

**BOARD OF DIRECTORS
SAN JACINTO RIVER AUTHORITY
MINUTES OF REGULAR MEETING
DECEMBER 14, 2017**

A regular meeting of the Board of Directors of the San Jacinto River Authority was held at 7:30 a.m., December 14, 2017, at the San Jacinto River Authority General and Administration Building, a notice of said meeting was posted as required by law. President Lloyd Tisdale, Vice President Fred Koetting, Secretary Gary Renola, Assistant Secretary Jim Alexander, and Treasurer Ronnie Anderson were present. General Manager Jace Houston, Deputy General Manager Ron Kelling, Director of Financial and Administrative Services Tom Michel, Director of Raw Water Enterprise David Parkhill, Woodlands Division Manager Chris Meeks, GRP Division Manager Mark Smith, Lake Conroe Division Manager Bret Raley, Highlands Division Manager Kimberly Wright, Administrative Services Manager Cynthia Bowman, Financial Advisor Ryan Nesmith, and General Counsel Mitchell Page were in attendance.

1. CALL TO ORDER

The meeting was called to order at 8:02 a.m.

2. PLEDGES OF ALLEGIANCE

The Pledges were led by Mr. Renola.

3. PUBLIC COMMENTS

Mr. Joel Johnston of Kingwood, Texas, spoke in regard to future flood mitigation efforts. Mr. Eric Yollick of The Woodlands, Texas, expressed concern related to the lack of flood mitigation/flood control items on the agenda. Mr. Bleier of Montgomery, Texas, spoke in opposition to the suggested reduction in lake level at Lake Conroe.

4. DIVISION UPDATES

a. G & A:

Mr. Houston discussed continued participation in meetings related to Hurricane Harvey. He provided a brief update relative to the Lone Star Groundwater Conservation District settlement mediation and spoke about the recent tour of the GRP plant by the Chamber of Commerce.

b. G & A:

No update was provided by the Public Relations Department.

c. G & A:

Mr. Michel provided an overview of the Fourth Annual River Authorities Administrative Forum held at the San Jacinto River Authority offices on November 9, 2017.

d. Woodlands:

Mr. Meeks introduced Mr. Gabriel Belforti, mentor for Hurricane Hydro, a group of students from

Mitchell Intermediate School in The Woodlands, who are part of a robotics program at the school. Each of the students demonstrated and explained their patent pending project which focuses on water conservation related to lawn irrigation.

e. GRP:

Mr. Smith provided a brief overview of the proposed changes to DFCs and stated that the Lone Star Groundwater Conservation District will revise rules related to same.

f. Raw Water:

Mr. Parkhill briefly discussed the ongoing discussions with Harris and Montgomery counties relative to flood mitigation and funding.

g. Lake Conroe:

Mr. Raley provided no update relative to the Lake Conroe Division.

h. Highlands:

Ms. Wright provided no update relative to the Highlands Division.

5. CONSENT AGENDA

Mr. Koetting made a motion to approve the consent agenda as recommended. The motion was seconded by Mr. Alexander and carried unanimously.

a. Approval of Minutes

Approve the minutes of the San Jacinto River Authority Board of Directors Regular Meeting of October 26, 2017.

b. Unaudited Financials for the Month of October, 2017

Approve the unaudited financials for the month of October, 2017.

c. Quarterly Investment Report for the Quarter Ended November 30, 2017

Approve the Quarterly Investment Report for the Quarter Ended November 30, 2017.

6. REGULAR AGENDA

a. WOODLANDS

1. Professional Services Agreement and Work Order No. 1 for Final Design Services for Rehabilitation of Bear Branch Gravity Main

Mr. Meeks provided information related to the rehabilitation of the Bear Branch Gravity Main stating that the structure is old and deteriorating. He stated that it is a major collection main for the Wastewater Treatment Facility No. 2 service area. Mr. Alexander made a motion to authorize the General Manager to execute a professional services agreement and Work Order No. 1 with ARKK Engineers, LLC, in an amount not to exceed \$622,655.44, for final design

services for Rehabilitation of Bear Branch Gravity Main in The Woodlands. The motion was seconded by Mr. Koetting and carried unanimously.

2. Resolution Adopting the San Jacinto River Authority Pretreatment Program Order

Mr. Meeks provided information related to the Pretreatment Program Order, stating that it is a requirement of the Environmental Protection Agency (“EPA”) that is implemented and enforced by the Texas Commission on Environmental Quality (“TCEQ”). Further he explained that the Woodlands Municipal Utility Districts (“MUDs”) delegated authority to the San Jacinto River Authority to enforce certain aspects of the program. After further discussion, Mr. Anderson made a motion to adopt Resolution No. 2017-R-11, of the Board of Directors of the San Jacinto River Authority, attached hereto as Exhibit "A", authorizing the approval and adoption of the San Jacinto River Authority Pretreatment Program Order and authorizing the General Manager to act on behalf of the Authority to implement the Pretreatment Program Order. The motion was seconded by Mr. Alexander and carried unanimously.

b. RAW WATER ENTERPRISE

1. Work Order No. 7 for Professional Engineering Services for Routine Update of the Lake Conroe Dam Emergency Action Plan

Mr. Raley provided information related to the routine update of the Lake Conroe Dam Emergency Action Plan (“EAP”) stating that the TCEQ requires the performance and documentation of a required table top exercise which will be incorporated into the EAP. Mr. Koetting made a motion to authorize the General Manager to execute Work Order No. 7 with Freese and Nichols, Inc., in an amount not to exceed \$108,636, for professional engineering services for the routine update of the Lake Conroe Dam Emergency Action Plan. The motion was seconded by Mr. Anderson and carried unanimously.

7. EXECUTIVE SESSION

The meeting was called into Executive Session at 8:54 a.m., under the provisions of Section 551.071, Texas Local Government Code, for consultation with the Authority’s attorney.

8. RECONVENE IN OPEN SESSION FOR ACTION FOLLOWING EXECUTIVE SESSION

The meeting was reconvened in open session at 10:45 a.m. No action was taken regarding the items discussed in executive session.

9. ANNOUNCEMENTS / FUTURE AGENDA

Mr. Tisdale announced that the next San Jacinto River Authority Board of Directors meeting would take place on January 25, 2018.

10. ADJOURN

Without objection, the meeting was adjourned at 10:46 a.m.



Gary T. Renola
 Gary Renola
 Secretary, Board of Directors

Exhibit A

RESOLUTION NO. 2017-R-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN JACINTO RIVER AUTHORITY AUTHORIZING THE APPROVAL AND ADOPTION OF THE SAN JACINTO RIVER AUTHORITY PRETREATMENT PROGRAM ORDER

WHEREAS, on December 9, 2004, the San Jacinto River Authority (the "Authority") approved that certain "Resolution Authorizing Adequate Funding for and Endorsement of the Industrial Waste Pretreatment Program" (the "Funding Resolution"), which remains in full force and effect;

WHEREAS, since the approval of the Funding Resolution, the Authority has provided the Texas Commission on Environmental Quality ("TCEQ") with component materials for the proposed Industrial Waste Pretreatment Program (the "Program"), including a draft Pretreatment Program Order proposed for adoption by the Authority's Board of Directors (the "Order");

WHEREAS, the Order shall implement the Program, in accordance with 40 C.F.R. Part 403 and the Clean Water Act;

WHEREAS, TCEQ has now indicated approval of the draft Order, and TCEQ now requires SJRA's formal adoption of the Order.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JACINTO RIVER AUTHORITY THAT:

1. The above Recitals are true and correct and are incorporated herein for all purposes.
2. The Order, as defined above and attached hereto as Exhibit "A", is hereby ratified, approved, and ADOPTED, and shall remain in effect until amended by the Board of Directors of the Authority.
3. The General Manager is hereby authorized to act on behalf of the Authority to implement the Order attached hereto.

APPROVED AND ADOPTED by the Board of Directors of the San Jacinto River Authority, at a regular meeting on this 14th day of December, 2017.

ATTEST:

SAN JACINTO RIVER AUTHORITY:

Mary T. Renda
Secretary, Board of Directors

Robert J. [Signature]
President, Board of Directors

[SEAL]



EXHIBIT A

SAN JACINTO RIVER AUTHORITY PRETREATMENT PROGRAM ORDER TABLE OF CONTENTS

SECTION	PAGE
SECTION 1 - GENERAL PROVISIONS	1
1.1 Purpose and Policy	1
1.2 Administration	2
1.3 Abbreviations	2
1.4 Definitions	2
SECTION 2 - SEWER USE REQUIREMENTS	9
2.1 Prohibited Discharge Standards.....	9
2.2 National Categorical Pretreatment Standards	11
2.3 Local Limits.....	11
2.4 San Jacinto River Authority's Right of Revision.....	13
SECTION 3 - PRETREATMENT OF WASTEWATER	13
3.1 Pretreatment Facilities	13
3.2 Additional Pretreatment Measures	13
3.3 Accidental Discharge/Slug Control Plans	13
3.4 Hauled Wastewater.....	14
3.5 Tenant Responsibility.....	14
SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION.....	14
4.1 Denial or Condition of Permit	14
4.2 Wastewater Analysis.....	14
4.3 Wastewater Discharge Permit Requirement.....	15
4.4 Wastewater Discharge Permitting: Existing Connections	15
4.5 Wastewater Discharge Permitting: New Connections	15
4.6 Wastewater Discharge Permitting: Extra-jurisdictional Industrial Users.....	15
4.7 Wastewater Discharge Permit Application Contents	15
4.8 Application Signatories and Certification	16
4.9 Fraud and False Statements.....	16
4.10 Wastewater Discharge Permit Decisions	17
SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.....	17
5.1 Wastewater Discharge Permit Duration	17
5.2 Wastewater Discharge Permit Contents.....	17
5.3 Wastewater Discharge Permit Appeals	18
5.4 Wastewater Discharge Permit Modification.....	19
5.5 Wastewater Discharge Permit Transfer.....	19
5.6 Wastewater Discharge Permit Revocation	20
5.7 Wastewater Discharge Permit Reissuance	20

SECTION 6 - REPORTING REQUIREMENTS - CATEGORICAL INDUSTRIAL USERS	21
6.1 Baseline Monitoring Reports	21
6.2 Compliance Schedule Progress Reports.....	22
6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline	23
6.4 Periodic Compliance Reports.....	23
SECTION 7 - REPORTING REQUIREMENTS – NON-CATEGORICAL INDUSTRIAL USERS	24
7.1 Periodic Compliance Reports.....	24
SECTION 8 - REPORTING, MONITORING, AND ANALYSIS - ALL INDUSTRIAL USERS	25
8.1 Reports of Changed Conditions	25
8.2 Reports of Potential Problems	25
8.3 Reports from Unpermitted Users.....	26
8.4 Notice of Violation/Repeat Sampling and Reporting.....	26
8.5 Notification of the Discharge of Hazardous Waste	26
8.6 Monitoring and Analytical Requirements	27
8.7 Sample Collection	27
8.8 Certification.....	29
8.9 Timing.....	29
8.10 Record Keeping	29
SECTION 9 - COMPLIANCE MONITORING.....	29
9.1 Right of Entry: Inspection and Sampling	29
9.2 Search Warrants.....	30
SECTION 10 - CONFIDENTIAL INFORMATION	30
SECTION 11 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.....	30
SECTION 12 - ADMINISTRATIVE ENFORCEMENT ACTIONS/ADMINISTRATIVE ORDERS	31
12.1 Notification of Violation (NOV)	31
12.2 Consent Orders	31
12.3 Show Cause Orders.....	32
12.4 Compliance Orders.....	32
12.5 Cease and Desist Orders.....	32
12.6 Suspension of Water/Wastewater Services Orders.....	32
12.7 Termination of Water Service and/or Discharge.....	33
SECTION 13 - CIVIL LITIGATION	33
13.1 Consent Decree	33
13.2 Injunctive Relief	34
13.3 Civil Penalties	34
13.4 Criminal Prosecution.....	34
13.5 Remedies Nonexclusive.....	35

SECTION 14 - SUPPLEMENTAL ENFORCEMENT ACTION	35
14.1 Performance Bonds	35
14.2 Liability Insurance	35
14.3 Water Supply Severance	35
14.4 Public Nuisance	35
14.5 Contractor Listing	36
SECTION 15 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS	36
15.1 Prohibited Discharge Standards.....	36
15.2 Bypass.....	36
15.3 Act of God.....	37
SECTION 16 - MISCELLANEOUS PROVISIONS.....	37
16.1 Pretreatment Charges and Fees	37
16.2 Severability	38
SECTION 17 - EFFECTIVE DATE	38

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

San Jacinto River Authority (SJRA) owns and operates a wastewater collection, treatment, and disposal system and provides wholesale wastewater treatment and disposal services to municipal utility districts located in The Woodlands, Texas (Customer Districts). SJRA provides such services to promote the health, safety, and conveniences of persons and businesses located in The Woodlands and for the safeguarding of water resources common to all.

This Order sets forth uniform requirements for Users of the wastewater collection, treatment and disposal facilities owned by SJRA, and the wastewater collection systems owned and operated by the Customer Districts (collectively, the POTW) and enables SJRA and the Customer Districts to comply with all applicable State and Federal laws regarding Pretreatment Requirements, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this Order are:

- A. To prevent the introduction of Pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of Pollutants into the POTW that will pass through the POTW inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- F. To enable SJRA to comply with its Texas Pollutant Discharge Elimination System permit conditions, National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject;
- G. To ensure the quality of the Wastewater Treatment Plant sludge is maintained at a level which allows its use and disposal to be in compliance with applicable regulations.

This Order shall apply to all Users of the POTW. The Order authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, SJRA's Division Manager or his/her designee shall administer, implement, and enforce the provisions of this Order. Any powers granted to or duties imposed upon SJRA may be delegated by the Division Manager to other SJRA personnel.

SJRA shall or has entered into Interlocal Agreements with its Customer Districts, whereby such Customer Districts have delegated all authority necessary to SJRA to act on their behalf and to carry out and enforce the terms and conditions of this Order on Users of the POTWs owned and controlled by such Customer Districts. Each Customer District shall or has adopted this Order as a rule and regulation of such Customer District to be enforceable within the jurisdiction of such Customer District as allowed by state law. SJRA shall provide notice to the Customer Districts, provide information to the Customer Districts, and obtain the Customer Districts' approval prior to commencing certain enforcement actions against Users within the Customer Districts, as specified in the Interlocal Agreements. Throughout this Order, the term SJRA shall also mean SJRA acting as agent for and on behalf of the Customer Districts, where appropriate.

Throughout this Order, Texas Pretreatment Standards are incorporated by reference from 40 CFR 403, the General Pretreatment Regulations.

1.3 Abbreviations

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

- BMP - Best Management Practice(s)
- CFR - Code of Federal Regulations
- BOD - Biochemical Oxygen Demand
- gpd - gallons per day
- mg/l - milligrams per liter
- O&M- Operation and Maintenance
- NPDES - National Pollutant Discharge Elimination System
- NAICS - North American Industry Classification System (replaced Standard Industrial Classification [SIC] system)
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification (Replaced by NAICS)
- SJRA - San Jacinto River Authority
- TCEQ - Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TSS - Total Suspended Solids
- U.S.C. - United States Code

1.4 Definitions

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

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Part 1251 *et seq.*
- B. Authorized Representative of the User.

1. If the User is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 3. If the User is a limited liability company, the manager of such company as defined in the company's articles of organization.
 4. If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.
 5. The individuals described in paragraphs 1 through 4, above, may designate another Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to SJRA.
- C. Best Management Practice(s) (BMP). The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- D. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- E. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing Pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

- F. Chemical Oxygen Demand (COD). The measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with Biochemical Oxygen Demand.
- G. Composite Sample. A composite sample is a sample resulting from the combination of individual aliquots taken at equal intervals based on increments of time, flow or both.
- H. Control Authority. San Jacinto River Authority (SJRA)
- I. Control Point. A point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.
- J. Daily Discharge. The discharge of a Pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
- K. Daily Maximum. The arithmetic average of all effluent samples for a Pollutant collected during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
- L. Daily Maximum Limit. The maximum concentration (or loading) of a Pollutant allowed to be discharged into the POTW during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar day for purposes of sampling. For Pollutants with limitations expressed in units of mass, it is calculated as the total mass of the Pollutant discharged over the day. For Pollutants with limitations expressed in other units of measurement, it is calculated as the average measurement of the Pollutant over the day.
- M. Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- N. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- O. Garbage. Animal and vegetable wastes and residue from preparation, cooking, and dispensing of food; and from the handling, processing, storage, and sale of food and products and produce.
- P. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.
- Q. Grease. Fats, waxes, oils, and other similar nonvolatile material and wastes which are extracted by hexane from a solidified sample using the Test Procedures for Analysis of 40 CFR 136.

- R. Indirect Discharge or Discharge. The introduction of Pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- S. Pretreatment Coordinator. The Person designated by SJRA responsible for management of the pretreatment program established by this Order.
- T. Industrial User or User. A source of Indirect Discharge.
- U. Instantaneous Maximum Allowable Discharge 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.
- V. Interceptor. A receptacle designed and constructed to interrupt, separate, and prevent passage of sand, grit, or other objectionable solids into the collection system to which it is connected. An Interceptor may be integrated with a separator for vehicle wash bays or repair areas.
- W. Interference. A Discharge, which alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of SJRA's TPDES permit or of the prevention of Sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title" commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and sanctuaries Act.
- X. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis waste.
- Y. Monthly Average Limit. The highest allowable average of Daily Discharges over a calendar month, calculated as the sum of all Daily Discharges measured during a calendar month divided by the number of Daily Discharges measured during that month.
- Z. New Source.
1. Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

- b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered.
- 2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- 3. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or cause to begin, as part of a continuous onsite construction program
 - i. any placement, assembly, or installation of facilities or equipment; or
 - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- AA. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- BB. Order. This Pretreatment Order as adopted by SJRA and the Customer Districts.
- CC. Pass Through. A Discharge that exits the POTW into waters of the United States in quantities or concentrations, which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of SJRA's TPDES/NPDES permit, including an increase in the magnitude or duration of a violation.
- DD. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other

legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

- EE. pH. The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution, as measured and calculated in accordance with standards methods.
- FF. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, Garbage, Sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- GG. Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process change or by other means, except by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment Standard.
- HH. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- II. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited Discharge standards, Categorical Pretreatment Standards, and local limits.
- JJ. Process Wastewater. Any water that, during manufacturing or processing, comes into direct contact with or results from production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- KK. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Section 2.1 of this Order.
- LL. Publicly Owned Treatment Works (POTW). A Treatment works, as defined by Section 212 of the Act (33 U.S.C. 1292) that is owned and/or operated by SJRA and the Customer Districts. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the Industrial Users and responsible for the operations and maintenance of the treatment works.
- MM. Septic Tank Waste. Any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- NN. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.)
- OO. Significant Industrial User (SIU).

1. A User subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or
 2. A User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW; or
 - c. Is designated as such by SJRA on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
 3. Upon a finding that a User meeting the criteria in Section 1.4(PP)(2) has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, SJRA may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a significant Industrial User.
- PP. Slug Load or Slug. Any Discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards in Section 2.1 of this Order or any Discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through or in any other way violate SJRA's regulations, local limits or permit conditions.
- QQ. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- RR. Texas Commission on Environmental Quality (TCEQ). The governing body for SJRA's TPDES permit and SJRA's pretreatment program.
- SS. Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- TT. User or Industrial User. A source of Indirect Discharge.
- UU. Wastewater. Liquid and water-carried industrial wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- VV. Wastewater Treatment Plant or Treatment Plant. The portion of the POTW that is designed to provide treatment of municipal Sewage and Industrial waste.

Shall is mandatory, may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

SECTION 2 - SEWER USE REQUIREMENTS

There are three types of Pretreatment Standards: Prohibited Discharge Standards – including general, specific, and dilution prohibitions; national Categorical Standards; and local limits.

2.1 Prohibited Discharge Standards

A. General

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

B. Specific

No User shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
2. Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment; wastewater having pH less than 2.0 and greater than 12.5 are considered hazardous wastes under 40 CFR 261.22 of the Act;
3. Solid or viscous substances in amounts that will cause obstruction of the flow in the POTW resulting in Interference, but in no case solids greater than ½ inch in any dimension;
4. Pollutants, including oxygen-demanding Pollutants (BOD, etc.), released in a Discharge at a flow rate and/or Pollutant concentration, which, either singly or by interaction with other Pollutants, will cause Interference with the POTW;
5. Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C); or to increase at a rate of 10° or more per hour;
6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

8. Trucked or hauled Pollutants except at Discharge points designated by SJRA and pre-approved by SJRA.
9. Noxious or malodorous liquids, gases, solids, or other wastewater, which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater that imparts color that 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 SJRA's TPDES permit;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations and also with written approval of the SJRA;
12. Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by SJRA;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical Wastes, except as specifically authorized by SJRA in a wastewater Discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
16. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
17. Fats, wax, oils, or Greases, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°F and 65°C);
18. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, or bulk solids in such quantities capable of causing Interference, including quantities SJRA deems capable of causing Interference;
19. No waste or wastewater Discharged containing fluoride, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
20. Objectionable or toxic substances, exerting an excessive chlorine requirement;

21. Any substance capable of causing obstruction to the flow in sewers, Interference with the operation of treatment processes or facilities, or excessive loading of treatment facilities.

SJRA is entitled to review and approve the installation and operation of any Garbage grinder. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be Discharged to the POTW.

C. Dilution Prohibitions

1. No User shall ever increase the use of process or potable water or in any way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement. SJRA may impose mass limitations on Users who use dilution to meet applicable Pretreatment Standards or Requirements or in other cases when the imposition of mass limitations is appropriate.
2. This prohibition does not include dilution which is a normal part of the production process or a necessary part of the process to treat a waste, such as adding lime for neutralization or precipitation, or the mixture of compatible wastes in order to treat at capacity levels rather than treating wastes in small batches.

2.2 National Categorical Pretreatment Standards

National Categorical Pretreatment Standards apply at both, end of process and end of pipe release.

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in wastewater, SJRA may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, or any other standard, SJRA shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. A User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its Discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.
- D. A User may obtain a net gross adjustment to a Categorical Standard in accordance with 40 CFR 403.15.

2.3 Local Limits

Local limits are periodically reviewed by SJRA and revised as necessary to respond to changes in federal, state, or local regulations, environmental protection criteria, plant design and operational criteria, and the nature of industrial Discharges to the POTW.

A. Specified Local Limits

The following Pollutant limits are established to protect against Pass Through and Interference. No User shall Discharge wastewater containing in excess of the following Maximum Allowable Discharge Limits.

Parameter	TBLL (milligrams/liter)
Arsenic	1.9
Cadmium	0.04
Chromium	19.6
Copper	2.6
Lead	0.5
Mercury	0.001
Nickel	3.5
Selenium	0.13
Silver	0.3
Zinc	3.7

SJRA may evaluate any User Discharge(s) that contain or may contain heavy metals and toxic materials as noted below. If SJRA designates that the Pollutant and Discharger has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, a permit will be issued.

Heavy metal and toxic materials that may require a permit from SJRA include, but are not limited to:

Antimony	Bismuth	Herbicides	Phenols (total)	Tin
Barium	Boron	Manganese	Rhenium	Uranyl ion
Benzene	Cobalt	Molybdenum	Strontium	Cyanide
Beryllium	Fungicides	Pesticides	Tellurium	

Local limits apply at the point where the wastewater is Discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. SJRA may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

The local surcharge limit for BOD is 200 mg/l. There is no prohibition limit for BOD; however, any amount Discharged above the surcharge limit may be assessed through the local Surcharge Order.

The local surcharge limit for TSS is 220 mg/l. There is no prohibition limit for TSS; however, any amount Discharged above the surcharge limit may be assessed through the local Surcharge Order.

Fats, oil, and grease may also be assessed through the local Surcharge Order.

B. Case-By-Case Local Limits

Local limits that have not yet been established for a material may be developed on a case-by-case basis. A User must have the case-by-case local limit(s) included in a permit before discharging to the POTW.

2.4 San Jacinto River Authority's Right of Revision

SJRA reserves the right to establish, by regulation or in wastewater Discharge permits, more stringent standards or requirements on Discharges to the POTW if deemed necessary to comply with the objectives presented in Section 1.1 of this Order or Section 2.1, 2.2 and 2.3 of this Order.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Industrial Users shall provide wastewater treatment as necessary to comply with this Order and shall achieve compliance with all Categorical Pretreatment Standards, local limits, and the prohibitions set out in Section 2 of this Order within the time limitations specified by EPA, the TCEQ, or SJRA, whichever is more stringent. Any facilities required to pretreat wastewater for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to SJRA for review, and shall be acceptable to SJRA prior to Discharge to the POTW before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce acceptable Discharge to SJRA under the provisions of this Order. SJRA shall be notified forty-eight (48) hours prior to start-up of new or modified wastewater pretreatment facilities.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, SJRA may require Users to restrict their Discharge during peak flow periods, designate that certain wastewater be Discharged only into specific sewers, relocate and/or consolidate points of Discharge, separate Sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Order.
- B. SJRA may require any Person or User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater Discharge permit may be issued solely for flow equalization.
- C. Users with the potential to Discharge flammable substances, if permitted by SJRA in writing to Discharge such flammable substances, may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Control Plans

Within one year of being designated as a significant Industrial User, SJRA shall evaluate whether the significant Industrial User needs an accidental Discharge/Slug control plan. SJRA may require any User to develop, submit for approval, and implement such a plan. SJRA shall maintain records of such plans and results of evaluations by the Users associated with such

plans, as well as evaluations pursuant to applicable BMPs. Alternatively, SJRA may develop such a plan for any User. An accidental Discharge/Slug control plan shall address, at a minimum, the following:

- A. Description of Discharge practices, including non-routine batch Discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying SJRA of any accidental or Slug Discharge, as required by Section 8.2 of this Order; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (including solvents), and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Septic Tank Waste haulers and industrial waste haulers are not permitted to Discharge into SJRA's collection system or wastewater treatment system.
- B. Chemical toilet waste may be Discharged at a specified location into the collection system with a permit from SJRA. This permit will specify record-keeping and reporting requirements.

3.5 Tenant Responsibility

Where the owner of property leases premises to any other Person as a tenant under any rental or lease agreement, if either the owner or the tenant is an Industrial User, either or both may be held responsible for compliance with the provisions of this Order.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Denial or Condition of Permit

SJRA has the right to deny or condition a permit for any nondomestic Discharges that do not meet the Pretreatment Requirements or would cause SJRA to be noncompliant with the conditions of its TPDES and NPDES permits.

4.2 Wastewater Analysis

All Users must submit information on the nature and characteristics of its wastewater by completing a wastewater survey within thirty days of the effective date of this Order for existing Users or for new Users prior to commencing their Discharge. SJRA is authorized to prepare a form for this purpose and may periodically require Users to update this information. Failure to complete the survey shall be reasonable grounds for denial or termination of service to the User and shall be considered a violation of this Order.

4.3 Wastewater Discharge Permit Requirement

- A. No Significant Industrial User shall Discharge wastewater into the POTW without first obtaining a wastewater Discharge permit from SJRA.
- B. SJRA may require other Users to obtain wastewater Discharge permits as necessary to carry out the purposes of this Order.
- C. Any noncompliance of the terms and conditions of a wastewater Discharge permit shall be deemed a violation of this Order and subjects the wastewater Discharge permittee to the sanctions set out in Sections 11 through 14 of this Order. Obtaining a wastewater Discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.4 Wastewater Discharge Permitting: Existing Connections

Any User required to obtain a wastewater Discharge permit who was discharging wastewater into the POTW prior to the effective date of this Order and who wishes to continue such Discharges in the future, shall, within ninety (90) days after said date, apply to SJRA for a wastewater Discharge permit in accordance with Section 4.7 of this Order, and shall not cause or allow Discharges to the POTW to continue after one hundred twenty (120) days of the effective date of this Order except in accordance with a wastewater Discharge permit issued by SJRA.

4.5 Wastewater Discharge Permitting: New Connections

Any User required to obtain a wastewater Discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such Discharge. An application for this wastewater Discharge permit, in accordance with Section 4.7 of this Order, must be filed at least ninety (90) days prior to the date upon which any Discharge will begin or recommence.

4.6 Wastewater Discharge Permitting: Extra-jurisdictional Industrial Users

- A. SJRA may enter into an agreement with the neighboring jurisdiction in which the Significant Industrial User is located to provide for the implementation and enforcement of Pretreatment Requirements against said Industrial User.
- B. Any existing Significant Industrial User located beyond SJRA's permissible service area shall submit a wastewater Discharge permit application within ninety (90) days prior to any proposed Discharge into the wastewater treatment system.

4.7 Wastewater Discharge Permit Application Contents

All Users required to obtain a wastewater Discharge permit must submit a permit application. SJRA may require all Users to submit as part of an application the following information:

- A. All information required by Section 6.1 B of this Order;

- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, Discharged to the POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. The amount, storage, of, and disposal of any hazardous waste on site, or generated by the User;
- G. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge;
- H. Time and duration of Discharges; and
- I. Any other information as may be deemed necessary by SJRA to evaluate the wastewater Discharge permit application.

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

4.8 Application Signatories and Certification

All wastewater Discharge permit applications and User reports must be signed by an Authorized Representative of the User as defined in this Order and certified using the following certification statement as specified in 40 CFR 403.6(a)(2)(ii):

“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.”

4.9 Fraud and False Statements

The Reports and other documents required of the Industrial Users are subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of Section 309(c)(4) of the Act, as amended, governing false statements, representation, or certification in reports required under the Act and the provisions of Section 309 (c)(6) regarding responsible corporate officers.

4.10 Wastewater Discharge Permit Decisions

SJRA will evaluate the data furnished by the User and may require additional information. Within ninety (90) days of receipt of a complete wastewater Discharge permit application, SJRA will determine whether or not to issue a wastewater Discharge permit. SJRA may deny any application for a wastewater Discharge permit.

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

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

5.2 Wastewater Discharge Permit Contents

A wastewater Discharge permit shall include such conditions as are deemed reasonably necessary by SJRA to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Wastewater Discharge permits must contain:
 - 1. A statement that indicates wastewater Discharge permit issuance date, effective date, and duration, which in no event shall exceed five (5) years;
 - 2. A statement that the wastewater Discharge permit is nontransferable without prior notification to SJRA in accordance with Section 5.5 of this Order, and provisions for furnishing the new owner or operator with a copy of the existing wastewater Discharge permit;
 - 3. Effluent limits, including BMPs, based on applicable Pretreatment Standards;
 - 4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of BMPs, Pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
 - 5. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- B. Wastewater Discharge permits may contain, but need not be limited to, the following conditions:
 - 1. Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;

2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works, including but not limited to; a compliance schedule for the installation of such technology, controls, or devices;
3. Requirements for the development and implementation of spill control plans or other special conditions (including management practices or requirements to control Slug Discharges if SJRA deems necessary) to adequately prevent accidental, unanticipated, or non-routine Discharges;
4. Development and implementation of waste minimization plans to reduce the amount of Pollutants Discharged to the POTW;
5. The unit charge or schedule of User charges and fees for the management of the wastewater Discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. A statement that compliance with the wastewater Discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater Discharge permit; and
8. Other conditions as deemed appropriate by SJRA to ensure compliance with this Order, and State and Federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Appeals

Any Person, including the User, may petition SJRA to reconsider the terms of a wastewater Discharge permit within thirty (30) days of notice of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater Discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater Discharge permit.
- C. The effectiveness of the wastewater Discharge permit shall not be stayed pending the appeal.
- D. Decisions not to reconsider a wastewater Discharge permit, not to issue wastewater Discharge permit, or not to modify a wastewater Discharge permit shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater Discharge permit decision must do so by filing a complaint with a court of competent jurisdiction within the appropriate statute of limitations.

5.4 Wastewater Discharge Permit Modification

SJRA may modify a wastewater 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 requirements;
- B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater Discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized Discharge;
- D. Information indicating that the permitted Discharge poses a threat to SJRA's POTW, SJRA personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater Discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater Discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater Discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.5 Wastewater Discharge Permit Transfer

Wastewater Discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to SJRA and SJRA approves the wastewater Discharge permit transfer. Once approved by SJRA, the transferor shall provide the new owner or operator with a copy of the current permit. The notice to SJRA must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater Discharge permit.

Failure to provide advance notice of a transfer renders the wastewater Discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

SJRA may revoke a wastewater Discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify SJRA of significant changes to the wastewater prior to the changed Discharge;
- B. Failure to provide prior notification to SJRA of changed conditions pursuant to Section 8.1 of this Order;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater Discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow SJRA access to the facility premises and records (as required in Section 9.1 of this Order);
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater Discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater Discharge permit or this Order.

Wastewater Discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater Discharge permits issued to a particular User are void upon the issuance of a new wastewater Discharge permit to that User.

5.7 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater Discharge permit shall apply for wastewater Discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.7 of this Order, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater Discharge permit.

SECTION 6 - REPORTING REQUIREMENTS - CATEGORICAL INDUSTRIAL USERS

6.1 Baseline Monitoring Reports

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a), whichever is later, existing categorical Users currently discharging to or scheduled to Discharge to the POTW shall submit to SJRA a report which contains the information listed in Section 6.1 B, below. At least ninety (90) days prior to commencement of their Discharge, New Sources, and sources that become categorical User subsequent to the promulgation of an applicable Categorical Standard, shall submit to SJRA a report which contains the information listed in Section 6.1 B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of Pollutants to be Discharged.
- B. Users described above shall submit the information set forth below.
1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
 2. Environmental Permits. A list of any environmental control permits held by or for the facility.
 3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.
 4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 5. Measurement of Pollutants.
 - a. The Categorical Pretreatment Standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by SJRA of regulated Pollutants in the Discharge from each regulated process. Instantaneous, Daily Maximum, and long-term (monthly or longer) average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 8.6 of this Order. Where the standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by SJRA or the applicable standards to determine compliance with the standard.

- c. A minimum of four (4) Grab Samples, spaced at equal intervals over the Discharge duration must be used for pH, cyanide, total phenols, oil and Grease, sulfide, and volatile organics. For all other Pollutants, 24-hour Composite Samples must be obtained through flow-proportional composite sampling techniques where feasible. SJRA may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being Discharge.
 - d. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section.
 - e. Sampling must be performed in accordance with procedures set out in Section 8.7 of this Order.
 - f. SJRA may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for Industrial pretreatment measures.
 - g. The baseline report shall indicate the time, date and place, or sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the POTW.
6. Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and requirements.
 7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this Order.
 8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.8 of this Order.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1 (B)(7) of this Order:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable

Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to SJRA no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to SJRA.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and requirements shall submit to SJRA a report containing the information described in Section 6.1 B4-6 & 8 of this Order, including documentation to demonstrate compliance with a BMP where a required BMP is part of the Categorical Standard. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.8 of this Order.

6.4 Periodic Compliance Reports

- A. All categorical Industrial Users shall, at a frequency determined by SJRA, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of Pollutants in the Discharge which are limited by such standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by SJRA or the pretreatment standard necessary to determine the compliance status of the User. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for regulated process streams and other streams as necessary.
- B. All wastewater samples must be representative of the User's Discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its Discharge.

- C. If a User subject to the reporting requirement in this section monitors any Pollutant more frequently than required by SJRA the results of this monitoring shall be included in the report.
- D. All periodic compliance reports must be signed and certified in accordance with Section 4.8 of this Order.
- E. This sampling and analysis may be performed by SJRA in lieu of the significant Industrial User. Where SJRA performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification. In addition, where SJRA collects all the information required for the report including flow data, the Industrial User will not be required to submit the report.

SECTION 7 - REPORTING REQUIREMENTS – NON-CATEGORICAL INDUSTRIAL USERS

7.1 Periodic Compliance Reports

- A. All Significant Industrial Users shall, at a frequency determined by SJRA, but in no case less than twice per year (in June and December), submit a report indicating the nature, concentration, and flow of the Pollutants required to be reported by SJRA. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by SJRA or the pretreatment standard necessary to determine the compliance status of the User.
- B. The reports shall be based on sampling and analysis performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where SJRA determines that the part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by SJRA or other Persons, approved by SJRA.
- C. If a User subject to the reporting requirement in this section monitors any Pollutant more frequently than required by SJRA the results of this monitoring shall be included in the report.
- D. All periodic compliance reports must be signed and certified in accordance with Section 4.8 of this Order.
- E. This sampling and analysis may be performed by SJRA in lieu of the significant Industrial User. Where SJRA performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification. In addition, where SJRA collects all the information required for the report including flow data, the Industrial User will not be required to submit the report.

SECTION 8 - REPORTING, MONITORING, AND ANALYSIS - ALL INDUSTRIAL USERS

8.1 Reports of Changed Conditions

Each User must notify SJRA of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

- A. SJRA may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater Discharge permit application under Section 4.5 of this Order.
- B. SJRA may issue a wastewater Discharge permit under Section 5 of this Order or modify an existing wastewater Discharge permit under Section 5.4 of this Order in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the Discharge of any previously unreported Pollutants. Significant changes also include the listed or characteristic hazardous wastes for which the User has submitted initial notification under 40 C.F.R. § 403.12(j).

8.2 Reports of Potential Problems

- A. In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a non-customary batch Discharge, or a Slug Load, that may cause potential problems for the POTW, the User shall immediately telephone and notify SJRA of the incident. This notification shall include the location of the Discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. Within five (5) days following such Discharge, the User shall, unless waived by SJRA, submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this Order.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in Section 8.2 A, above. Employers shall ensure that all employees, who may cause such a Discharge to occur, are advised of the emergency notification procedure.
- D. Users are required to notify SJRA immediately of any changes at its facility affecting the potential for a Slug Discharge. Failure to notify SJRA of potential problem Discharges shall be deemed a violation of this Order.

8.3 Reports from Unpermitted Users

All Users not required to obtain a wastewater Discharge permit shall provide appropriate reports to SJRA as SJRA may require.

8.4 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify SJRA within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to SJRA within thirty (30) days, unless otherwise specified by SJRA, after becoming aware of the violation. The User is not required to resample if SJRA monitors at the User's facility at least once a month, if SJRA samples between the User's initial sampling and when the User receives the results of this sampling or if SJRA has performed the sampling and analysis in lieu of the User. If SJRA performed the sampling and analysis in lieu of the User, SJRA will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform repeat sampling and analysis.

8.5 Notification of the Discharge of Hazardous Waste

- A. Any User who commences the Discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any Discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of Discharge (continuous, batch, or other). If the User Discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream Discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be Discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the Discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste Discharged. However, notification of changed conditions must be submitted under Section 8.1 of this Order. The notification requirement in this section does not apply to Pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this Order.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they Discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User Discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a

hazardous waste, the User must notify SJRA, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the Discharge of such substance within ninety (90) days of the effective date of such regulations.

- D. In the case of any notification made under this section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to Discharge any substance not otherwise permitted to be Discharged by this Order, a permit issued thereunder, or any applicable Federal or State law.

8.6 Monitoring and Analytical Requirements

- A. All Pollutant analyses, including sampling techniques, to be submitted as part of a wastewater Discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by SJRA or other parties approved by EPA.
- B. The reports required in Sections 6.1, 6.3, 6.4, and 7.1 shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by SJRA, of Pollutants contained therein which are limited by the applicable Pretreatment Standards. All wastewater samples must be representative of the User's Discharge.
- C. This sampling and analysis may be performed by SJRA in lieu of the significant Industrial User. Where SJRA performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification. In addition, where SJRA collects all the information required for the report including flow data, the Industrial User will not be required to submit the report.

8.7 Sample Collection

Samples collected to satisfy reporting requirements in Sections 6 and 7 of this Order must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. All wastewater samples must be representative of the User's Discharge.

- A. SJRA is authorized to require samples of wastewater Discharges from Industrial Users as often as necessary to adequately monitor and control their Discharge. In the event SJRA requires such samples, a User shall retain the services of a State approved (NELAP accredited) commercial laboratory and pay all costs of sample collection and laboratory services to determine and report the wastewater characteristics.

- B. SJRA shall sample and analyze the effluent from Significant Industrial Users at least once per year. Samples may be randomly collected at Users' facilities by SJRA or its Authorized Representative. The cost of such sampling and laboratory analyses shall be paid by the Industrial Users.
- C. All handling and preservation of collected samples and laboratory analyses of samples shall be performed in accordance with 40 CFR part 136 and amendments thereto. Where 40 CFR Part 136 does not contain samples or analytical techniques for the Pollutant in question, or where the EPA determines that Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or another applicable sampling and analytical procedures, including procedures suggested by SJRA or other Persons approved by the EPA or TCEQ.
- D. Any temporary or permanent obstruction to safe and easy access to the Industrial facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of SJRA and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.
- E. Unreasonable delays in allowing SJRA personnel access to the Industrial User's premises shall be a violation of this Order.
- F. Except as indicated in Subsections G and H below, the User must collect wastewater samples using 24-hour flow proportional composite collection techniques, unless time-proportional composite sampling is authorized by the SJRA. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and Grease, the samples may be composited in the laboratory; total residual chlorine, pH, and temperature samples may not be composited under any circumstances. In the event flow proportional sampling is infeasible, SJRA may authorize the use of time composite sampling if it demonstrates that this will provide a representative sample of the effluent being Discharged. In addition, grab samples may be required to show compliance with instantaneous Discharge limits.
- G. Samples for oil and Grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- H. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and Grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, SJRA may authorize a lower minimum. For reports required by Section 6.4 [40 CFR 403.12(e) and (h)], the User is required to collect the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements.

8.8 Certification

All reports shall contain a certification statement as described in Section 4.8 of this Order.

8.9 Timing

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

8.10 Record Keeping

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

SECTION 9 - COMPLIANCE MONITORING

9.1 Right of Entry: Inspection and Sampling

SJRA shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Order and any wastewater Discharge permit or order issued hereunder. Users shall allow SJRA ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. Users shall allow authorized federal and/or state representatives access to its premises for purposes of inspection and sampling activities, as required by law.

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, SJRA will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. SJRA shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- C. SJRA may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of SJRA and shall not be replaced. The costs of clearing such access shall be borne by the User.
- E. Unreasonable delays in allowing SJRA access to the User's premises shall be a violation of this Order.

9.2 Search Warrants

If SJRA has been or is refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Order, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of SJRA designed to verify compliance with this ordinance or any permit or Order issued hereunder, or to protect the overall public health, safety and welfare of the community, then SJRA may seek issuance of a search warrant.

SECTION 10 - CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater Discharge permit applications, wastewater Discharge permits, and monitoring programs, and from SJRA's inspection and sampling activities, (including effluent data) shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of SJRA, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated to SJRA by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall be presumed confidential, and SJRA shall follow the procedures of the Texas Public Information Act in determining whether to release such information upon any request made under the Act. The information shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program, and in enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 11 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

SJRA shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by SJRA, a list of the Users that, during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and requirements. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater Discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month (6-month) period exceed a numeric pretreatment standard or requirement, including Daily Maximum limit or average limit for the same Pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for the same

Pollutant parameter during a six-month (6) period equals or exceeds the product of the numeric pretreatment standard or requirement including, Daily Maximum limit or the average limit, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and Grease, and 1.2 for all other Pollutants except pH);

- C. Any other violation of a pretreatment standard or requirement as defined by Section 2 (Daily Maximum, long-term average, instantaneous limit or narrative standard) that SJRA believes has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any Discharge of Pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in SJRA's exercise of its emergency authority to halt or prevent such a Discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater Discharge permit or enforcement Order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include violations of BMPs, which SJRA determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 12 - ADMINISTRATIVE ENFORCEMENT ACTIONS/ADMINISTRATIVE ORDERS

12.1 Notification of Violation (NOV)

When SJRA finds that a User has violated, or continues to violate, any provision of this Order, a wastewater Discharge permit or Order issued hereunder, or any other pretreatment standard or requirement, SJRA may serve upon that User a written NOV. Within fifteen (15) business days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to SJRA. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the NOV. Nothing in this section shall limit the authority of SJRA to take any action, including emergency actions or any other enforcement action, without first issuing a NOV.

12.2 Consent Orders

SJRA may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and

effect as the administrative orders issued pursuant to Sections 12.3, 12.4 and 12.5 of this Order and shall be judicially enforceable.

12.3 Show Cause Hearing

SJRA may order a User which has violated, or continues to violate, any provision of this Order, a wastewater Discharge permit or Order issued hereunder, or any other pretreatment standard or requirement, to appear before SJRA and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

12.4 Compliance Orders

When SJRA finds that a User has violated, or continues to violate, any provision of this Order, a wastewater Discharge permit or Order issued hereunder, or any other pretreatment standard or requirement, SJRA may issue an Order to the User responsible for the Discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, water and sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance Orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of Pollutants Discharged to the sewer. A Compliance Order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Order relieve the User of liability for any violation, including any continuing violation. Issuance of a Compliance Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

12.5 Cease and Desist Orders

When SJRA finds that a User has violated, or continues to violate, any provision of this Order, a wastewater Discharge permit or Order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, SJRA may issue an Order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

12.6 Suspension of Water/Wastewater Services Orders

SJRA may immediately suspend a User's Discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened Discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare

of Persons. SJRA may also immediately suspend a User's Discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any User notified of a suspension of its Discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply, the termination proceedings in Section 12.7 of this Order are initiated against the User.
- B. A User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to SJRA prior to the date of any show cause or termination hearing under Sections 12.3 or 12.7 of this Order.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

12.7 Termination of Water Service and/or Discharge

In addition to the provisions in Section 5.6 of this Order, any User who violates the following conditions is subject to termination of water and wastewater services:

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

Such User will be notified of the proposed termination of its water service or Discharge and be offered an opportunity to show cause under Section 12.3 of this Order why the proposed action should not be taken. Exercise of this option shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 13 - CIVIL LITIGATION

13.1 Consent Decree

After SJRA finds that a User has violated, or continues to violate, any provision of this Order, and after a lawsuit has been filed, an agreement between SJRA and the User may be reached. This agreement is the Consent Decree and shall be signed by the judge assigned to the case.

13.2 Injunctive Relief

When SJRA finds that a User has violated, or continues to violate, any provision of this Order, a wastewater Discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement, SJRA may petition a civil district court of competent jurisdiction through SJRA's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater Discharge permit, Order, or other requirement imposed by this ordinance on activities of the User. SJRA may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

13.3 Civil Penalties

- A. In addition to other administrative penalties/fines, a User who has violated, or continues to violate, any provision of this Order, a wastewater Discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement shall be liable to SJRA for a minimum civil penalty of \$1,000 per day, per violation. In the case of a monthly or other long-term average Discharge limit, penalties shall accrue for each day during the period of the violation.
- B. SJRA may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by SJRA.
- C. In determining the amount of civil liability, SJRA (in seeking the civil penalties) and the Court (in assessing the civil penalties) shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires. To the extent possible, the civil penalty, at a minimum, shall be set at an amount equal to the estimated economic benefit the User may have realized as a result of its noncompliance.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

13.4 Criminal Prosecution

- A. A User who willfully or negligently violates any provision of this Order, a wastewater Discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class C misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day.
- B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of Class C misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater Discharge permit, or Order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Order shall, upon conviction, be guilty of a Class C misdemeanor punishable by a fine of not more than \$1,000 per violation, per day.

13.5 Remedies Nonexclusive

The remedies provided for in this Order are not exclusive. SJRA may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with SJRA enforcement response plan. However, SJRA may take other action against any User when the circumstances warrant. Further, SJRA is empowered to take more than one enforcement action against any noncompliant User.

SECTION 14 - SUPPLEMENTAL ENFORCEMENT ACTION

14.1 Performance Bonds

SJRA may decline to issue or reissue a wastewater Discharge permit to any User who has failed to comply with any provision of this Order, a previous wastewater Discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement, unless such User first files a satisfactory bond, payable to SJRA in a sum not to exceed a value determined by SJRA to be necessary to achieve consistent compliance.

14.2 Liability Insurance

SJRA may decline to issue or reissue a wastewater Discharge permit to any User who has failed to comply with any provision of this Order, a previous wastewater Discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its Discharge.

14.3 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this Order, a wastewater Discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

14.4 Public Nuisance

A violation of any provision of this Order, a wastewater Discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by SJRA. Any Person(s) creating a public nuisance shall be subject to the provisions of any applicable municipal code or local regulation governing such nuisances, including reimbursing SJRA for any costs incurred in removing, abating, or remedying said nuisance.

14.5 Contractor Listing

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

SECTION 15 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

15.1 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1 A of this Order or the specific prohibitions in Sections 2.1 B 1 through B 21 of this Order if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- A. A local limit exists for each Pollutant Discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No local limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when SJRA was regularly in compliance with its TPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

15.2 Bypass

- A. For the purposes of this section,
 - 1. "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.
 - 2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A User may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Sections 15.2 C and D, below.
- C.
 - 1. If a User knows in advance of the need for a bypass, it shall submit prior notice to SJRA, at least ten (10) days before the date of the bypass, if possible.
 - 2. A User shall submit verbal notice to SJRA of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass.

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

- D. 1. Bypass is prohibited, and SJRA may take an enforcement action against a User for a bypass, unless
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The User submitted notices as required under Section 15.2 C, above.
- 2. SJRA may approve anticipated bypass, after considering its adverse effects, if SJRA determines that it will meet the three conditions listed in Section 15.2 D 1, above.

15.3 Act of God

In an action brought in municipal or state court, if a Person can establish that an event would otherwise be a violation of this Section or a permit issued under this Section was caused solely by an Act of God, war, strike, riot, or other catastrophe, as defined in Texas Water Code Section 7.251, the event is not a violation of this Article or the permit. In an enforcement proceeding, the User seeking to establish the occurrence of an Act of God, war, strike, riot, or other catastrophe shall have the burden of proof. In the event that an Act of God, war, strike, riot, or other catastrophe has been established the User shall control production of all Discharges to the extent possible until such time as the reduction, loss, or failure of its treatment facility is restored or an alternative method of treatment is provided.

SECTION 16 - MISCELLANEOUS PROVISIONS

16.1 Pretreatment Charges and Fees

SJRA may adopt reasonable fees for reimbursement of costs of setting up and operating its Pretreatment Program, which may include:

- A. Fees for wastewater Discharge permit applications including the cost of processing such applications
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's Discharge, and reviewing monitoring reports submitted by Users

- C. Fees for reviewing and responding to accidental Discharge procedures and construction
- D. Fees for filing appeals; and
- E. Other fees as SJRA may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Order and are separate from all other fees, fines, and penalties chargeable by SJRA.

16.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 17 - EFFECTIVE DATE

This Order shall be in full force and effective immediately following its passage, approval, and publication, as provided by law.