



EBMUD WASTEWATER DISCHARGE PERMIT STANDARD TERMS AND CONDITIONS

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SECTION I. DEFINITIONS

Best Management Practices (BMPs) - Guidelines and procedures that reduce the generation of pollutants or hazardous wastes, and prevent them from being released to the environment. BMPs can include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Title II, Section 2 of EBMUD Wastewater Control Ordinance No. 358. BMPs also 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.

Bypass - The intentional diversion of waste streams from any portion of a treatment facility.

Chain of Custody - The legal record of each person who had possession of a sample. It is included with an analytical report.

Director - Director of the Wastewater Department of the East Bay Municipal Utility District, or his/her designated representative.

Day - Unless otherwise specified, “day” means calendar day (all days of the week, including Saturday, Sunday, and holidays).

East Bay Municipal Utility District (EBMUD) - The POTW that has jurisdiction over the indirect discharges to and the discharges from the EBMUD Wastewater Treatment Facilities.

EBMUD Wastewater Treatment Facilities - All portions of the EBMUD collection and treatment facilities, which may also be collectively referred to as the POTW. It includes the EBMUD main wastewater treatment plant and wet-weather facilities, and the EBMUD interceptors and associated pump stations that convey wastewater to the main wastewater treatment plant and wet-weather facilities.

EPA - The United States Environmental Protection Agency (EPA)

Hazardous Waste - Listed and characterized wastes under Section 3001 of the Resource Conservation and Recovery Act, as described in the 40 Code of Federal Regulations (CFR) 261 or as defined in California Health and Safety Code Section 25117. VII.

Industrial User (IU) - A source of indirect discharge of nondomestic liquid or semisolid wastes from any producing, manufacturing, or processing operation of whatever nature.

Permit Holder - Any individual, partnership, firm, association, corporation, or public agency issued a Wastewater Discharge Permit.

POTW - Publicly Owned Treatment Works, which is a treatment works owned by a state or municipality. This includes any devices, and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes the EBMUD Wastewater Treatment Facilities.

Pretreatment Program - A program administered by EBMUD that meets the criteria established in 40 CFR 403.8, 403.9, and 403.11.

Prohibition - Prohibited wastewater discharges as defined in 40 CFR 403.5 or EBMUD Wastewater Control Ordinance, Title I, Section 5, and Title II, Section 2.

San Francisco Regional Water Quality Control Board - The California Regional Water Quality Control Board, San Francisco Bay Region, is the approval authority for EBMUD's Pretreatment Program.

Sample - A portion of wastewater that is representative of a larger volume of wastewater being discharged. The two types of samples are:

- a. Grab - an individual sample collected in a period of time not exceeding fifteen minutes.
- b. Composite - a sample consisting of discrete aliquots combined into a single sample, representative of a period of time.

SD-1 - EBMUD Special District No. 1, a district established to provide treatment of wastewater from the following East Bay Communities: Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont, and the Stege Sanitary District that includes the City of El Cerrito, the Richmond Annex, and the Kensington area. [Ref. Municipal Utility District (MUD) Act, Division 6, Chapter 8, Section 13451].

Significant Industrial User (SIU) - An industrial user that is either: (1) subject to categorical pretreatment standards; (2) discharges an average of 25,000 gallons per day or more of process wastewater, or contributes process wastestream comprising five percent or more average dry weather flow, or five percent or more of the organic capacity of the EBMUD Wastewater Treatment Facilities; or (3) is designated as such by EBMUD on the basis of having a reasonable potential to adversely affect the EBMUD Wastewater Treatment Facilities or violate any pretreatment standards or requirements. [Ref. 40 CFR 403.3(v)(1)]

Significant Noncompliance - A significant industrial user (or any IU which violates paragraphs c, d or h below) is in significant noncompliance with applicable pretreatment requirements if any violation meets one or more of the following criteria:

- a. Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l)
- b. Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent or more of all of the measurements for any pollutant parameter taken during a six-month period are equal to or exceed the product numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC.
 - (1) TRC = 1.4 for BOD, TSS, fats, oil and grease
 - (2) TRC = 1.2 for all other pollutants (except pH)
- c. Any other violations of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that EBMUD determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of EBMUD personnel or the general public).

- d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in EBMUD's exercise of emergency authority to halt or prevent such a discharge.
- e. Failure to meet, within 90 days after the due date, a compliance schedule milestone contained in the Permit or Director's order for starting construction, completing construction, or attaining final compliance.
- f. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, self-monitoring reports, and reports on compliance with compliance schedules.
- g. Failure to accurately report noncompliance.
- h. Any other violation or group of violations, which EBMUD determines, will adversely affect the operation or implementation of the local pretreatment program.

Slug Load or Slug Discharge - Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in the EBMUD Wastewater Control Ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge which has a reasonable potential to cause interference or pass through, or in any other way violate EBMUD's regulations, local limits or permit conditions.

Spill - An accidental discharge of a substance that may pose an environmental, public health, or wastewater quality concern.

Total Identifiable Chlorinated Hydrocarbons (TICH) - The sum of the concentrations of all quantifiable values equal to or greater than the detection limit for all chlorinated hydrocarbons identified by EPA Method 624.

Total Metals - The sum of the concentrations of copper, chromium, nickel, and zinc (40 CFR 413.02(e))

Total Toxic Organics (TTO) - The sum of the concentrations of specific toxic organic compounds found in the wastewater discharge at a concentration greater than 10 micrograms per liter (ug/L). Each categorical standard (40 CFR 405 - 471) lists the specific toxic organic compounds that are to be included in the summation.

Upset - An exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Permit Holder. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, as defined in 40 CFR 403.16.

Wastewater - All sewage, industrial, and other wastes and waters, whether treated or untreated, discharged into or permitted to enter a community sewer system connected to an EBMUD interceptor, for treatment in wastewater disposal facilities. As used in the Standard Terms and Conditions, unless the context specifically indicates otherwise, "wastewater" shall mean sewage, industrial, and other wastes discharged to a community sewer by any person.

Wastewater Control Ordinance (Ordinance) - Provides legal authority for EBMUD to implement the pretreatment program. The Ordinance establishes regulations and charges for the collection, treatment, and disposal of wastewater, as well as penalties for violations.

Wastewater Discharge Permit (Permit) - A permit issued by EBMUD to any Industrial User with a discharge that EBMUD is authorized to regulate per 40 CFR 403.

Wastewater Discharge Limits - A wastewater discharge limit is the maximum concentration of a pollutant allowed to be discharged during a specific period of time. Wastewater discharge limits may be of three types: Monthly Average, 4-day Average, and Maximum.

- a. **Monthly Average** - The maximum arithmetic average value of all samples taken in a calendar month.
- b. **4-day Average** - The maximum arithmetic average value of four consecutive samples taken on different days.
- c. **Maximum** - The maximum concentration of a pollutant allowed to be discharged at any time, as determined from the analysis of a grab or composite sample.

SECTION II. GENERAL PROVISIONS

A. Inclusion in Wastewater Discharge Permit

These Standard Terms and Conditions (STC) are a part of the Wastewater Discharge Permit (the Permit). EBMUD may revise the STC at any time. When the STC is revised, the revised version of the STC will become part of the Permit immediately upon publication of the revised STC on www.ebmud.com.

B. Duty to Comply

The Permit Holder shall comply with all terms and conditions of the Permit, which includes the STC. Compliance with the Permit does not relieve the Permit Holder from its obligations regarding compliance with any and all applicable local, state, and federal Pretreatment Standards and requirements including any such standards or requirements that might become effective during the term of the Permit.

C. Duty to Mitigate and Halt Activity

The Permit Holder shall take all reasonable steps to correct any adverse impact to EBMUD Wastewater Treatment Facilities or the environment resulting from noncompliance with the Permit, including accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance.

Upon loss or failure of all or part of the pretreatment facilities or reduction of efficiency of operation, the Permit Holder shall, to the extent necessary to maintain compliance with its Permit, control its production or discharges until operation of the pretreatment facilities is restored or an alternative method of treatment is provided. The Permit Holder will not use as a defense in an enforcement action, that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the Permit.

D. Discharge Location and Process

The Permit Holder shall discharge wastewater only from the location(s) and process(es) described in the Permit.

E. Permit Modification

The Director may modify the Permit for good cause at any time, including but not limited to, the following reasons:

1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
2. To address significant alterations or additions to the Permit Holder's operation, processes, or wastewater volume or character since the time of the individual Wastewater Discharge Permit issuance.
3. A change in any process or discharge condition in either the Industrial User or EBMUD that requires either a temporary or permanent reduction or elimination of the authorized discharge.
4. Information indicating that the permitted discharge poses a threat to the EBMUD Wastewater Treatment Facilities, EBMUD personnel, or receiving waters.
5. Violation of any terms or conditions of the Permit.
6. Misrepresentation or failure to disclose fully all relevant facts in the Permit application or in any required reporting.
7. Revision of a grant of variance from such categorical standards pursuant to 40 CFR 403.13.
8. To correct typographical or other errors in the Permit.
9. Upon request of the Permit Holder, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

F. Permit Appeals

The Permit Holder may appeal the terms of the Permit within 30 days of issuance of the Permit. The effectiveness of the Permit will not be stayed pending the appeal. To be considered, the appeal must be in writing addressed to the Director, must indicate the Permit provisions objected to, reasons for the objection, and the alternative condition, if any, the Permit Holder seeks to be placed in the Permit. Failure to submit a complete and timely appeal will be deemed a waiver of the Permit Holder's right to appeal, and be deemed an agreement by the Permit Holder to be bound by the terms of the Permit.

G. Permit Revocation

The Director may revoke a Permit for good cause at any time. Upon revocation of the Permit, any wastewater discharge from the former Permit Holder shall be considered prohibited and illegal. Grounds for revocation of the Permit include, but are not limited to, the following:

1. Failure to accurately disclose wastewater constituents and characteristics of their discharge;
2. Failure of Permit Holder to report significant changes in operation or wastewater constituents and characteristics;

3. Refusal of timely access to Permit Holder premises for the purpose of inspection or monitoring;
4. Falsification of records, reports, or monitoring results relating to chemical materials;
5. Tampering with monitoring equipment;
6. Violation of limits, requirements, or conditions of the Permit;
7. Misrepresentation, or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application;
8. Failure to pay noncompliance fees;
9. Failure to pay wastewater treatment charges;
10. Failure to submit required reports;
11. Failure to meet compliance schedules; or
12. Violation of any pretreatment standards or requirement, or any terms of the Permit.

H. Permit Renewal

The Permit Holder shall submit an application for Permit renewal at least 60 days prior to expiration of the existing Permit.

I. Prohibited Discharges

1. General Prohibition: The Permit Holder shall not discharge wastewater into a community sewer which will result in contamination, pollution, or a nuisance.
2. Prohibited Effects: The Permit Holder shall not discharge wastewater into a community sewer if it contains substances or has characteristics which, either alone or by interaction with other wastewaters, cause or threaten to cause:
 - a. Damage to EBMUD Wastewater Treatment Facilities.
 - b. Interference with or impairment of the operation or maintenance of EBMUD Wastewater Treatment Facilities.
 - c. Obstruction of flow in sewers or interceptors.
 - d. Danger to life or safety of any person.
 - e. Interference with, or overloading of, treatment or disposal processes.
 - f. Flammable or explosive conditions at or near EBMUD Wastewater Treatment Facilities.
 - g. Wastewater or any other by-products of the treatment process to be unsuitable for reclamation and reuse, or interfere with any processes for reclamation.
 - h. Noxious or malodorous gases or odors at or near EBMUD Wastewater Treatment Facilities.
 - i. Discoloration or any other condition in the quality of the EBMUD Wastewater Treatment Facilities effluent in such a manner that receiving water quality requirements established by law cannot be met by EBMUD.
 - j. Conditions at or near EBMUD Wastewater Treatment Facilities that violate any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body, including the general prohibitions contained in Federal General Pretreatment Regulations.
 - k. The presence of toxic gases, fumes, or vapors in quantities injurious to the

- health and safety of EBMUD personnel.
- l. Pass-through of EBMUD Wastewater Treatment Plant Facilities, causing a violation of any requirement of the EBMUD National Pollutant Discharge Elimination System (NPDES) Permit.
 - m. Discharge of waste that exhibits the characteristics of corrosivity as described in 40 CFR 261.22.
3. Prohibited Substances: The Permit Holder shall not discharge the following to a community sewer:
 - a. Wastewater which is not polluted and meets requirements for and is acceptable for discharge to storm sewers or to receiving waters of the State; provided that the Director may grant permission for the discharge of unpolluted wastewaters which comply with regulations of the public agency owning the community sewer.
 - b. Wastewater which creates a fire or explosion hazard including, but not limited to, discharges with a closed cup flashpoint of less than 140° Fahrenheit (60° Celsius) using the test methods specified in 40 CFR 261.21.
 - c. Garbage, except ground garbage from residential and commercial premises where food is prepared and consumed.
 4. Prohibited Locations: Except for sewer construction and maintenance by public agencies and their contractors, the Permit Holder shall not discharge any wastewater directly into a manhole or other opening in a community sewer system other than through side sewers approved by the public agency owning the system; provided that the Director may grant permission for such direct discharges, upon written application, at locations approved by the public agency and upon payment of applicable sewage disposal charges to EBMUD.
 5. Prohibition on Use of Dilution: Except where expressly authorized to do so by an applicable pretreatment standard or requirement, The Permit Holder shall not increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with a pretreatment standard, requirement or discharge limitation. EBMUD may impose mass limitations on Permit Holders which are using dilution to meet applicable Pretreatment Standards or requirements, or in other cases where the imposition of mass limitations is appropriate.
 6. Prohibition on Slug Discharges: The Permit Holder shall not discharge any pollutant, including oxygen-demanding pollutants, at a flow rate and/or pollutant concentration which causes or threatens to cause interference with the wastewater treatment process. For the purposes of this section, any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge limitations in Section II. I., J., or K. of these STCs shall be deemed a slug discharge.
 7. Bypass Prohibited
 - a. Bypass of pretreatment equipment and/or discharge points is prohibited and EBMUD may take enforcement action against any Permit Holder for bypass unless:

- i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, as described in 40 CFR 403.17(d); and
 - iii. The Permit Holder submits the notifications required in 40 CFR 403.17(c).
 - b. EBMUD may approve an anticipated bypass, after considering its adverse effects, if EBMUD determines that it will meet the three conditions specified in paragraph (7)(a) of this section.
 - c. In the event that bypass occurs, the Permit Holder shall notify EBMUD as specified in Section III. E of these STCs.
8. Discharge of Petroleum or Mineral Oil Causing Pass-through or Interference Prohibited: Notwithstanding the provisions of Section II. J of these STCs, the Permit Holder shall not discharge petroleum oil, non-biodegradable cutting oil or other products of mineral origin in any amount that causes interference or pass-through.
 9. Discharge of Trucked or Hauled Wastes Prohibited: The Permit Holder shall not discharge any trucked or otherwise hauled wastes to the community sewer or to any EBMUD Wastewater Treatment Facilities unless a Permit to do so has been issued by EBMUD.

J. Limitations on Discharges

1. Wastewater Discharge Limits: The Permit Holder shall not discharge wastewater from a side sewer into a community that exceeds EBMUD local discharge limits as listed in the EBMUD Wastewater Control Ordinance.
2. Additional Wastewater Discharge Limits: Wastewater discharge limits for constituents not listed in the EBMUD Wastewater Control Ordinance may be established in a Wastewater Discharge Permit based on available treatment technology, categorical pretreatment standards, existing wastewater conditions in the EBMUD Wastewater Treatment Facilities or other factors as determined by the Director. The Director may also establish wastewater discharge limits on the Wastewater Discharge Permits at locations within a premises whenever non-process water may dilute the wastewater discharging from side sewers.
3. Best Management Practices: EBMUD may require best management practices (BMPs) as an alternative to numeric limits that are developed to protect the EBMUD Wastewater Treatment Facilities, water quality, and sewage sludge.
4. Quantity and Rate of Flow Limits: The Permit Holder shall not discharge wastewater into a community sewer in quantities or at rates of flow which may have an adverse or harmful effect on or overload EBMUD Wastewater Treatment Facilities or cause excessive or additional EBMUD treatment costs. The Director may establish mass discharge limits in Wastewater Discharge Permits to control the quantity and rate of flow of wastewater discharges.

5. Radioactive Limits: The Permit Holder shall not discharge or cause to be discharged any radioactive wastewater into a community sewer except when the Permit Holder is authorized to use radioactive material by the Nuclear Regulatory Commission or other governmental agency empowered to regulate the use of radioactive materials and when the wastewater is discharged in strict conformity with current Nuclear Regulatory Commission regulations and recommendations for safe, disposal and in compliance with all rules and regulations of State and local regulatory agencies.
6. Deny or Condition New or Increased Contributions: The Director may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the EBMUD Wastewater Treatment Facilities by Permit Holders where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause EBMUD to violate its NPDES Permit.

K. Disposal of Hazardous Waste and Removed Substances

1. The Permit Holder shall not dispose of hazardous waste to the community sewer and must dispose of hazardous waste in accordance with all local, state, and federal laws and regulations.
2. Solids, sludge, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in accordance with section 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act.

L. Closure Plan

EBMUD may require a Permit Holder who intends to close or cease a regulated process to provide a written Closure Plan. The plan shall include the following four items:

1. Date of proposed work or production stoppage
2. Date of proposed final closure (after cleaning and demobilizing activities are complete)
3. Description of cleaning activities, and
4. Description of disposal of inventoried process material and waste

M. Availability of Permit

The Permit Holder shall maintain a copy of the current Permit at the permitted site and make the Permit available to the Permit Holder and EBMUD staff at all times.

N. Payment of Permit Fees and Charges

The Permit Holder shall pay all Permit fees, monitoring and testing charges, and wastewater treatment charges.

O. Continuation of Expired Permits

EBMUD may at its discretion continue the Permit terms and conditions if the Permit expires, until a new Permit is issued, provided that the permit term for a significant industrial user does not exceed five years.

P. Transfer of Permit Prohibition

The Permit Holder shall not assign or transfer the Permit.

Q. Severability

If any provision of the Permit, EBMUD Wastewater Control Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Permit or EBMUD Wastewater Control Ordinance, or the application of such provision to other persons or circumstances, shall not be affected thereby.

R. Property Rights

The issuance of the Permit does not convey to the Permit Holder any property rights of any sort or any exclusive privileges.

SECTION III. REPORTING AND RECORD KEEPING

A. Reporting Requirements

All reports required by a Wastewater Discharge Permit shall be submitted to EBMUD at the following address:

East Bay Municipal Utility District
Wastewater Environmental Service Division
375 11th St., MS 702
Oakland, CA 94607
Attn: Industrial Discharge Section

Time-sensitive verbal notifications: (510) 287-1651 during business hours or (866) 403-2683 (866-40-EBMUD) during non-business hours.

B. Duty to Provide Information

The Permit Holder must furnish to EBMUD within 10 days upon request, any information that EBMUD requests to determine whether cause exists for modifying, revoking and reissuing, or terminating the Permit, or to determine compliance with the Permit. The Permit Holder must also furnish EBMUD within 10 days, copies of any records required to be retained by the Permit, as defined in 40 CFR 403.8(f)(2)(vi).

C. Changes in Quantity and Quality of Wastewater

The Permit Holder shall promptly notify EBMUD, in advance, of any significant change to the volume or character of the wastewater discharge or any deviation from the Permit terms and conditions as defined in 40 CFR 403.12(j).

D. Anticipated Noncompliance

The Permit Holder shall notify EBMUD in advance of any planned changes in the Permitted facility or activity that could result in noncompliance with Permit requirements.

E. Notification of Bypass

Bypass of pretreatment equipment and/or discharge points is prohibited as specified in Section II. I (7). If a bypass occurs, Permit Holder shall notify EBMUD as follows:

1. Anticipated Bypass: If the Permit Holder knows in advance of the need for a bypass, it shall submit prior written notice at least 10 days before the date of the bypass to EBMUD.
2. Unanticipated Bypass: The Permit Holder shall notify EBMUD within 24 hours from the time it becomes aware of an unanticipated bypass and submit a written notice to EBMUD within five days. This report must specify:
 - a. A description of the bypass, and its cause, including its duration with exact dates and times;
 - b. Whether the bypass has been corrected and if the bypass has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps being taken, or to be taken to reduce, eliminate, and prevent a reoccurrence of the bypass.

F. Potential for Slug Discharge

The Permit Holder shall immediately notify EBMUD of any changes at its facility affecting potential for a Slug Discharge as defined in 40 CFR 403.8(f)(2)(vi).

G. Spill or Slug Discharge Notification

Immediately upon discovering any spill, slug discharge to the sanitary sewer, or discharges to the sanitary sewer that could cause problems at EBMUD Wastewater Treatment Plant Facilities, the Permit Holder shall notify EBMUD Environmental Services Division as described in Section III. A. of these STCs, per 40 CFR 403.12(f).

The Permit Holder shall submit to EBMUD within five days of the occurrence a formal written notification describing:

1. Name of the facility;
2. Location of the facility;
3. Name of the caller;
4. Duration of discharge including beginning and end times and dates;
5. Location of the discharge;
6. Estimated volume of discharge;
7. Pollutants that may be present;
8. Corrective actions to prevent reoccurrence; and
9. Whether the discharge violates the terms and conditions of the Permit.

H. Twenty-Four Hour Violation Reporting

1. The Permit Holder shall notify EBMUD within 24 hours of becoming aware of any of the following violations:
 - a. Discharges prohibited by EBMUD Wastewater Control Ordinance, Title II, except where authorized by the Permit
 - b. Exceedance of Categorical Pretreatment Standards

- c. Exceedance of wastewater discharge limits as established in the Permit
 - d. Bypass of any part of a required pretreatment system
2. The Permit Holder shall submit a written report to EBMUD within five days of becoming aware of a violation. The report shall include the following information:
 - a. The date and time of the violation
 - b. The cause of the violation
 - c. A description of the violation, including what was discharged
 - d. The volume of the discharge
 - e. The duration of the discharge violation including start and end times and dates
 - f. Analytical results, if available, with chain of custody and other pertinent documentation
 - g. Measures taken to correct the violation
 - h. Measures taken to prevent recurrence
 3. If analytical results of a sample collected by the Permit Holder indicate a violation, the Permit Holder shall repeat the sampling and analysis, and submit the results to EBMUD within 30 days of becoming aware of the violation, unless:
 - a. EBMUD samples for the same parameter between the time the Permit Holder performs its initial sampling and the time when the Permit Holder receives the results of the sampling or
 - b. EBMUD samples the permitted discharge at a frequency of at least once per month

Such notification shall not relieve the Permit Holder of any expense, loss, damage, or other liability which may be incurred as a result of damage to EBMUD Wastewater Treatment Facilities, natural resources, or any other damage to person or property; nor shall such notification relieve the Permit Holder of any fines, penalties, or other liability which may be imposed pursuant to EBMUD Wastewater Control Ordinance.

I. Upset Provision

The Permit Holder can be granted an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards or other Permit Conditions if the requirements of paragraph (1) are met.

1. Conditions Necessary for Demonstration of Upset: A Permit Holder who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that all of the following are true:
 - a. An Upset occurred and the Permit Holder can identify the cause(s) of the Upset;
 - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - c. The Permit Holder has submitted the following information to EBMUD within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):

- i. A description of the discharge and cause of noncompliance;
 - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- 2. Burden of Proof: In any enforcement proceeding, the Permit Holder seeking to establish the occurrence of an Upset shall have the burden of proof.
- 3. Reviewability of EBMUD's Consideration of Claims of Upset: In the usual exercise of prosecutorial discretion, EBMUD staff will review any claims that noncompliance was caused by an Upset. No determinations made in the course of the review constitute final EBMUD action subject to judicial review. The Permit Holder will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- 4. Permit Holder Responsibility In Case of Upset: The Permit Holder shall control production of all discharges to the extent necessary to maintain compliance with Permit conditions upon reduction, loss, or failure of its pretreatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

J. Hazardous Waste Notification

It is in violation of the Permit to discharge any hazardous waste. If a violation of this prohibition occurs, the Permit Holder shall submit to EBMUD a written notification in accordance with 40 CFR 403.12(p)(1) and (3) of any discharge, which, if otherwise disposed of, would be a hazardous waste as defined in Section I of these STCs.

Pollutants reported as part of the Self-Monitoring Reporting Requirements are not subject to this notification requirement.

K. Signature Requirement

- 1. All required reports, permit applications, self-monitoring reports, violation response reports, and periodic reports on continued compliance, shall be signed by:
 - a. A Responsible Corporate Officer, if the Permit Holder submitting the reports is a corporation. For the purpose of this paragraph, a Responsible Corporate Officer means:
 - i. President, secretary, treasurer, or 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
 - ii. Manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980

dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- b. General partner or proprietor if the Permit Holder submitting the reports is a partnership or sole proprietorship, respectively;
 - c. Duly authorized representative of the individual designated in paragraph (a) or (b) of this section if:
 - i. The authorization is made in writing by the individual designated in paragraph (a) or (b);
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - iii. The written authorization is submitted to EBMUD.
 - d. If an authorization under paragraph (c) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (c) of this section must be submitted to EBMUD prior to or together with any reports to be signed by an authorized representative.
2. Reports and applications must include the following certification statement:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering 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."*

L. Retention of Records

- 1. The Permit Holder shall retain all records and relevant correspondence, including but not limited to:
 - a. All records used to complete the Permit Application
 - b. All information resulting from any monitoring activities
 - c. Discharge reports
 - d. Self-monitoring data
 - e. Pretreatment system process control logs, including calibration and maintenance records, and original strip chart recordings of continuous monitoring instrumentation
 - f. Documentation of compliance with BMP requirements

2. The Permit Holder shall make all retained records available for inspection and copying by a duly authorized representative of EBMUD or any other governmental entity having jurisdiction.
3. The Permit Holder shall retain all records for a minimum of 3 years. The records retention period shall be extended indefinitely during unresolved litigation.

M. Falsifying Information

Knowingly making any false statement on any report or other document required by the Permit or knowingly rendering any monitoring device or method inaccurate, is a crime, and may result in administrative, civil and criminal enforcement action.

SECTION IV. MONITORING AND SAMPLING

A. Representative Sampling

1. Samples and measurements taken, as required in the Permit or those submitted with the application, shall be representative of the volume and nature of the monitored discharge. The Permit may require that a sample be representative of certain, specific, discharge periods.
2. All data submitted in reports or applications shall be representative of conditions during the reporting period.
3. Detection limits shall be sufficient to determine compliance with the Permit terms and conditions.

B. Chain of Custody

1. The Permit Holder shall submit a Chain of Custody record for each sample that documents the following:
 - a. The location, the type of sample(s) (grab or composite), the date(s) and time, or span of time the sample was taken
 - b. The number of containers and type (glass, plastic, vial, etc.)
 - c. Preservation techniques (ice, refrigeration at 4oC, chemicals added, etc.)
 - d. Sample collector's name, legibly written
 - e. Sample identification (ID) number (to cross-reference with the sample ID number on the Laboratory results)
 - f. All persons handling the sample and the individual receiving the sample at the laboratory, including their signature, printed name, company, date and time the sample was relinquished and accepted
2. The Permit Holder shall ensure that samples transported or handled by a courier, delivery service (public or private) or shipper shall include the company or individual's name, and the method of packaging the samples, on the Chain of Custody record.
3. The Permit Holder shall show all sample analyses performed in the field on the Chain of Custody record (e.g., pH - field test).

4. EBMUD may require resampling of the wastewater for an incomplete or incorrect Chain of Custody record.

C. Sample Preservation and Analytical Methods

Unless the Permit requires otherwise, the Permit Holder shall use sampling methods, sample preservation, and analytical methods for each parameter in accordance with applicable sections of:

1. *EBMUD Table of Approved Test Methods* (see Appendix)
2. *Standard Methods of Water and Wastewater Analysis*, Edition used in the EBMUD Table of Approved Test Methods (see Appendix)
3. 40 CFR 136, *Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act*, latest edition

D. Laboratory Reports

The Permit Holder shall use a laboratory certified by the California Department of Health Services for each sample analysis required by the Permit. The laboratory report for each sample shall include:

1. The name and address of the laboratory performing the analyses
2. Sample ID number (to cross-reference with the sample ID number on the Chain of Custody)
3. The analytical result(s)
4. The date of sampling, the date the sample(s) was received at the laboratory, and the date of analysis
5. The Standard Method or EPA Method used for analyses
6. The detection limit
7. The signature and title of an authorized representative of the Laboratory, who reviewed the laboratory results

E. Additional Monitoring

If the Permit Holder monitors any pollutant at the appropriate sampling location (compliance point) more frequently than required by the Permit, using procedures and test methods specified in the Permit, the results of such monitoring shall be included in the subsequent self-monitoring report.

F. Proper Operation, Calibration and Maintenance of Equipment

The Permit Holder shall at all times properly operate and maintain all facilities and systems of pretreatment and control (and related appurtenances) which are installed and used by the Permit Holder to achieve compliance with the conditions of the Permit. Proper operations and maintenance includes: effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, as well as appropriate quality assurance procedures. The Permit Holder shall calibrate, inspect, and maintain all flow measuring, discharge sampling, monitoring, and pretreatment equipment to ensure the equipment is reliable and accurate.

G. Flow Measurements

The Permit Holder shall use appropriate flow measurement devices and methods when required by EBMUD. Flow measurement devices and methods are subject to approval by EBMUD.

H. Tampering with Equipment

The Permit Holder shall not tamper with monitoring equipment or treatment units.

I. Access to Facilities

In accordance with the EBMUD Wastewater Control Ordinance Title V, Section 8:

1. Permit Holder shall allow EBMUD or its representative's ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination, or in the performance of any of its duties.
2. Permit Holder or other authorized regulatory agencies shall have the right to set upon Permit Holder property or any other representative location such devices as are deemed necessary to conduct sampling inspection, compliance monitoring and/or metering operations.
3. Where Permit Holder has security measures in place, prior arrangements will be made with their security guards so that upon presentation of suitable identification, personnel from EBMUD, City, County, State and EPA will be permitted to enter, without unreasonable delay, for the purposes of performing their responsibilities.

SECTION V. ENFORCEMENT AND PENALTIES

A. Public Notification of Permit Holders in Significant Noncompliance

At an interval of not less than once per year, EBMUD will publish the identities of any Permit Holder found to be in significant noncompliance of any national pretreatment standard, discharge limitation or prohibition, Permit terms and conditions, or any other requirement of these regulations. The definition of significant noncompliance shall be as specified in Section I. The publication shall occur in a newspaper of general circulation that provides meaningful public notice within the service area of EBMUD.

B. Violations of Permit Terms and Conditions

The Permit Holder shall be subject to EBMUD actions for failure to comply with the Permit terms and conditions. The actions may include violation follow-up inspections and fees, issuance of Cease and Desist Orders, Administrative Civil Liability penalties, and other actions as authorized by EBMUD Wastewater Control Ordinance, Title VI.

C. Schedule of Remedial or Preventive Measures (Compliance Schedule)

When EBMUD finds that a discharge of wastewater is taking place or threatening to take place that violates or will violate prohibitions or limits prescribed by EBMUD Wastewater Control Ordinance, or wastewater source control requirements or the

provisions of a Wastewater Discharge Permit, EBMUD may require the Permit Holder to submit for approval, a detailed time schedule of specific actions the Permit Holder shall take in order to correct or prevent a violation of requirements. Such schedule shall not extend the compliance date beyond applicable federal deadlines.

D. Criminal Penalties

1. A Permit Holder who intentionally discharges wastewater in any manner, in violation of any order issued by the Director, which results in contamination, pollution, or a nuisance, as defined in EBMUD Wastewater Control Ordinance, is guilty of a misdemeanor and may be subject to criminal penalties of not more than \$1,000 per day for each such violation, including, but not limited to, any violation of pretreatment standards or requirements.
2. A Permit Holder who knowingly makes any false statement or representation in any record, report, plan, or other document filed with EBMUD, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by EBMUD, shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) or by imprisonment in the county jail for not more than six months, or by both.

E. Civil Enforcement Penalties

1. A Permit Holder who fails to comply with any order issued by EBMUD, including orders related to pretreatment standards or requirements, shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day in which the discharge, violation, or refusal occurs.
2. A Permit Holder who intentionally or negligently violates any order issued by EBMUD for violation of rules regulating or prohibiting discharge of wastewater which causes or threatens to cause a condition of contamination, pollution or nuisance, as defined in this article, may be liable civilly in a sum not to exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs. The attorney of EBMUD, upon request of the Board of Directors of EBMUD, shall petition the Superior Court to impose, assess, and recover such sums.

F. Payment of Fines and Violation Fees

The Permit Holder shall promptly pay EBMUD any fines and violation fees that are assessed.

APPENDIX - EBMUD Table of Approved Test Methods

EBMUD has approved the following test methods for wastewater analysis. These methods are generally used for EBMUD and self-monitoring. Other methods not listed in this table may be required. Refer to the self-monitoring section of the Wastewater Discharge Permit for required specific test methods.

Deviations from Approved Test Methods:

(1) Equivalent EPA methods for water and wastewater may also be acceptable; however, the Permit Holder should contact their EBMUD Representative for approval. Also, any alternative methods should have detection limits that are lower than the corresponding wastewater strength limits listed in EBMUD's Wastewater Control Ordinance.

(2) In case listed analytical methods change and are no longer approved, the Permit Holder should contact their EBMUD Representative for updated information regarding approved methods.

Parameter	Preservative	Max Hold Time	EPA Method	STD Methods ¹
Arsenic (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	206.5 200.7 200.8	3114 B 3120 B
Cadmium (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7 200.8	3113 B 3120 B
Chemical Oxygen Demand (COD)	Preserve with H ₂ SO ₄ to pH <2 Cool to ≤6°C	28 days	410.4 v2.0	5220 D
Chromium (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7 200.8	3113 B 3120 B
Copper (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7 200.8	3113 B 3120 B
Cyanide (Amenable)	NaOH to pH>10 0.002% Sodium Thiosulfate if Cl ₂ present; Cool to ≤6°C	14 days	NA	4500-CN G
Cyanide (Total)	NaOH to pH>12, 0.002% Sodium Thiosulfate if Cl ₂ present; Cool to ≤6°C	14 days	335.4	4500-CN B-E
Iron (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7	3113 B 3120 B
Lead (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7 200.8	3113 B 3120 B
Mercury (Total)	HNO ₃ to pH<2 Cool to ≤6°C	28 days	245.1 245.2 245.7	3112 B
Nickel (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7 200.8	3113 B 3120 B

Parameter	Preservative	Max Hold Time	EPA Method	STD Methods ¹
Oil & Grease (Total) Oil & Grease (HC)	HCl or H ₂ SO ₄ to pH<2 Cool to ≤6°C	28 days	1664 HEM 1664 HEM- SGT	
Phenolic Compounds	H ₂ SO ₄ to pH<2 Cool to ≤6°C	28 days	420.1 420.4	5530-D
pH, Hydrogen Ion	None	Analyze Immediately	NA	4500-H+ B
Silver (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	200.7 200.8	3113 B 3120 B
Temperature (°C)	None	Analyze immediately	NA	2550 B
Total Suspended Solids TSS, filtered with Whatman 934 AH Glass Microfiber filter, or equivalent	Cool to ≤6°C	7 days	NA	2540D
Zinc (Total)	HNO ₃ to pH<2 Cool to ≤6°C	6 months	289.2 200.7 200.8	
Organochlorine Pesticides	Cool to ≤6°C 0.008% Sodium Thiosulfate if Cl ₂ present, pH 5 - 9	7 days until extraction; 40 days after extraction	608	6630B & C
Individual Polychlorinated Biphenyls (PCBs as Congeners)	Cool to <6°C 0.008% Sodium Thiosulfate if Cl ₂ is present; pH between 2 and 3 w/H ₂ SO ₄	1 year at <6°C for aqueous samples	1668C	
Purgeable Organics (BTEX)	Add 0.008% Sodium Thiosulfate if Cl ₂ is present. VOA vials, No headspace. Cool to ≤6°C	14 days	624 ² 8021 B 8260 B	
Semi-Volatile Organics (BNA's)	Cool to ≤6°C	7 days until extraction; 40 days after extraction	625	
Total Identifiable Chlorinated Hydrocarbon (Volatile Organics)	0.008% Sodium Thiosulfate if Cl ₂ is present; VOA vials, no headspace; Cool to ≤6°C	14 days	624 8260 B	

Notes

¹ Standard Methods for the Examination of Water and Wastewater, American Water Works Association

² EPA Method 624 table in 40 CFR 136 does not list xylenes; EBMUD may accept xylenes detected by this method.