-Significant Categorical Industrial User (NSCIU).** Any User that: never Discharges more than 100 gallons per day of Wastewater subject to Categorical Standards; never Discharges untreated concentrated wastes; and has demonstrated that its Discharge complies with all applicable Pretreatment Standards and Pretreatment Requirements as determined by EWA.
35. **Non-Significant Industrial User (NSIU).** Any User not subject to Section 3.6 A, B, C, or D of this Ordinance that, with the application of appropriate BMPs, has no reasonable potential to adversely impact the Encina Sewerage System or to violate any Pretreatment Standards or Pretreatment Requirements as determined by EWA.
36. **Non-Significant Wastewater Discharge (NSWD) Form.** An authorization to Discharge issued in lieu of a permit to any User that is determined by EWA to be an NSIU.
37. **Officer.** A Person employed by EWA as the Source Control Manager and who reports to the Director.
38. **Oil and Grease.** Any material recovered when extracted as set forth in EPA Method Number 1664A or other comparable EPA approved methods found in 40 CFR Part 136.
39. **Pass-through.** A Discharge which exits any portion of the Encina Sewerage System in concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, results in a violation of any requirement of a NPDES Permit or waste discharge requirement of the State, including an increase in the magnitude or duration of a violation.
40. **Permittee.** A Person who has a Discharge Permit.
41. **Person.** An individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, any federal, State or

local governmental entity or any other legal entity or their legal representatives or agents.

42. **Pollutant.** Any substance which causes an impairment (reduction) of water quality to a degree that may have an adverse effect on any beneficial use of the water including, but not limited to, a dredged spoil, solid waste, incinerator residue, sewage, garbage, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal and agricultural waste and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, CBOD, toxicity or odor).
43. **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 Discharging or otherwise introducing such Pollutants to the Encina Sewerage System. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means except as prohibited by 40 C.F.R. Section 403.6(d).
44. **Pretreatment Equipment.** One or more treatment devices designed to remove Pollutants from Wastewater in order to allow a User to comply with this Ordinance or a Discharge Permit.
45. **Pretreatment Requirements.** Any substantive or procedural requirement, other than Pretreatment Standards, imposed upon a User by this Ordinance.
46. **Pretreatment Standards.** Prohibited Discharges, Local Discharge Limits, Categorical Standards, BMPs and other limitations and prohibitions set forth in Section 2 of this Ordinance.
47. **Process Wastewater.** Any Wastewater contaminated by human activities including, but not limited to, that originating from manufacturing, agriculture, processing, rinsing, washing or producing.
48. **Septage.** Any Domestic Wastewater from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.
49. **Significant Industrial User (SIU).** Any User that has received or is required to obtain a Class I or II Discharge Permit.
50. **Slug Discharge.** Any Discharge, including, but not limited to, accidental and non-routine Discharges, performed in a manner or at a concentration that could cause a violation of any Pretreatment Standard.
51. **Surface Runoff.** Stormwater, urban runoff and other forms of runoff.

52. **Total Suspended Solids (TSS).** The residue retained on a standard glass-fiber filter after drying to a constant weight at 103 to 105 degrees Centigrade, as set forth in Method Number 2540 D of the current approved edition of the Standard Methods for the Examination of Water and Wastewater or other comparable EPA approved methods found in 40 CFR Part 136.
53. **Total Toxic Organics (TTO).** The summation of all quantifiable values greater than 0.01 milligrams per liter for the organics regulated by the EPA for a specific industrial category or by EWA.
54. **User.** A source of indirect Discharge or a non-Domestic entity with a process onsite subject to Categorical Standards, whether or not such process generates a Discharge.
55. **Waste Manifest.** The receipt which is retained by a generator of hazardous wastes for wastes to be transported to a disposal site, in the form required by the State and/or the federal government pursuant to the Resource Conservation and Recovery Act 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 EWA.
56. **Wastehauler.** Any Person carrying on or engaging in vehicular transport of Septage as part of, or incidental to, any business for the purpose of Discharging the Septage into the Encina Sewerage System.
57. **Wastewater.** Any aqueous based waste generated by a Domestic, commercial and/or industrial facility.
58. **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.

SECTION 2 REGULATIONS

2.1 PROHIBITED DISCHARGES

A. No Person shall Discharge a quantity or quality of Wastewater to the Encina Sewerage System which causes, or is capable of causing, either alone or by interaction with other substances, Pass-through or Interference.

B. No Person shall Discharge into the Encina Sewerage System any of the following:

1. Pollutants which create a hazard of fire or explosion in the Encina Sewerage System including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 C.F.R. Section 261.21;

2. Pollutants which will cause corrosive structural damage to any component of the Encina Sewerage System, but in no case Discharges with a pH lower than 5.5;

3. Solid or viscous Pollutants in amounts which will cause obstruction of the flow in the Encina Sewerage System resulting in Interference or damage to the Encina Sewerage System;

4. Wastewater having a temperature that will inhibit biological activity in the treatment process resulting in Interference, but in no case Wastewater that causes the temperature at any component of the Encina Sewerage System to exceed 40° C (104° F);

5. Pollutants which cause danger to life, health or safety of any Person, or cause damage to the environment;

6. Pollutants, including oxygen-demanding Pollutants such as BOD, released in a Discharge at a flow rate and/or concentration which, either singly or by interaction with other Pollutants, cause Interference or Pass-through;

7. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause Interference or Pass-through;

8. Pollutants which result in the presence of toxic gases, vapors or fumes within the Encina Sewerage System in a quality or quantity that may cause health and safety problems;

9. Pollutants or Wastewater that would cause violation of any permit, statute, rule, regulation or ordinance of any public agency or regulatory agency having jurisdiction over the Discharge of Wastewater to or from the Encina Sewerage System;

10. Wastewater or any substance that is defined as a hazardous or radioactive waste by any regulatory agency;

11. Pollutants delivered by vehicular transport, rail car or dedicated pipeline, except on a case-by-case basis, at discharge points designated by EWA and in accordance with a valid Special Use Discharge Permit;

12. Sludge generated by the Pretreatment of Wastewater;

13. Pollutants that cause Wastewater, Biosolids, or Wastewater byproducts to be unsuitable for beneficial reuse or reclamation;

14. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating EWA's NPDES permit; and

15. Detergents, surface-active agents, or other substances which may cause excessive foaming.

2.2 PROHIBITION ON TRANSPORT WITHOUT EWA PERMISSION

No Person shall transport waste from one location or facility to another for the purpose of treating or Discharging it directly or indirectly to a publicly owned sewer within the Encina Sewerage System without written permission from EWA.

2.3 PROHIBITION ON INCREASE OR CHANGE

No User shall increase flow, Pollutants or change the Wastewater Constituents and Characteristics where such increase or change does not meet the Pretreatment Standards and Pretreatment Requirements or where such contribution would cause EWA to violate a NPDES Permit or any State discharge limitation or requirement.

2.4 PROHIBITION ON DILUTION

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 Pretreatment to achieve compliance with this Ordinance and/or the User's Discharge Permit.

2.5 PROHIBITION ON STORAGE

Pollutants, substances or Wastewater whose Discharge to the Encina Sewerage System is prohibited by this Ordinance shall not be processed or stored in such a manner that they could be accidentally Discharged to the Encina Sewerage System.

2.6 PROHIBITION OF BYPASS

Bypass of Wastewater to the Encina Sewerage System is prohibited, unless:

A. Bypass is unavoidable to prevent loss of life, personal injury or severe property damage;

B. There are no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

C. The User submitted notices as required by Section 5.15(B) of this Ordinance.

2.7 LIMITATIONS ON GROUNDWATER AND SURFACE RUNOFF

Groundwater or Surface Runoff shall not be Discharged to the Encina Sewerage System except under the authority of a Special Use Discharge Permit, which is subject to Pretreatment Standards and Pretreatment Requirements.

2.8 LIMITATIONS ON NON-CONTACT COOLING WATER

No Person shall Discharge greater than 1000 gallons per day of Non-Contact Cooling Water to the Encina Sewerage System.

2.9 LIMITATIONS ON WASTEHAULER DISCHARGE

No Person shall Discharge Septage unless EWA has issued such Person a Special Use Discharge Permit which is subject to Pretreatment Standards and Pretreatment Requirements.

2.10 LIMITATIONS ON WASTEWATER DISCHARGE TO RECLAMATION FACILITIES

No Person shall Discharge a quantity or quality of Wastewater that causes, or is capable of causing, either alone or by interaction with other substances: (1) a violation of the Waste Discharge Requirements of any reclamation facility within the Encina Sewerage System; or (2) any applicable water quality objective of the Comprehensive Water Quality Control Plan Report, San Diego Basin (9) (Basin Plan) to be exceeded, unless by separate agreement of that Person with the affected reclaiming Member Agency(s).

2.11 LIMITATIONS ON THE USE OF GRINDERS

Waste from industrial or commercial grinders shall not be Discharged except as allowed in a User's Discharge Permit. Such grinders must shred the waste to a particle size of 0.5 inches or less.

2.12 LOCAL DISCHARGE LIMITS

In addition to any other prohibition or limitation prescribed by this Ordinance, no Person shall Discharge Wastewater in excess of the Mass Emission Rates, concentration limits or other limits set forth in Table 1 below.

Table 1
LOCAL DISCHARGE LIMITS

Daily Maximum Limits		
Constituent	Limits for Users in MWRF Service Area	Limits for Users in EWPCF Service Area
Arsenic, Total	1.5 mg/L	1.5 mg/L
Boron, Total	7.4 mg/L	-
Cadmium, Total	0.77 mg/L	0.77 mg/L
Chromium, Total	3.5 mg/L	3.5 mg/L
Copper, Total	11 mg/L	11 mg/L
Iron, Total	67 mg/L	-
Lead, Total	5.1 mg/L	5.1 mg/L
Mercury, Total	0.27 mg/L	0.27 mg/L
Manganese, Total	1.7 mg/ L	-
Molybdenum, Total	4.1 mg/L	4.1 mg/L
Nickel, Total	15 mg/L	15 mg/L
Selenium, Total	2.5 mg/L	2.5 mg/L
Silver, Total	4.2 mg/L	4.2 mg/L
Zinc, Total	29 mg/L	29 mg/L
Oil and Grease	400 mg/L	400 mg/L
Total Toxic Organics (TTO)	2.00 mg/L	2.00 mg/L
Biochemical Oxygen Demand (BOD)	250 mg/L*	500 lbs/day
Total Suspended Solids (TSS)	250 mg/L	500 lbs/day
Instantaneous Limits		
Constituent	Limit	Limit
pH	5.5 – 12.0 units	5.5 – 12.0 units
Temperature	140° Fahrenheit	140° Fahrenheit

*Permittees in the MWRF Service Area as of February 22, 2012 are grandfathered in at their existing pollutant loading for BOD.

2.13 BEST MANAGEMENT PRACTICES

EWA may develop BMPs by ordinance or in individual Wastewater Discharge Permits to implement Local Limits and the requirements of Section 2.1.

2.14 CATEGORICAL STANDARDS

A. In accordance with 40 C.F.R. Section 403.6(b), no Person shall Discharge any Wastewater violating any Categorical Standard.

B. Upon the EPA's promulgation or revision of a Categorical Standard for a particular industrial subcategory, the new or revised Categorical Standard, if more stringent than limitations imposed under this Ordinance or a Discharge Permit for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance or a Discharge Permit.

C. Where a Categorical Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, EWA may impose equivalent concentration or mass limits in accordance with 40 C.F.R. Section 403.6(c).

D. Where a Categorical Standard is expressed only in terms of the mass of Pollutant per unit of production, EWA may convert the Categorical Standard limits to equivalent limitations expressed either as mass of Pollutant Discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Users.

E. When Wastewater subject to a Categorical Standard is mixed with Wastewater not subject to the same standard, EWA shall impose an alternate limit in accordance with EPA guidance.

2.15 STATE REQUIREMENTS

State requirements and limitations on Discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Ordinance.

2.16 MASS EMISSION RATES

A. EWA may establish a Mass Emission Rate for any Wastewater Constituent. Compliance with a Mass Emission Rate shall be determined by the User's average daily Wastewater Discharge, the most recent representative concentration data, or other data acceptable to EWA, and shall be calculated according to the following formula: (concentration in mg/L) x (flow in MGD) x (Conversion Factor of 8.34) = Pounds per day.

B. To verify a User's operating data, EWA may require a User to submit an inventory of all Wastewater streams and/or records.

**SECTION 3
DISCHARGE PERMITS, FEES AND DEPOSITS**

3.1 PERMIT REQUIRED

Any User proposing to Discharge into the Encina Sewerage System must apply for and obtain a Discharge Permit or NSW Form from EWA, prior to Discharge.

3.2 VIOLATIONS SUBJECT TO ENFORCEMENT

Any violation of the terms and/or conditions of a Discharge Permit or NSW Form is a violation of this Ordinance and subjects the Permittee to the fines and/or actions set forth in Section 6 of this Ordinance.

3.3 NO VESTED RIGHTS

No Discharge of Wastewater into the Encina Sewerage System, whether or not the Discharge is made pursuant to a Discharge Permit or NSW Form, shall create a vested right to continue the Discharge. All Discharges are privileges, not rights.

3.4 PROHIBITION OF TRANSFERABILITY

Any Discharge Permit or NSW Form issued under this Ordinance is valid only for the specific User, for the specific operation at the specific location identified in the Discharge Permit or NSW Form, and may not be transferred, sold or hypothecated, or applied or transferred to the Permittee's operation at a different location. If the Permittee's business is sold or transferred, the successor owner shall submit an application for a new Discharge Permit or NSW Form prior to any Discharge. For purposes of this Ordinance, sale or transfer shall mean: the change of more than 25% of the ownership or equity interest in Permittee (whether in a single transaction or in a series of transactions); or the merger, reorganization or consolidation of Permittee with another entity with respect to which Permittee is not the surviving entity.

3.5 VALIDITY CONDITIONED ON VALID CONNECTION PERMIT

No Class I, II or III Discharge Permit, or NSW Form is valid for a User that does not hold a valid Connection Permit issued by a Member Agency.

3.6 TYPES OF CONTROL MECHANISMS

A. CLASS I PERMIT

Any User that is subject to any Categorical Standard(s) shall obtain a Class I Discharge Permit unless designated as a Non-Significant Categorical Industrial User (NSCIU) by EWA.

B. CLASS II PERMIT

Any User that is not subject to paragraph A above, but meets one of the following conditions shall obtain a Class II Discharge Permit:

1. Any User that Discharges 25,000 gallons per day (gpd) or more of Process Wastewater to the Encina Sewerage System;
2. Any User that contributes more than 5% of the average dry weather flow to the Encina Sewerage System; or
3. Any User that Discharges Wastewater which may cause Pass-through or Interference, as determined by EWA.

C. CLASS III PERMIT

Any User that is not subject to paragraphs A or B above, but meets one of the following conditions shall obtain a Class III Discharge Permit:

1. Any User that may be subject to Categorical Standards, but either does not Discharge any regulated Wastewater or is a stand-alone research and development facility;
2. Any User designated as a NSCIU by EWA; or
3. Any User determined by EWA to have a reasonable potential to adversely impact the Encina Sewerage System or to violate any Pretreatment Standard or Requirement.

D. SPECIAL USE PERMIT

Any User that Discharges Groundwater, Surface Runoff, or Septage or Discharges to a Brine Line is required to obtain a Special Use Discharge Permit (SUP).

1. A SUP may be granted when no alternative method of disposal is reasonably available, and the Discharge is necessary to mitigate an environmental risk or health hazard or to protect the beneficial reuse of Wastewater byproducts.

2. A SUP may only be granted if EWA determines that the following conditions are met:

(a) The Applicant and/or the Wastewater source are within the Encina Service Area and/or within the jurisdiction of an EWA Member Agency;

(b) EWA and the Member Agency have adequate treatment capacity to accept the proposed flow;

(c) The technology and equipment used provide adequate assurance that there will be no adverse impacts on the Encina Sewerage System, its employees, its Users or reuse of Wastewater or Wastewater byproducts; and

(d) The Applicant has adequate resources and/or insurance to fully indemnify the EWA and the Member Agencies from any and all claims and/or damages arising out of or in connection with the proposed Discharge.

E. NSW FORM

Any User that is determined by EWA to be an NSIU, based on a review of the User's Discharge Permit application, compliance data, and/or a facility inspection, shall be issued a NSW Form. EWA may review a Permittee's compliance data at any time or upon the Permittee's written request in order to determine whether the Permittee is a NSIU.

3.7 COMPLIANCE WITH STANDARDS

All Users holding Class I, II and III Discharge Permits, Special Use Discharge Permits and NSW Forms shall comply with the Pretreatment Standards and Pretreatment Requirements and any other requirements of this Ordinance, including any fees, fines, costs, or deposits established by EWA.

3.8 DISCHARGE PERMIT APPLICATIONS

A. Users seeking a Discharge Permit or renewal of such a Permit shall submit to EWA a completed application, along with all applicable fees and deposits prior to any Discharge.

B. Permittees seeking a renewal of an existing Discharge Permit shall submit a completed application along with all applicable fees or deposits no later than 90 days prior to the expiration of the existing Discharge Permit. In the event a User fails to submit a completed application within the required timeframe, the Discharge Permit is subject to expiration.

C. A completed application for a new or renewed Discharge Permit may include the following information:

1. Applicant's name, business name and address, Discharge site or property address if different, telephone number, assessor's parcel number(s), SIC number(s), a detailed description of the manufacturing process or service activity;

2. Names, mailing addresses of any and all principals/owners/major shareholders of Applicant; the Applicant's articles of incorporation; most recent report of the Secretary of State (if applicable); business license (whichever are applicable);

3. Volume of Wastewater to be Discharged, and/or the number of trucks or trailers, and license numbers and tank hauling capacity of each, if applicable;

4. Name of any responsible individual who can be served with notices at the Discharge site, other than officers of the corporation;

5. Name and address of current and prior property owners, landlord, manager and/or User of the property and types of business located at that address; a copy of any cleanup and/or abatement order associated with the property; a copy of any liens against the property;

6. Water supplier(s) and water account numbers;

7. Source and amount of Wastewater Constituents and Characteristics as required by EWA including, but not limited to, those mentioned in Section 2.12, Local Discharge Limits, of this Ordinance. These Constituents and Characteristics shall be determined by a laboratory certified by the State of California under the authority of the Environmental Laboratory Accreditation Program. A new Applicant may use estimates in lieu of laboratory analysis, based upon the best available information;

8. Time and duration of Discharge;

9. Number of persons employed by Applicant and average hours of work per employee per day;

10. Waste minimization and water conservation practices;

11. Production records, if applicable;

12. Waste Manifests, if applicable;

13. Landscaped area in square feet, if applicable;

14. Tons of cooling tower capacity, if applicable;

15. EPA hazardous waste generator number, if applicable;

16. Complete description of hazardous chemical/waste storage;

17. Material safety data sheets for chemicals actually Discharged to the Encina Sewerage System and for those chemicals potentially Discharged to the Encina Sewerage System in amounts or concentrations that could negatively impact the Collection System or treatment processes;

18. Site plans, floor plans, mechanical and plumbing plans and details to show all incoming and outgoing plumbing connections (including incoming potable water), valves, sewers, spill containment, Pretreatment facilities, clarifiers and appurtenances by size, location and elevation, as required by EWA;

19. Baseline Monitoring Report (BMR) if Applicant is subject to a Categorical Standard(s);

20. Name and address of leaseholder of the vehicles, trailers or Pretreatment Equipment to be used, if applicable;

21. A detailed description of the Pretreatment proposed or required by any other regulatory agency having jurisdiction over the Discharge;

22. For SUP Applicants, a detailed description of the alternatives investigated for disposal including reasons why all other Discharge alternatives were not chosen;

23. In the case of Groundwater or Brine Line Discharges, proof of general liability and environmental impairment liability insurance naming EWA and the Member Agencies as additional insureds and covering all liability for damages resulting from the Discharge in amounts deemed appropriate by the General Manager; and an indemnity agreement that holds the EWA and the Member Agencies harmless from any and all costs, claims, and/or damages arising out of or in connection with the Discharge of the treated Groundwater or from the Brine Line, including costs incurred by EWA in the investigation and/or defense of any claims; and

24. Any other information required by EWA in order to properly evaluate the Discharge Permit application.

D. After evaluation of a completed application, EWA may issue a Discharge Permit, subject to the terms and conditions set forth in this Ordinance and any additional terms and conditions which EWA determines are necessary to protect the Encina Sewerage System.

E. Any application which is not complete within 90 days following initial receipt by EWA shall be deemed denied.

3.9 DISCHARGE PERMIT/NSWD FORM TERMS AND CONDITIONS

A. A Class I, II, III, Special Use Discharge Permit or NSWD Form may contain any of the following terms and conditions:

1. Limits on Pollutant concentration rate or Mass Emission Rates, which may be more stringent than those set forth in Section 2.12, Local Discharge Limits, of this Ordinance;

2. Limits on Discharge volume, flow rate and time period restrictions of Discharge, or requirements for flow equalization;

3. Requirements to notify EWA in writing prior to any expansion of facilities or wet processes, or increase in Discharge flows;

4. Requirements to construct and maintain, at the Permittee's expense, pH control, flow monitoring and/or sampling facilities;

5. Requirements for maintaining and submitting technical reports, production data, Discharge logs or reports, Waste Manifests, water bills and/or other records;
6. Requirements to self-monitor;
7. Requirements for maintaining a minimum of three years of plant records relating to Wastewater Discharge, BMP documentation and Waste Manifests;
8. Actual or estimated rates or values for Wastewater strength characteristics;
9. Requirements to install, maintain and/or inventory specified Pretreatment Equipment;
10. A slug control plan, as set forth in Section 5.7 of this Ordinance, or other specific actions to control Slug Discharges;
11. Requirements to notify EWA immediately of any facility changes that may affect the potential for a Slug Discharge;
12. Requirements to implement specific BMPs to minimize the Discharge of Pollutants;
13. A Toxic Organics Management Plan, as set forth in Section 5.8 of this Ordinance;
14. Requirements to deposit with EWA in accordance with Section 3.12 of this Ordinance, a specified amount based upon: (1) Permittee's history of non-payment of fees, fines or costs; or (2) potential non-routine sampling and monitoring that may be required as determined by EWA; and
15. Additional or more stringent requirements as deemed necessary by EWA to ensure compliance with this Ordinance and/or to protect the Encina Sewerage System.

B. For Wastehauler Discharge, the SUP shall also be subject to the following:

1. the Wastehauler shall have a valid permit from the San Diego County Health Department;
2. the Wastewater shall be Discharged according to the provisions of EWA's Standard Operating Procedure No. 24 as amended from time to time, and only by certain authorized vehicles, as authorized in the User's SUP;
3. the Wastehauler shall not Discharge Wastewater from any industrial or commercial source, or any hazardous waste.

C. Users with NSWD Forms are also subject to the following:

1. By accepting a NSW Form, the User authorizes EWA staff to enter the premises and inspect without delay, and/or monitor the User's Discharges in order to determine continued compliance with the terms and conditions of the form.

2. The User shall post the NSW Form in the User's place of business in recognition of the User's contribution to the community for implementing pollution prevention and waste recycling measures.

3. The terms and conditions of each NSW Form shall vary according to User. At a minimum, the User is required to implement and maintain agreed-upon BMPs and to meet all Pretreatment Standards and Pretreatment Requirements of this Ordinance.

4. The User's failure to maintain these BMPs may result in the User's reclassification, and EWA may issue a Class I, II or III Discharge Permit as appropriate. Failure to comply may also result in sanctions as allowed by this Ordinance.

3.10 DISCHARGE PERMIT DURATION AND RENEWAL, MODIFICATION AND REVOCATION

A. DURATION AND RENEWAL

Discharge Permits shall be issued for a limited period not to exceed a term of five years. At least 90 days prior to expiration of the Discharge Permit, the Permittee shall apply for renewal in accordance with the provisions of this Ordinance. A new Discharge Permit may contain additional and more stringent terms and conditions than a User's previous Discharge Permit.

B. MODIFICATION

1. EWA may modify any Discharge Permit for good cause including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, State or local Pretreatment Standards or Pretreatment Requirements;

(b) To address significant alterations or additions to the User's operation, processes or Wastewater volume or character since the date the Wastewater Discharge Permit was issued;

(c) To reflect any change in the Encina Sewerage System that requires either a temporary or permanent reduction or elimination of the authorized Discharge;

(d) In response to information indicating that the permitted Discharge poses a threat to the Encina Sewerage System, its personnel, the receiving waters or reuse of Wastewater byproducts;

(e) Substantial evidence of a violation of any terms or conditions of the Discharge Permit;

(f) A User's misrepresentation or failure to fully disclose all relevant facts in the Discharge Permit application or in any required report;

(g) Revision of or a grant of variance from Categorical Standards;

(h) To correct typographical or other errors in the Discharge Permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator as allowed by this Ordinance.

2. In the event EWA requires a Discharge Permit modification that is not requested by the Permittee, EWA shall inform the Permittee at least 45 days prior to the effective date of the modification, unless the Permittee has violated any terms or conditions of its Discharge Permit or this Ordinance in which case a modification may be effective immediately.

3. The Permittee shall request a Discharge Permit modification 90 days prior to increasing flow or changing Wastewater Constituents and Characteristics where such contribution or change will cause the Permittee to be in violation of its Discharge Permit or this Ordinance. The request shall be in writing stating the requested change and the reasons therefore. Within 45 days of receipt of a completed request, EWA may approve, deny or modify the request and make any necessary modification to the Discharge Permit.

C. REVOCATION

EWA may revoke a Discharge Permit or NSW Form at any time in accordance with Section 6 of this Ordinance.

3.11 OUT-OF-AREA DISCHARGES

A. After the effective date of this Ordinance, any agreement entered into by a Member Agency and an agency outside of the Member Agency's legal boundary, allowing Discharge to the Encina Sewerage System, and any modifications to such agreement, shall be subject to approval by the EWA Board of Directors and to the procedures set forth in Section 3 of EWA's Revised Basic Agreement.

B. Such agreements shall provide protections to the Encina Sewage System equivalent to those set forth in this Ordinance, such as: compliance with Pretreatment Standards and Pretreatment Requirements; rights of inspection and sampling of the User's Discharge to determine compliance with such standards and requirements; and imposition of any fees, fines, costs, or deposits as necessary.

C. The Member Agency shall submit to EWA a signed copy of the agreement after all required approvals are obtained.

3.12 FEES AND DEPOSITS

A. GENERAL

Any fees or deposits prescribed in this Section 3.12 shall be due and payable to EWA at the time prescribed herein or as set forth in any resolution of the EWA Board of Directors establishing certain fees. An unpaid fee is delinquent if it has not been paid within 30 days after it is due. All delinquent payments will be assessed a penalty of 10% or \$100 per month, whichever is greater.

B. FEES

1. APPLICATION/RENEWAL FEES

EWA's Board of Directors may establish by resolution a fee for application for or renewal of a Discharge Permit or NSW Form. The application/renewal fee shall be in an amount reasonably related to EWA's costs of reviewing applications and may include an extra amount for expedited review of a renewal application. All permit fees shall be due and paid prior to issuance or renewal of a Discharge Permit or NSW Form. Any delinquent payments to EWA must be paid in full prior to issuance or renewal of a Discharge Permit or NSW Form.

2. ANNUAL FEE

Each Permittee and NSIU shall pay to EWA an annual fee in an amount adopted by resolution of the EWA Board of Directors. The annual fee shall be in an amount reasonably calculated to cover actual or estimated costs of EWA's routine compliance monitoring, inspections and reporting applicable to the Permittee or NSIU. The annual fee shall be due to EWA on an annual date as established by the EWA Board of Directors.

3. SPECIAL USE FEE

In addition to the application/renewal fee and the annual fee, the EWA Board of Directors may establish by resolution a fee to cover any additional costs relating to Special Use Discharge Permits.

C. DEPOSITS

EWA may require a User to pay a deposit or replenish any deposited amount: (1) prior to issuing, modifying or renewing a Discharge Permit or NSW Form; (2) for monitoring and/or treatment of a Special Use Discharge; (3) prior to scheduling an appeal or enforcement hearing in accordance with Section 6.4 of this Ordinance; or (4) as part of an enforcement action. The deposit shall be based upon the estimated costs associated with the particular action.

EWA may charge the deposit for actual and reasonable costs incurred by EWA or a Member Agency for: (1) issuance, modification or renewal of a Discharge Permit or

NSWD Form; (2) monitoring and/or treatment of a Special Use Discharge; (3) preparation for and services at an appeal or enforcement hearing in accordance with Section 6.4 of this Ordinance; or (4) the enforcement of a User's compliance with its Discharge Permit or NSWD Form, or this Ordinance. The User will be required to pay any additional costs incurred by EWA in excess of the deposited amount.

If a User's appeal is sustained, the full deposit shall be returned. In all other cases, EWA shall return to the User any remaining deposited amount along with any interest earned upon: (1) the User's surrender of its Discharge Permit or NSWD Form; (2) the cessation of the User's Discharge; or (3) the conclusion of any enforcement action under this Ordinance, whichever is later. EWA shall provide the User an accounting of the deposited amount upon return of the remaining amount, and upon the User's request.

The User's deposit of any amount with EWA shall not constitute an admission of liability or noncompliance with any NSWD Form or Discharge Permit, or this Ordinance.

**SECTION 4
FACILITIES REQUIREMENTS**

4.1 PRETREATMENT FACILITIES

A. All Users shall Discharge Wastewater acceptable to EWA in compliance with the Pretreatment Standards and Pretreatment Requirements set forth in this Ordinance. Users shall provide, maintain and pay for any facilities required to pretreat or transport Wastewater that meets the requirements of this Ordinance and the User's Discharge Permit or NSW Form.

B. EWA may review and approve, based upon the Director's BPJ, the User's Pretreatment facilities. In no event shall any review or approval indicate compliance with this Ordinance, any Discharge Permit or NSW Form.

C. EWA may require any User to submit waste minimization plans, contingency plans and other necessary documentation to ensure proper operation of the Pretreatment facilities.

D. EWA may require any User to install technology to meet Pretreatment Standards or Pretreatment Requirements in accordance with Section 6 of this Ordinance.

4.2 SPILL CONTAINMENT FACILITIES

All Users shall provide, maintain and pay for spill containment facilities to protect against Discharge in violation of this Ordinance. Spill containment facilities shall be designed to secure 110% of the capacity of the largest single tank within the structure and prevent it from entering into the Encina Sewerage System, in accordance with reasonable engineering standards.

4.3 MONITORING/METERING FACILITIES

A. EWA may require the User to construct and maintain in proper operating condition at the User's sole expense flow monitoring, constituent monitoring and/or sampling facilities, in a manner that allows free and uninterrupted access by EWA.

B. Any sample taken from a sampling location designated in the User's Discharge Permit is considered representative of the quality and/or quantity of normal Process Wastewater generated during daily operations at the facility.

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

D. Monitoring or metering facilities may include a locking security closure for EWA's access only. If the locking device is owned by the User, the User shall provide EWA with key

entry access to the monitoring or metering facility, permitting entry without delay during all hours of operation.

E. Location of the monitoring or metering facilities shall be determined by the User based upon the User's processes and in-line Pretreatment Equipment, if applicable, and subject to approval by EWA.

F. If a User has various operations producing different Wastewater Constituents and Characteristics, or subject to different Categorical Standards, EWA may require the User to install separate monitoring or metering facilities for each operation.

G. All devices used to measure Wastewater flow or Wastewater Constituents and Characteristics shall be installed and calibrated by a qualified individual(s) according to manufacturer's specifications, at a frequency determined by EWA and/or upon EWA's request, to ensure their accuracy.

4.4 DRAWING SUBMITTAL REQUIREMENTS

A. Users shall submit to EWA detailed drawings for review of existing or proposed construction of Pretreatment facilities, spill containment facilities and monitoring or metering facilities. Users shall not begin construction of the proposed facility without prior approval of EWA. EWA's review or approval of the drawings shall in no way relieve the User of any future responsibility for modifying the facilities or procedures to meet the requirements of this Ordinance.

B. All drawings shall include the following: (1) north arrow; (2) scale size; (3) User name and address; (4) drawing name and drawing number; (5) date drawn or revised; (6) name of draftsman and name of person approving drawing.

C. EWA may require drawings to scale or schematic drawings depicting the manufacturing process (waste generating sources), spill containment, Pretreatment facilities, and/or monitoring and metering facilities.

D. EWA may require the drawings be prepared by a California Registered Chemical, Mechanical or Civil Engineer.

4.5 BEST MANAGEMENT PRACTICES (BMPs)

A. All Permittees, including NSIUs, shall implement any and all feasible BMPs to minimize Pollutant and Wastewater Discharge.

B. BMPs include any action that causes a net reduction in the use or generation of Pollutants that are Discharged into Wastewater and include, but are not limited to, Pretreatment, maintenance procedures, and any of the following:

1. **Input change:** A change in raw materials used in a production process or operation so as to reduce, avoid or eliminate the generation of Pollutants Discharged in Wastewater.

2. **Operational improvement:** Improved site management so as to reduce, avoid or eliminate the generation of Pollutants Discharged in Wastewater.

3. **Production process change:** A change in a process, method or technique that is used to produce a product or a desired result, including the return of materials or their components for reuse within the existing processes or operations, or recycling of water or Wastewater byproducts, so as to reduce, avoid or eliminate the generation of Pollutants Discharged in Wastewater.

4. **Product reformulation:** Changes in design, composition or specifications of end products, including product substitution, so as to reduce, avoid or eliminate the generation of Pollutants Discharged in Wastewater.

C. Pollution prevention does not include actions that merely shift a Pollutant in Wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of EWA.

4.6 ADDITIONAL PRETREATMENT MEASURES

A. TIME AND LOCATION OF DISCHARGE

To protect the Encina Sewerage System or to assess the User's compliance with the requirements of this Ordinance, EWA may require: (1) Users to restrict Discharge during peak flow periods; (2) that certain Wastewater be Discharged only into specific sewers; (3) Users to relocate and/or consolidate points of Discharge; (4) Users to separate Domestic Wastewater from Process Wastewater; and (5) such other conditions as may be necessary in the Director's BPJ.

B. FLOW EQUALIZATION

EWA may require any Person Discharging into the Encina Sewerage System to install and maintain on its property and at its expense, a storage and flow-control facility to ensure equalization of flow.

C. INTERCEPTORS

EWA may require Users to install Oil and Grease, or sand interceptors when, in the Director's BPJ, such interceptors are necessary for the proper handling of Wastewater containing excessive amounts of Oil and Grease or solids, to reduce the amount of these pollutants entering the Encina Sewerage System. All interceptor units shall be of type and capacity approved by EWA and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the User at the User's expense.

D. GAS DETECTION METER

EWA may require Users with the potential to Discharge flammable substances to install and maintain an approved combustible gas detection meter.

SECTION 5
MONITORING, REPORTING, INSPECTION & NOTIFICATION

5.1 SELF-MONITORING

A. EWA may require any User to submit self-monitoring reports of Wastewater Constituents and Characteristics in order to determine compliance with the User's Discharge Permit or this Ordinance. When required, the self-monitoring requirement and frequency of reporting shall be set forth in the User's Discharge Permit.

B. All sample analyses shall be performed by a laboratory certified by the State of California under the Environmental Laboratory Accreditation Program (ELAP) and follow the requirements set forth in 40 C.F.R. Part 136 and Section 5.2 below.

C. The analyses of Wastewater Constituents and Characteristics and the preparation of the monitoring report shall be at the User's sole expense.

D. Users shall submit to EWA the results of all sample analyses obtained at the representative sample point and analyzed according to B. above, even if the User samples more frequently than is required by its Discharge Permit.

E. If self-monitoring indicates a violation, the User shall notify EWA 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 EWA within 30 days.

F. In the event a User fails to perform any required self-monitoring and/or to submit self-monitoring reports, EWA may initiate all necessary tasks and analyses to determine the User's Wastewater Constituents and Characteristics for any limitations and requirements specified in the User's Discharge Permit or in this Ordinance. The User shall be responsible for any and all expenses of EWA in undertaking such monitoring analyses and preparation of reports.

5.2 WASTEWATER SAMPLE COLLECTION

A. Samples utilized by the User to satisfy reporting requirements must be collected during the period covered by the report.

B. All samples and measurements taken as required herein shall be representative of the volume and nature of the Discharge. All samples shall be taken at the representative sample point specified in the User's Discharge Permit and, unless otherwise specified, before the Discharge is diluted by any other wastestream, body of water or substance.

C. Except as indicated in Sections D and E below, or unless otherwise authorized by EWA, the User must collect all Wastewater samples using 24-hour composite sampling techniques.

D. Samples for pH, temperature, cyanide, Oil and Grease, and Total Toxic Organics must be obtained using grab collection techniques. Using the protocols (including appropriate preservation) specified in 40 CFR Part 136 and EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, the samples may be composited in the laboratory or in the field; for Total Toxic 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 EWA as appropriate.

E. For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four grab samples must be used for pH, cyanide, Oil and Grease, and Total Toxic Organics for which historical sampling data do not exist. For facilities for which historical sampling data are available, EWA may authorize a lower minimum. For routine sampling, EWA shall require the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Pretreatment Requirements.

5.3 BASELINE MONITORING REPORTS (BMRs)

Any New Source and any User subject to a new or revised Categorical Standard shall submit a BMR prior to the issuance or renewal of its Discharge Permit. Each BMR shall contain the information set forth in 40 C.F.R. Section 403.12(b)(1)-(6) and shall be submitted within the prescribed timeframes.

5.4 REPORT ON COMPLIANCE WITH CATEGORICAL STANDARD

Within 90 days following the date for final compliance with an applicable Categorical Standard or in the case of a New Source following the commencement of Discharge, any User subject to Pretreatment Standards and Pretreatment Requirements shall submit to EWA a report containing the information set forth in 40 C.F.R. Section 403.12(b)(4)-(6). For Users subject to equivalent mass or concentration limits, the report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Standards expressed in terms of allowable Pollutant Discharge unit of production (or other measure of operation), the report shall include the User's actual production during the appropriate sampling period.

5.5 COMPLIANCE SCHEDULE PROGRESS REPORTS

All Users subject to a compliance schedule issued pursuant to Section 6 or as required by a Discharge Permit shall submit a progress report within 14 days of each interim compliance date set forth in the compliance schedule.

5.6 SEMIANNUAL COMPLIANCE STATUS REPORTS

All Class I, Class II, and Class III Permittees shall submit reports to EWA in accordance with 40 C.F.R. Section 403.12(e) and (h), respectively. These reports shall be submitted twice each year for the periods July 1 through December 31, and January 1 through June 30, and shall be due on January 15 and July 15 of each year, respectively.

5.7 SLUG CONTROL PLANS

EWA shall evaluate whether each Significant Industrial User needs a slug control plan to control Slug Discharges. EWA may require any User to develop, submit for approval and implement such a plan. A slug control plan shall address, at a minimum, the following;

A. Description of routine and non-routine Discharge practices;

B. Description of stored chemicals, the quantities used and disposal practices for each;

C. Procedures for immediately notifying the EWA of any Slug Discharge, as required by Section 5.15(B) of this Ordinance; and

D. Procedures to prevent adverse impact from any Slug Discharge. Such procedures include, but are not limited to: all pollution prevention measures that have been implemented by the User; regular inspection and maintenance of Pretreatment systems and storage areas; proper handling and transfer of materials; worker training; measures for containing Pollutants; measures for ensuring against the deliberate initiation of a Slug Discharge; and measures and equipment for emergency response.

5.8 TOXIC ORGANIC MANAGEMENT PLAN

EWA may require any User to submit a Toxic Organic Management Plan (TOMP) to address the prevention of Discharge of toxic organics to the Encina Sewerage System or the environment. A TOMP shall contain, at a minimum, the toxic organic compounds used, the method(s) of disposal, and the procedures for assuring that toxic organics do not spill into the Wastewater being Discharged. EWA may allow a User to develop and implement a TOMP in lieu of required self-monitoring for Total Toxic Organics.

5.9 WASTEHAULER DISCHARGE REPORT

Each Wastehauler shall complete a Septage Discharge report for each load Discharged. The report shall include the following information: (1) date and time of Discharge; (2) type of Septage Discharged; (3) volume of Discharge; (4) company name; (5) truck license number; (6) driver's name; and (7) source of Septage (chemical toilet route number or name of client(s) and address).

5.10 FALSE STATEMENTS AND CERTIFICATION

A. Persons submitting Permit applications and reports pursuant to this Ordinance are subject to the provisions of 18 U.S.C. Section 1001, Section 309 of the Clean Water Act, 40 C.F.R. Section 403.12 (b)(6) and any other provisions of law imposing civil and/or criminal penalties for making false statements.

B. All Discharge Permit applications and any reports submitted pursuant to this Ordinance shall be signed by an Authorized Representative of the User, indicate the city in

which the statement was signed (or county, if signed in an unincorporated area) and contain the following certification statement:

“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.”

5.11 CONFIDENTIAL INFORMATION

Information and data about a User that is obtained by EWA from reports, surveys, Wastewater Discharge Permit applications, individual Wastewater Discharge Permits, monitoring programs, inspection and sampling activities, or any other information about a User on file with EWA shall be available to the public without restriction unless the User requests confidentiality for specific information and is able to demonstrate to the satisfaction of EWA that such information is entitled to protection as trade secrets under applicable law. Any such request must be asserted at the time the information or data is first submitted to or collected by EWA. When a User makes a timely request and EWA determines that information should be held confidential, the portions of any document which would disclose trade secrets shall not be made available for inspection by the public, but shall still be made available immediately upon request to governmental agencies for uses related to the NPDES Program or Pretreatment Program, or in enforcement proceedings. Wastewater Constituents and Characteristics and other effluent data as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

5.12 REPORTS FROM UNPERMITTED USERS

All Users not required to obtain a Discharge Permit, such as Users that have been issued a NSW Form, shall provide reports to EWA as requested.

5.13 EWA'S RIGHT TO INSPECT, SAMPLE, AND EWA'S RIGHT OF ENTRY

A. Persons or occupants of premises where Wastewater is created or Discharged shall allow EWA, or its representatives, reasonable access to all parts of the Wastewater generating and disposal facilities as necessary for the purposes of inspection and sampling to determine compliance with a Discharge Permit or this Ordinance. EWA has the right to enter any User's facility without prior notice if the User is required to obtain a Discharge Permit or NSW Form under this Ordinance.

B. Any member of the EWA inspection or enforcement team may inspect and sample from the Wastewater generating and disposal facilities of any User to ascertain whether the intent of this Ordinance is being met and the User is complying with requirements. Each inspector carries an EWA-issued credential badge with the individual's first and last name, photograph and title. If requested, EWA inspectors will present this credential for verification upon entry onto any User's facility for the purpose of performing inspection or sampling responsibilities. Where a User has security measures in force that require additional identity verification, the User may make necessary arrangements with EWA in advance so that, upon presentation of an inspector's photo identification credential, personnel from EWA will be permitted to enter without delay for the purpose of performing their specific responsibilities. In no event may a User require EWA inspectors to provide or present any other form of identification, or otherwise delay entry of any member of the EWA inspection or enforcement team for additional identity verification.

C. EWA shall have the right to set up on the User's property or other locations as determined by EWA such devices as are necessary to conduct sampling or metering operations.

D. A User shall remove promptly any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled at the written or verbal request of EWA and such obstruction shall not be replaced. The User is responsible for the costs of removing such obstruction.

E. Unreasonable delays or interference in allowing EWA access to the User's premises shall for the purposes of enforcement of this Ordinance be a violation of this Ordinance.

5.14 RECORDKEEPING

In order for EWA to determine the Wastewater characteristics of the User for purposes of determining compliance with a Discharge Permit, a NSW Form, or this Ordinance, all Users shall make available to EWA for inspection and/or copying at the User's expense, the following records: all notices, self-monitoring reports and supporting records, BMP documentation, Waste Manifests and any other records relating to the Discharge required to be kept under State or federal law. Users shall retain all records a minimum of three years.

5.15 NOTIFICATIONS

A. CHANGE TO DISCHARGE

All Users are required to notify the EWA before increasing or decreasing flow or Wastewater Constituents or Characteristics by more than 10% from the amounts described in the applicable Discharge Permit or NSW Form.

B. BYPASS/SLUG DISCHARGE

1. All Users are required to notify EWA immediately of any facility changes that may affect the potential for a Slug Discharge.

2. If a User anticipates the need for a Bypass or Slug Discharge, it shall submit prior notice to EWA, if possible, at least 10 days before the date of the Bypass or Slug Discharge.

3. EWA may approve an anticipated Bypass or Slug Discharge after considering its adverse effects, and in the case of a Bypass, only if EWA determines that it will meet the conditions set forth in Section 2.6 of this Ordinance. Approval of an anticipated Bypass or Slug Discharge does not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to EWA and/or a Member Agency or any other damage or loss to person or property; nor shall such notification relieve the User of any fees or other liability which may be imposed by this Ordinance or other applicable law.

4. A User shall submit to EWA oral notice of an unanticipated Bypass or Slug Discharge that violates the User's Discharge Permit or NSW Form or this Ordinance within 24 hours after the User has knowledge of the Bypass or Slug Discharge. A User shall submit to EWA a written report within five working days after the User becomes aware of the Bypass or Slug Discharge. The report shall contain a description of the Bypass or Slug Discharge and its cause; the duration of the Bypass or Slug Discharge, including exact dates and times, and, if the Bypass or Slug Discharge has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the Bypass or Slug Discharge.

5. Failure to submit oral notice and/or written report may be grounds for Discharge Permit suspension or revocation. Failure to provide timely notice is deemed a waiver of the Bypass defense for any violation.

6. Notification of Bypass 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 EWA and/or a Member Agency or any other damage or loss to person or property; nor shall such notification relieve the User of any fees or other liability which may be imposed by this Ordinance or other applicable law.

7. Users shall post in a prominent place on the User's employee bulletin board or other notice board a notice advising employees whom to call in the event of a Bypass or Slug Discharge. Users shall ensure that all employees are advised of the emergency notification procedure.

C. DISCHARGE OF HAZARDOUS WASTE

Users shall give notices of Discharge of hazardous waste, as defined in 40 C.F.R. Part 261, in accordance with 40 C.F.R. Section 403.12(p).

SECTION 6 ENFORCEMENT

6.1 PURPOSE AND SCOPE

EWA finds that enforcement of this Ordinance throughout the Encina Service Area is vital to the protection of the public's health and safety, the environment and the Encina Sewerage System. Any violation or continuing violation of a provision of this Ordinance, a Discharge Permit, a NSW Form, an administrative order or applicable State or federal law may be grounds for enforcement action against a User. EWA shall conduct enforcement proceedings in accordance with its Enforcement Response Plan, as amended from time to time, to ensure consistent application of the provisions of this Ordinance.

6.2 FINDINGS OF VIOLATION

EWA may make findings of violation of a Discharge Permit, a NSW Form, this Ordinance or applicable law based upon the following:

- A. Review of information submitted by a User to EWA;
- B. EWA's inspection of the User's facility and/or sampling of the User's Discharge;
- C. A User's failure to submit any required documentation, report or notice;
- D. A User's failure to pay any fees, fines, costs or deposits as required by this Ordinance;
- E. Any other information received by EWA.

6.3 ADMINISTRATIVE ENFORCEMENT ACTIONS

EWA may impose any of the enforcement actions set forth herein against a User upon a finding that a violation has occurred.

A. NOTICE OF VIOLATION (NOV)

1. Upon finding a violation of this Ordinance, a Discharge Permit, a NSW Form, an administrative enforcement order or applicable law, EWA may issue the User a NOV.

2. For any violation of Sections 2.1(A), 2.1(B)(3), (4) and (6)-(8) of this Ordinance, EWA shall examine whether the User has an affirmative defense as set forth in 40 C.F.R. Section 403.5(2). If in the Director's BPJ the User has an affirmative defense, EWA shall not issue an NOV.

3. A NOV shall:

- a. describe the violation and the basis for the violation;

- b. cite the provision of the Ordinance, Discharge Permit or law violated;
- c. require correction of the violation and/or a written explanation of the cause of the violation, within a specified timeframe;
- d. set forth any administrative enforcement action imposed by EWA;
- e. provide written instructions for obtaining a hearing and the deadlines for doing so, if applicable.

4. In the event that the notice of violation imposes any administrative enforcement action(s), EWA shall issue the NOV by at least one of the following methods: (1) via certified mail with return receipt requested; (2) personal delivery; or (3) posting the notice of violation conspicuously on or in front of the User's premises.

B. MONETARY FINES

1. In general, the fine shall be assessed at a level that recovers the economic benefit derived by the User from the acts constituting the violation. An Officer may impose monetary fines in an amount not to exceed \$1,000 per violation per day. The Director may impose monetary fines in an amount not to exceed \$5,000 per violation per day or \$10 per gallon.

2. The fine shall be imposed in accordance with the recommendations found in EWA's Enforcement Response Plan and Guide as amended from time to time, and maintained at the EWA administrative offices.

3. **Payment Due Date.** The fines prescribed in this Section shall be due and payable to EWA within 30 days from the date of receipt of the NOV or administrative enforcement order. Any unpaid fine will be assessed a penalty of 10% or \$100 per month, whichever is greater.

C. ENFORCEMENT AND OTHER COSTS

EWA may require the User to pay any additional costs incurred which are reasonably related to the enforcement of a User's Discharge Permit or NSWD Form or any requirements of this Ordinance. These costs may include: any inspections, monitoring, sampling or other investigations required by EWA on a non-routine basis; procurement of water records; additional treatment; reasonable attorney fees and other legal costs, whether or not civil enforcement is pursued in court; any expert analysis required on a non-routine basis; any damage to the Encina Sewerage System; costs required to resume normal operation of the Encina Sewerage System; and any other costs incurred by EWA or a Member Agency in its enforcement efforts. These costs shall be based upon actual expenses, including staff time incurred for such enforcement activities. These costs are due and payable as directed in any

notice and are not subject to appeal. EWA shall provide the User an accounting of these costs upon the User's request.

D. NON-COMPLIANCE SAMPLING

In response to repeated violations, a User's self-monitoring frequency may be increased to determine whether the corrective actions taken in response to a violation have returned the User to compliance.

E. ENFORCEMENT SECURITY

EWA may require a User to deposit cash or provide a letter of credit or other security in a form approved by EWA, sufficient to ensure the User's compliance, to ensure payment of any fees, fines, or costs, or to ensure participation in any requested hearing, in accordance with Section 3.12 of this Ordinance.

F. COMPLIANCE SCHEDULE

EWA may impose a compliance schedule based upon his or her BPJ, setting forth the action(s) necessary to comply with this Ordinance or a Discharge Permit, and the deadlines for completing such action(s).

G. COMPLIANCE MEETING

EWA may require a User to attend a meeting when there is a pattern of noncompliance or a serious violation has occurred. At the meeting, the User shall be asked to provide an explanation for the violation(s) and describe the actions taken or planned to prevent recurrence.

H. PUBLICATION OF VIOLATION

EWA may require the User to notify the public and/or other Users in the Encina Sewerage System of the User's violation, the User's action taken to correct the violation and any enforcement actions imposed by EWA.

I. CEASE AND DESIST ORDER

EWA may issue a Cease and Desist Order when a User is found: Discharging without a Permit; Discharging unauthorized wastestreams; or Discharging Wastewater that could cause Interference or Pass-through or otherwise create an emergency situation. The Cease and Desist Order will become effective immediately upon receipt and will indicate the steps that must be taken for Discharge to resume.

J. SHOW CAUSE HEARING

EWA may require the User to attend a formal meeting to explain its noncompliance, and show cause why severe enforcement actions (e.g. permit suspension,

permit revocation or termination of service) should not be taken. A Show Cause Hearing does not preclude and is not a necessary prerequisite for taking other enforcement actions.

K. SUSPENSION OR REVOCATION OF DISCHARGE PERMIT, TERMINATION OF SERVICE

EWA may suspend or revoke a User's Discharge Permit or physically terminate service whenever the User:

1. Fails to comply with the terms of a NOV or compliance schedule;
2. Fails to make timely payment of any amount due to EWA;
3. Fails to provide reports or other documents required by EWA to determine compliance with a Discharge Permit and this Ordinance;
4. Knowingly provides a false statement to EWA;
5. Falsifies, tampers with or knowingly renders inaccurate any monitoring device or sample collection equipment;
6. Fails to report a significant change in operations, as required by this Ordinance;
7. Refuses access to User's facilities upon EWA's demand without delay;
8. Discharges any Wastewater in violation of its Discharge Permit or this Ordinance.

6.4 ADMINISTRATIVE APPEAL

A. RIGHT TO HEARING

1. A User may request a hearing regarding any monetary fine greater than \$750 imposed by an Officer, by submitting to the Director, within seven days of the date of receipt of the NOV, a written request for a hearing, along with the hearing deposit allowed by Section 3.12 of this Ordinance. The Director shall be the Hearing Officer at such a hearing.

2. A User may request a hearing regarding any Discharge Permit, compliance schedule, monetary fine greater than \$1000, suspension or revocation of Discharge Permit, or termination of service order imposed by the Director, by submitting to the General Manager a written request for a hearing within seven days from the User's receipt, along with the hearing deposit allowed by Section 3.12 of this Ordinance. The General Manager shall be the Hearing Officer at such a hearing.

3. A User may appeal to the Board of Directors any enforcement order suspending or revoking a Discharge Permit or terminating a User's service by submitting to the General Manager a written request for a hearing within seven days from the User's receipt

of the enforcement order, along with the hearing deposit allowed by Section 3.12 of this Ordinance. The Board Chair shall be the Hearing Officer at such a hearing.

4. Failure to submit a timely petition for a hearing shall be deemed to be a waiver of the administrative appeal.

5. No other administrative appeal is provided under this Ordinance.

B. REQUEST FOR HEARING

1. Hearing requests regarding enforcement actions shall set forth with specificity the reasons for the hearing, including whether the User challenges the factual basis of the decision, and if so, what facts in particular, or whether the User challenges the legal basis of the decision or the reasonableness of the sanctions imposed.

2. Hearing requests regarding Discharge Permit conditions must indicate the Wastewater Discharge Permit provisions objected to, the reasons for this objection, and the alternative condition(s), if any, the User seeks to place in the Wastewater Discharge Permit. The effectiveness of the Wastewater Discharge Permit shall not be stayed pending the appeal.

C. TIME FOR HEARING

1. Hearings conducted by the Director or the General Manager shall be held within 15 days of EWA's receipt of the written request. The hearing may be adjourned and reconvened for good cause at the discretion of the Hearing Officer. Notwithstanding the foregoing, the hearing shall be concluded within 30 days of EWA's receipt of the written request unless otherwise agreed by EWA and the User.

2. Hearings conducted by the Board of Directors shall be held within 45 days of EWA's receipt of the written request.

D. RECORD ON REVIEW

The Board of Directors' review shall be limited to the hearing record as defined in Section 6.4(G) of this Ordinance, unless the User or the General Manager demonstrates to the Board that new information has been discovered which did not exist or could not be discovered at the time of the enforcement hearing held in accordance with Section 6.4 of this Ordinance.

E. DUTIES OF HEARING OFFICER

1. The Hearing Officer shall schedule a day, time and place for the hearing, and shall ensure that the User receives written notice of the day, time and place of the hearing at least five days prior to the date of the hearing.

2. The Hearing Officer shall act to ensure that the EWA and the User have a reasonable opportunity to be heard and to present all relevant oral and documentary evidence

and that proper decorum is maintained, and shall not act as an advocate for EWA or for a User.

3. The Hearing Officer shall have the authority and discretion to decide when oral and documentary evidence may or may not be introduced, and to rule on questions which are raised during the hearing pertaining to matters of procedure. The Hearing Officer may admit evidence as long as responsible persons are accustomed to rely on such evidence in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law.

4. The Hearing Officer shall listen to and examine all evidence, direct questions to the User and the EWA as needed, and determine the credibility and weight of the evidence.

5. The Hearing Officer has the authority to uphold EWA's enforcement action, rescind the action or implement any of the actions allowed under this Section 6.

F. PROCEDURE AT HEARING

1. Enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The General Manager may, from time to time, establish hearing guidelines to guide the hearing procedure.

2. The EWA shall have the burden of proving by preponderance of the evidence the existence of a violation of this Ordinance, a Discharge Permit, an enforcement order or any applicable State or federal law.

3. Both the EWA and the User shall have the opportunity to present documentary evidence and to cross-examine witnesses in support of its position.

G. RECORD OF THE HEARING

1. The Hearing Officer shall cause a recording of the hearing to be made either by tape recording or by providing a court reporter service. The User shall be entitled to receive a copy of a hearing transcript, if made, or the recording upon paying the reasonable cost for preparing the record, in accordance with applicable law.

2. The Record of the Hearing shall consist of the recording or transcript of the hearing, all notices, the Hearing Officer's written decision, all admitted exhibits, all rejected exhibits in EWA's possession and any other written correspondence or evidence relating to the User's administrative hearing.

H. FAILURE TO ATTEND THE HEARING

In the event a User fails to attend a duly noticed hearing, the User shall be deemed to have waived the right to a hearing and the permit or Notice of Violation and any enforcement actions set forth therein shall become final and binding upon the User on the day following the day scheduled for the hearing.

I. ADMINISTRATIVE ENFORCEMENT ORDER

1. After the conclusion of the hearing, the Hearing Officer shall issue a decision, as set forth in subparagraph 2 below, which may adopt, reject or modify, in whole or in part, the findings of fact, the enforcement actions or conditions included in the Notice of Violation or other actions addressed at the hearing. The decision may impose without further hearing or appeal, an enforcement action, such as revocation of a Discharge Permit or NSWDForm, or physical termination of service, in the event the Hearing Officer later determines that the User has violated any terms of the administrative enforcement order.

2. The Hearing Officer shall prepare a written enforcement order setting forth the decision, a brief statement of the facts found to be true, a determination of the issues presented and conclusions, articulating the connection between the evidence produced at the hearing and the decision. The written order shall be in sufficient detail to enable any reviewing body or court to determine the basis for the decision on each charge included in the Notice of Violation. The written order shall provide an explanation of the procedure for appealing the decision to the EWA Board of Directors, if applicable, and notify the User of the timeframe for seeking judicial review, as required by Section 1094.6 of the Code of Civil Procedure.

3. The Hearing Officer's enforcement order shall be sent to the User at its business address, within 30 days after the conclusion of the hearing.

6.5 EMERGENCY SUSPENSION, REVOCATION OR TERMINATION OF SERVICE

A. Notwithstanding any other provision of this Ordinance, EWA may take any action to suspend or revoke a User's Discharge Permit or to physically terminate service in the event of an emergency.

B. For purposes of this Ordinance, "emergency" means any event that poses an imminent and substantial danger to the public health and welfare or the environment.

C. In the event of an emergency, EWA shall issue a Notice of Violation in accordance with Section 6.3(A) of this Ordinance, and shall specify when the suspension, revocation or termination shall be effective.

D. A User may request that a hearing be held within 48 hours after notice of the emergency suspension, revocation or termination, in accordance with Sections 6.4 of this Ordinance.

6.6 EFFECTIVE DATE OF DECISIONS

Except for any emergency termination ordered pursuant to Section 6.5 of this Ordinance, all enforcement orders issued pursuant to a hearing shall be effective on the date received by the User in accordance with Section 1.1(E) of this Ordinance. In the event a User fails to request a hearing within the timeframe required, a Notice of Violation shall be deemed an enforcement order and shall be effective upon the expiration of the timeframe during which

a hearing may be requested. Any decision of the Board of Directors issued pursuant to an administrative hearing shall be effective upon the date received by the User in accordance with Section 1.1(E) of this Ordinance.

6.7 PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

In accordance with 40 C.F.R. Section 403.8(f)(2)(viii), EWA shall publish at least annually a list of Users who within the previous 12 months were in significant noncompliance, as defined below:

- A. Chronic violations of Wastewater Discharge limits, defined as those in which 66% or more of all of the measurements taken for the same Pollutant parameter during two consecutive calendar quarters at a given sample point exceed (by any magnitude) a numeric Pretreatment Standard or Pretreatment Requirement, including Instantaneous Limits as defined by 40 CFR 403.3(l);
- B. Technical Review Criteria (TRC) violations, defined as those in which 33% or more of all the measurements taken for the same Pollutant parameter during two consecutive calendar quarters at a given sample point exceed the product of the numeric Pretreatment Standard or Pretreatment Requirement, including Instantaneous Limits as defined by 40 CFR 403.3(l), multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, and Oil and Grease, and 1.2 for all other Pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Pretreatment Requirement as defined by 40 CFR 403.3(l) (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that EWA determines has caused, alone or in combination with other Discharges, Interference or Pass-through (including endangering the health of sewage treatment personnel or the general public);
- D. Any discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in EWA's exercise of emergency authority under 40 CFR 403.8(f)(1)(vi)(B), to halt or prevent such a Discharge;
- E. Failure to meet, within ninety days after the schedule date, a compliance schedule milestone;
- F. Failure to provide within 45 days after the due date, required reports such as 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, that EWA determines will adversely affect the operation or implementation of the Pretreatment Program.

6.8 ADMINISTRATIVE COMPLAINT

In accordance with Government Code Section 54740.5, EWA may issue an administrative complaint against any User that has violated any terms of this Ordinance.

6.9 JUDICIAL REMEDIES

In addition to the administrative enforcement remedies provided by this Ordinance, EWA may take any other judicial action allowed by law, including:

A. CIVIL PENALTIES

In accordance with Government Code Section 54740(b), the General Manager, on behalf of EWA, may petition the superior court to impose, assess and recover from any Person sums not to exceed \$25,000 a day for each violation of this Ordinance. All civil penalties imposed by the court for violations are payable to EWA. Civil penalties under this Section 6.9(A) are in addition to any and all other civil or criminal remedies other than administrative fines imposed under this Ordinance.

B. INJUNCTION

The General Manager, on behalf of EWA, may petition the Superior Court for a temporary restraining order, or temporary or permanent injunction.

6.10 MISDEMEANOR

Any violation of this Ordinance is a misdemeanor, in accordance with Water Code Section 31106.

6.11 REMEDIES NOT EXCLUSIVE

The administrative enforcement actions, and any other remedies provided under this Ordinance are not exclusive, and are in addition to any other administrative, civil or criminal remedy established by law which may be pursued by EWA or other State or federal regulatory agencies to address violations of this Ordinance and federal and State law.

6.12 JUDICIAL REVIEW

A. Judicial review of any EWA enforcement decision shall be made pursuant to Section 1094.5 of the Code of Civil Procedure only if the petition for writ of mandate is filed not later than the 90th day following the date on which the decision becomes final. If this Ordinance provides for no appeal of the decision, the decision becomes final the date the decision is effective. If this Ordinance provides for an appeal of the decision, the decision becomes final upon the expiration of the period during which the appeal can be sought.

B. Aggrieved parties seeking judicial review of the final administrative Wastewater Discharge Permit decision must do so by filing a complaint with the Superior Court for San Diego County within 90 days.