



December 13, 2012

Rufus J. Torrence,  
NPDES Pretreatment Engineer  
Arkansas Department of Environmental Quality  
Water Division  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317

Re: AR0021750 City of Fort Smith Pretreatment Program Modification for Streamlining Updates

Dear Mr. Torrence:

Please find attached the required and recommended revisions to the City of Fort Smith Pretreatment Program Modification for Streamlining Updates.

As per our phone conversation of Monday, December 10, 2012; due to the City's attorney being out of the country until the end of the week of December 10, 2012, the requested attorney letter will be sent to you by December 22, 2012.

We thank you for your suggestions, guidance, and patience during the process, and we look forward to our continued partnership in preserving and conserving the environment.

If you need any additional information or have any additional suggestions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance A. McAvoy".

Lance A. McAvoy,  
Environmental Manager

Pc: Steve Floyd, Superintendent of Operations for Wastewater and Water Treatment  
Jay Lor, Environmental Coordinator

# **Industrial Pretreatment Program**

**Fort Smith, Arkansas**



**Revised December 12, 2012**

# Table of Contents

<b>Introduction.....</b>	<b>3</b>
<b>Section 1 Legal Authority .....</b>	<b>5</b>
A. Deny or Condition Discharges to the POTW;.....	6
B. Require Compliance with Pretreatment Standards and Requirements; .....	6
C. Industrial User Permitting; .....	7
D. Industrial User Compliance Schedules;.....	8
E. Inspect and Monitoring; .....	8
F. Remedies for IU Noncompliance; .....	9
G. Comply with Confidentiality Requirements.....	9
<b>Section 2 Procedures .....</b>	<b>10</b>
A. Identifying and Locating Industrial Users; .....	11
B. Identifying the Character and Volume of Pollutants Contributed; .....	14
C. Notification of Applicable Pretreatment Standards and Requirements; .....	15
D. Industrial User Reporting Requirements;.....	16
E. Sampling and Analyzing Industrial User Discharges; .....	17
F. Evaluating the Need for IU Slug Control Plans; .....	18
G. Best Management Practices (BMPs); .....	19
H. Investigating Instances of Noncompliance; .....	20
I. Complying with Public Participation Requirements .....	20
<b>Section 3 Funding .....</b>	<b>22</b>
<b>Section 4 Local Limits .....</b>	<b>27</b>
<b>Section 5 Enforcement Response Plan (ERP) .....</b>	<b>30</b>
<b>Attachments</b>	
A. A 40 CFR 403.9(b)(1) Statement from the City Attorney	
B. Ordinance 80-11	
C. Ordinance 61-11	
D. Enforcement Response Plan	

## **Introduction - Pretreatment Program Overview**

The Federal Water Pollution Control Act of 1972 completely revamped the United States' water pollution control effort. In addition to establishing a massive funding program for the construction of municipal treatment facilities necessary to meet the stringent requirements of the law, and requiring all dischargers to meet specific permit effluent limits, the Act was also designed to control municipal and industrial discharges of toxic pollutants into the waterways. Section 307 of the Act required the US EPA to develop pretreatment standards designed to prevent the discharge of pollutants from industrial users to Publicly Owned Treatment Works (POTWs) "which interfere with, pass through, or are otherwise incompatible with such works."

These toxic controls, however, proved difficult to implement and it was not until 1977, after legal complications were resolved and the Act was amended, that the United States' federally mandated industrial wastewater control program began to take shape.

To implement the legislative mandate, the U.S. EPA promulgated general pretreatment regulations on June 26, 1978. The regulations establish a framework for the application and enforcement of technology-based pretreatment standards for industrial wastes discharged into municipal systems.

The objectives of the National Pretreatment Program are stated in 40 CFR 403.2, as follows:

1. Prevent the introduction of pollutants into a POTW that will interfere with the operation of the POTW, including interference with its use or disposal of municipal sludge
2. Prevent the introduction of pollutants into a POTW that will pass through the treatment works or otherwise be incompatible with such works; and
3. Improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

Pretreatment Program Regulations (40 CFR, Part 403) require any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program. The Regional Administrator or Director may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if he or she finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the POTW or Pass Through.

The regulations envision two types of national pretreatment standards, general prohibitions and categorical standards, to achieve these objectives.

1. General prohibitions apply to all non-domestic users of municipal treatment works, regardless of whether they are subject to other standards. These standards control the discharge of materials that may create a fire or explosion hazard; corrosive material, including a no-discharge standard for pollutants with a pH of less than five; solid or viscous pollutants in amounts that would obstruct the flow of or interfere with plant operations; any pollutant, including BOD and TSS, in volume or strength as to cause unit process upsets; and heat in amounts which will inhibit biological activity in the municipal facility.

2. Categorical standards complement the general prohibitions and specify quantities or concentrations on pollutants that existing or new industrial users in specific industrial subcategories may discharge or introduce to municipal facilities. When promulgated, these standards will deal only with toxic incompatible pollutants which are of great environmental concern because they occur in effluents, aquatic environments, and drinking water supplies lead to immediate or long-term human health hazards under certain circumstances; or have toxic effects, at high concentration, in human or aquatic organisms. Municipal authorities are authorized to request modification of the specified limits to account for removals achieved by the treatment works and industry can achieve a similar modification if it can show that its processes are fundamentally different from those that the U.S. EPA used in initially promulgating the numeric limits.

To develop an approvable program pursuant to the regulatory requirements, these municipalities are required by 1983 to establish a publicly owned treatment works control agency within their municipal political structure; establish legal authority binding upon industrial users of the publicly owned treatment works control agency; develop procedures and authority to require industrial monitoring and reporting and to enter industrial grounds for the purpose of verifying compliance; establish a resource program to provide sufficient funding and personnel to implement the program; and establish procedures for public notification and participation in the locally-developed industrial wastewater control program.

The City of Fort Smith as a POTW was subject to this regulation. The state of Arkansas is a delegated state; therefore, these programs are implemented through the Arkansas Department of Environmental Quality (ADEQ) and its National Pollutant Discharge Elimination System (NPDES) program. Pursuant to these regulations, the City of Fort Smith developed a Pretreatment Program. The program was initially approved in 1982, and modified again in 1991. The last major modification was developed and approved in 1997.

The purpose of this document outlines various Pretreatment Program requirements and serves to develop, implement and carry on an Industrial Pretreatment Program for the City of Fort Smith.

# **Section 1**

## **Legal Authority**

## **Program Legal Authority**

The authority for implementing a pretreatment program regulating industrial discharges is mandated by rules adopted on Federal, State, and local levels including:

- 1) The Code of Federal Regulations, 40 CFR, Part 403 which outlines national pretreatment regulations. The responsibility to implement National Pretreatment Standards is established in the Federal Water Pollution Control Act, and amended in 1977 by the Clean Water Act. These standards were developed to control pollutants that pass through, or interfere with, treatment processes at Publicly Owned Treatment Works (POTW), or which could contaminate sewage sludge.
- 2) The National Pollution Discharge Elimination Systems (NPDES) permit issued to POTW's in Arkansas by the Arkansas Department of Environmental Quality (ADEQ) require the development and implementation of industrial pretreatment programs, to safeguard POTW's, from any interferences or pass through of pollutants.
- 3) Ordinance 80-11, establishes local pretreatment standards and limits based on Federal and State requirements.

Implementation of the pretreatment program is handled through the Utility Department's, Environmental Quality Department. The Environmental Manager, Environmental Coordinator and the Environmental Technicians are the individuals who maintain the program.

### **A. Deny or Condition discharges to the POTW**

If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the substances or possess the characteristics enumerated in the preceding subsections and which, in the judgment of the Control Authority may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may (a) reject the wastes, (b) require pretreatment to an acceptable condition for discharge into the public sewers, and/or (c) require control over the quantities and rates of discharge.

If the Control Authority requires pretreatment or equalization of waste flows into the public sewer, the design and installation of the plants and equipment shall be subject to the review and approval of the Control Authority and subject to the requirements of all applicable codes, ordinances and laws. The City shall have the authority, after notice to the discharger, to immediately and effectively halt or prevent any discharge of pollutants to the sanitary sewer system which reasonable appears to present an imminent danger to the health or welfare of persons, or which threatens to interfere with the operation of the City's treatment facilities.

No user shall increase the use of process water or, in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

### **B. Require Compliance with Pretreatment Standards and Requirements**

All users are required to comply with discharge conditions set forth in Ordinance 80-11. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass

through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

Any person found in violation of any of the provisions of the Ordinance, shall be served by the Control Authority with written notice stating the nature of the violation, describing the penalty applicable to the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The user may deliver to the Control Authority, within five (5) days of receipt of such notice, a written request for a hearing before the Control Authority at which hearing the user shall be given an opportunity to show cause why the notice should be rescinded or modified.

Any notice issued pursuant to this sub-section may provide one or more of the following penalties:

- (a) An administrative penalty of not more than \$1,000.00 for each violation of the Ordinance, and each day of a continuing violation may be deemed a separate violation; and,
- (b) A compliance directive with time schedule mandating procedures which would bring the user into compliance with the Ordinance within the designated time schedule (compliance schedule), which compliance directive with schedule shall be expressly stated to be subject to enforcement by withdrawal of the user's discharge permit or termination of POTW service upon non-compliance with the compliance directive with schedule; and,
- (c) A withdrawal of the user's discharge permit and termination of POTW service to the user.

### **C. Industrial User Permitting**

Significant Industrial Users will be issued Wastewater Contribution Permits as established in the Pretreatment Ordinance. The purpose of the Permit is to protect the operation of the POTW, to prevent inadequately treated pollutants from passing through the POTW and to insure the City's compliance with all aspects of its NPDES permits, including those aspects dealing with operations to recycle, reclaim or dispose of sludge generated at the City's POTW'S.

This procedure will allow the City to maintain up-dated files for all significant industrial contributors. Changes in industry ownership, product line, or pollutant discharge shall require permit modifications of reissuance. New industries will be discovered through a periodic review of Water Department account records, building permits, water and sewer tap records, local telephone directory and yellow pages, the internet, Chamber of Commerce rosters, and the Polk City Directory. New industries shall be required to submit data concerning the character and volume of wastewater proposed to be discharged to the sanitary sewer system.

Wastewater contribution permits shall be issued a specific period of time, not to exceed five (5) years. The user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limits or requirements in Section 6 are modified or other just cause exists. (The user shall be informed of any proposed changes in his permit at least (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.)



Wastewater Contribution Permits are issued to a specific operation and therefore are not to be transferred or reassigned or sold to a new owner, new user, different premises or new or changed operation without approval of the Control Authority.

#### **D. Industrial User Compliance Schedules**

As pursuant to the above section "Duty to Comply", any notice issued pursuant to this sub-section may provide one or more of the following penalties including:

A compliance directive with time schedule mandating procedures which would bring the user into compliance with the Ordinance within the designated time schedule (compliance schedule), which compliance directive with schedule shall be expressly stated to be subject to enforcement by withdrawal of the user's discharge permit or termination of POTW service upon non-compliance with the compliance directive with schedule.

Any SIU subject to a compliance schedule shall submit compliance reports at the dates and at the times required by the Control Authority. Compliance reporting shall detail all progress made towards compliance with the schedule as accepted by the Control Authority.

#### **E. Inspection and Monitoring**

The Control Authority, Inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of the Ordinance. The Control Authority or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind, and source- of discharge to the sewers or waterways or facilities for waste treatment.

Authorized personnel shall have authority to inspect and copy records pertaining to the discharge of wastewater to the collection system. All SIU's shall be inspected at least annually.

Authorized personnel shall have authority to inspect and monitor the discharge of wastewater to the collection system for compliance purposes. All SIU's shall be monitored at least annually.

When required by the Control Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary matters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.

Such manhole, when required shall be accessible and safely located and shall be constructed in accordance with plans approved by the Control Authority. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

All measurements, test and analysis of the characteristics of waters and wastes to which reference is made in the Ordinance shall be determined in accordance with the latest Federal Standard which is currently 40 CFR Part 136 or equivalent methods approved by the EPA and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been provided, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence on hazards to life, limb and property. (The particular

analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, COD, and TSS analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas the pH's and oil & Grease tests are determined from grab samples taken periodically).

#### **F. Remedies for Industrial User Noncompliance**

The Control Authority shall be guided by the City of Fort Smith Pretreatment Program Enforcement Management Plan, which was adopted by the Control Authority on the effective date of the Ordinance, and confirmed in (1) the initial issuance of penalties set forth in notices issued pursuant to this sub-section and (2) in the administrative adjustment or amendment to any such penalty as a result of a hearing requested by the user pursuant to the provisions of this subsection. No action to withdraw a user permit shall be final until the Control Authority has given notice of and conducted the show cause hearing provided for in the Enforcement Management Plan.

Any person violating the provisions of the Ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

In enforcement of the penalty of withdrawing a user's discharge permit or terminating POTW service to a user, the Control Authority may discontinue water service to the user.

The listing of penalties in the Ordinance shall not preclude other appropriate judicial remedies available with reference to any violation of this Ordinance. In particular, the Control Authority may petition any Court of pertinent jurisdiction to grant injunctive or other legal or equitable relief by reason of a violation. No judicial action against an industrial user to collect a civil penalty for violation of pretreatment standards or requirements shall be commenced without a majority vote of the Board of Directors.

#### **G. Comply with Confidentiality Requirements**

A user may request that specific information which must be submitted to the City be kept confidential. A statement notifying the user that the information submitted with each Wastewater Contribution Permit Application and Industrial Waste Questionnaire shall be available to the public without restriction, shall be included on each questionnaire. The statement also notifies the User that the City will follow the requirements of 40 CFR Part 2 in its evaluation and approval, or denial of each users request for confidentiality. Generally, to be considered as confidential, information would have to meet one or more of the following criteria:

- (1) It would have to divulge substances, devices, or processes that are patented or for which patents are being sought. This pertains to manufacturing processes, product development, and waste treatment.
- (2) It would have to divulge financial data.
- (3) The user would have to employ processes or produce substances that the nature of which is "Classified" (for military, Federal intelligence, nuclear Power, and some space exploration industries).

Where confidentiality is granted, confidential material shall be removed from the files available for public inspection and kept under control of the Control Authority.

# **Section 2**

# **Procedures**

## **Industrial User Survey Procedures**

### **A. Identify and Locate Industrial Users.**

An initial industrial waste survey was conducted by Garver and Garver Associates in 1978. The survey was first performed on various businesses and industries located in the "P" Street Sewage Treatment Plant drainage basin and then later expanded to encompass the Massard Sewage Treatment Plant drainage basin. Questionnaires were sent out to over 200 businesses and industries inquiring as to the nature of each business's operation and discharge of wastewater to the sanitary sewer system. The response from business and industry was excellent and after careful examination of the responses, follow-up letters and phone conversations with various industries were initiated to clarify some of their responses. Upon completion of these follow-ups, water consumption information was gathered from City records on all industries and businesses that responded positively to the question concerning the discharge of wastewater other than normal domestic sewage. Also, any available wastewater sample information on the businesses and industries was gathered from all sources having such information.

Meetings with both City and ADPCE officials were held to determine what additional information needed to be gathered and what industries or businesses, not previously sampled, needed to have a sample analysis performed on their wastewater discharge or what businesses or industries needed an up-dated analysis performed on their wastewater due to a change in their operation and/or effluent quality. In June of 1980, the City completed another industrial waste survey. Based upon the information supplied by the Garver and Garver survey of 1978 and meeting with many of the affected industries during 1978, the City surveyed approximately fifty (50) industries. The nature of each industry's operation and wastewater discharge was questioned.

The City conducted a third industrial waste survey in August of 1982. All major industries (both conventional and Categorical) were surveyed. The survey included a request for information on any Priority Pollutants that were known to be or suspected to be in the industry's wastewater discharge to the sanitary sewer system. In 1991, the City had forty (40) permitted industries. With the extensive data base currently on hand, a re-evaluation of the data may reduce the number of permitted industries. This re-evaluation will be accomplished during permit renewals.

New industries will be discovered through a periodic review of Water Department account records, building permits, and water and sewer tap records. New industries shall be required to submit data concerning the character and volume of wastewater proposed to be discharged to the sanitary sewer system.

The following steps describe how additional or new industrial users will be identified through the survey process.

#### **1. Establish a Checklist**

Pretreatment program staff should develop a checklist to guide them through process of conduction an industrial user survey to assure that all survey methodology is followed. In general a checklist should include the following elements.

- A. Was the sources used sufficient to assure that all major industrial users are identified and located?
- B. Was the criteria used to eliminate industries from the inventory appropriate?

C. Survey Questionnaire:

Did the POTW obtain the following information (either through the survey or other means): Name, Address, SIC codes or expected classification, Wastewater flow rate or water consumption rate, Loads and/or concentrations of pollutants in discharge, Major products manufactured or services supplied, Residuals generated by IU's disposal methods and locations of discharge points (recommended), Description of existing pretreatment facilities and practices.

D. Is the information current within the last 3 years?

E. Does the questionnaire require the signature of an authorized company representative?

F. Follow-Up Procedures: Did the POTW follow up the questionnaire (with additional written requests, telephone calls or site visits) to obtain a complete and accurate response?

G. Summary Information:

Were the users classified by industrial category, SIC Code, or NACIS Code?

Has the POTW correctly characterized the waste discharged from each industrial user or industrial type?

Does the information obtained demonstrate sufficient characterization of the IU's waste discharges to the POTW?

H. Continuous Industrial Wastewater Survey Procedures

Does the submittal include procedures for continually updating its industrial waste information?

Does the submittal include procedures for maintaining a list of IUs meeting the criteria listed at 40 CFR 403.3(v)(1)?

Does the submittal include procedures for maintaining a list of IUs that are considered non-significant, as defined at 40 CFR 403.3(v)(2)?

I. Are procedures identified for updating (periodically) the waste survey information for existing users?

J. Do procedures require new industries to supply discharge information other-wise ensure that it will be collected?

## 2. Establish a Database

This step in the industrial user survey is critical, for it requires pretreatment personnel to develop a basic understanding of how the information will be organized and utilized. Typically, pretreatment personnel depend upon some form of pretreatment information management system. This can be in the form of commercially available systems (such as Linko CTS™ or Hansen™), or custom written relational database program (MS Access), word processing or spreadsheet program, pencil and paper, or any combination thereof.

### **3. Determine IU Survey Sources**

Multiple sources are referenced in an effort to discover all potential Industrial Users. Some of these sources are as follows:

- a) Telephone Directory.
- b) Arkansas Directory of Manufacturers (Central Arkansas Library).
- c) Little Rock Chamber of Commerce Manufacturers Directory.
- d) ADEQ Hazardous Waste Generators database.
- e) Local Water Utility for users who purchased more than 20,000 gpd during the previous year.
- f) Construction Plans for new and revised development from industrial customers to the utility.
- g) Annual printout of Business Licenses for the previous year from the city's collector's office.
- h) Drive-by, call-ins, fill-ins, anonymous reports and industry contacts.
- i) Create master mailing list.

### **4. Develop a Screening Form**

The Industrial User Survey was developed and approved by the pretreatment staff using existing examples from other pretreatment programs and a general knowledge of pretreatment standards. The Industrial User Survey is four (4) pages long and consists of six (6) sections. The first section contains general information including contact names and addresses and employee information. The second section involved category determination and is used to find any obvious categorical industrial users. The third section provided a brief explanation of the raw materials and products at each site. The fourth section dealt with water use information, including account number and average flows. The fifth section provided descriptions of any on-site pretreatment facilities. Chemical storage and hazardous materials were addressed in section six. The survey along with a cover letter and instructions were sent out to each business to be mailed or faxed back completed to the pretreatment staff. The cover letter also indicated that additional copies of the survey can be downloaded from the pretreatment link at the website [www.fortsmithwater.org](http://www.fortsmithwater.org).

Comprehensive Industrial User Surveys were sent to eight hundred and sixty- one (861) businesses in 2003, six hundred and ten (610) businesses in 2008, two (2) businesses in 2009, and one (1) business in 2011. The Industrial User Survey is designed to identify potential new industrial users as well as changes to existing industrial users.

### **5. Gather and Verify Information**

Input data into database and develop reports

Verify Information: Review database; Review old inspection records; Internet research; Contact IU

### **6. Conduct Screening Process**

As the surveys are received, pretreatment personnel reviewed them and each business is assigned to a general category. Upon completion of the review and categorization, information for each business is entered into a relational database. The database was designed by the pretreatment staff to assist with result examination. If a survey is returned because of a wrong address, then the environmental technicians will deliver it by hand. When delivering by hand, the environmental technician will be able to

determine if the business is still in operation. If a survey is received with incomplete or contradicting information listed, a follow-up letter and/or phone conversation will be initiated to clarify the responses.

## **7. Follow-Up Procedures**

If more attention is warranted or the industry needs to be investigated further, an on-site inspection will be conducted.

Did the POTW follow up the questionnaire (with additional written requests, telephone calls or site visits) to obtain a complete and accurate response?

Conduct a site inspection to verify accuracy of information.

Did the SIC code accurately define the IU?

Were there pollutions of concern?

Did the process meet the description?

Is there sampling needed?

Was the volume and characteristic of the flow evaluated?

Were there spill and sludge control requirements?

## **8. Summary Information**

Were the users classified by industrial category, SIC code, or NACIS Code?

Has the POTW correctly characterized the waste discharged from each industrial user or industrial type?

Does the information obtained demonstrate sufficient characterization of the IU's waste discharges to the POTW?

## **9. Permitting**

Does the IU warrant permitting?

Significant Industrial User, Categorical User, Non-Significant Industrial User, etc.

Require submittal of permit application

## **10. Continuous Industrial Wastewater Survey Procedures**

This survey provides valuable information and insight to the makeup of industrial processes within the City of Fort Smith. The results of the survey indicate that the City of Fort Smith is currently monitoring all significant industrial users. In 2012, the City was monitoring twenty-five (25) industries. Out of the twenty-five (25) industries, twenty-two (22) are permitted industries. As part of the maintenance of the pretreatment monitoring program, the City routinely re-evaluates data from existed industries and continues to search for new potential industrial contributors.

Does the submittal include procedures for continually updating its industrial waste information?

Does the submittal include procedures for maintaining a list of IUs meeting the criteria listed at 40 CFR 403.3(v)(1)?

Does the submittal include procedures for maintaining a list of IUs that are considered non-significant, as defined at 40 CFR 403.3(v)(2)?

## **B. Identifying the Character and Volume of Pollutant Contributed**

During the assessment of an industrial user, several key elements also pertain to the issuance of a Wastewater Contribution Permit. Some of which are the identification of pollutants in its wastestream,

setting permit limits for said pollutants, and determining sampling and reporting frequencies. Various methods have been employed to determine this information. Historical data (if the permittee is an already established business) from previous sampling events, the use of historical data from other businesses with similar products and production rates, and from EPA guidance for instance if the business is a categorical industry. During the course of compliance sampling, other pollutants may be identified which would then be incorporated into the appropriate sections of the permittee's wastewater permit.

### **C. Notification of Applicable Pretreatment Standards and Requirements**

Upon identification of an industrial user that warrants permitting, the permittee is notified through its wastewater discharge contribution permit of the standards and requirements that are applicable for that user.

In general, the wastewater contribution permit contains the following key elements:

1. General discharge prohibitions.
2. Limits on maximum and average wastewater characteristics based on applicable general pretreatment standards in 40 CFR Part 403, categorical pretreatment standards, local limits and State and local law; or
3. Limits on average and maximum rate and time of discharge, or requirements for flow regulation and equalization, requirements for installation and maintenance on inspection and sampling facilities; or
4. Specifications for monitoring programs which will include sampling locations, frequency of sampling, number, types and parameters for tests and reporting/ compliance schedules; or
5. Self-monitoring, sampling reporting, notification, and record keeping requirements, including an identification of the pollutants to be monitored; or
6. Statements of applicable civil and criminal penalties for violation of pretreatment standards and requirements and, where required, any applicable compliance schedules; or
7. Other conditions as deemed necessary by the Control Authority to insure compliance with the Sewer Use Ordinance. All costs of sampling and testing for the monitoring program are to be borne by the user. 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 unless specified otherwise in the monitoring conditions of the permit.

Additionally, an industrial user 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 industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following



twelve months. All notifications must take place within 180 days of the effective date established by 40 CFR 403.12 (p).

The storage of any material in areas served by public sewers or in areas draining into the City sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage works or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human beings or animals or the receiving stream shall be subject to review by the Control Authority, who at his discretion may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

#### **D. Industrial User Reporting Requirements**

As per 40 CFR 403.12(b) and Entitled "Reporting requirements for industrial users upon effective date of categorical pretreatment standard - baseline report": quoting from this CFR "Within (180) days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under 403.6(a)(4), whichever is later, existing Industrial Users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (b)(1)-(7) of this section. Where reports containing this information already have been submitted to the Director or Regional Administrator in compliance with the requirement of 40 CFR 128.140(b)(1977), the Industrial User will not be required to submit this information again. At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (b)(1)-(7) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs (b)(4) and (5) of this section."

Within (180) days after the effective date of a categorical Pretreatment Standard, the Wastewater Contribution Permit of users subject to that standard shall be revised to require compliance with such standard within the time frame prescribed by the Standard. Any user with an existing Wastewater Contribution Permit shall submit to the Control Authority, within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment standard, the following information:

- (1) The nature and concentration of any pollutants in the discharge which are limited by such Standard;
- (2) A statement regarding whether such standard is being met on a consistent basis and, if not, whether additional operations and maintenance and/or additional pretreatment is required to meet such Standard;
- (3) If additional pretreatment and/or operation and maintenance will be required to meet such standard, the shortest possible schedule by which the user will provide such additional pretreatment and/or operation and maintenance and the completion date shall be no later than the compliance date established for such Standard.

The user shall submit this information in a format as directed by the Control Authority and shall meet all requirements set forth in 40 CFR 403.12(b). Any user, who is subject to a National Categorical Pretreatment Standard and who has not previously submitted an application for a Wastewater Contribution Permit, shall submit said application within one hundred eighty (180) days after the promulgation of the applicable pretreatment standard.

Within ninety (90) days following the date for final compliance with any National Categorical Pretreatment Standard (NCPS), or in the case of a new source, following commencement of the introduction of wastewater in the POTW, any SIU subject to the NCPS, whether they are initially constructing a pretreatment facility or adding to an existing facility, shall submit to the City a report indicating the nature and concentration of all pollutants in the discharge from the regulated process and the average and maximum daily flows, by month, for those process units which are limited by the NCPS. The report shall state whether the applicable Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the SIU into compliance with the applicable Pretreatment Standards or requirements. These reports must also contain a certification statement as outlined in 40 CFR 403.6(a)(2)(ii).

Any SIU subject to a compliance schedule shall submit compliance reports at the dates and at the times required by the Control Authority. Compliance reporting shall detail all progress made towards compliance with the schedule as accepted by the Control Authority.

All SIUs (categorical and non-categorical) must submit to the Control Authority at least once every six months (or dates established by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. The reports shall be based on sampling and analysis performed in the period covered by the report and, where possible, performed in accordance with the techniques described in 40 CFR part 136.

#### **E. Sampling and Analyzing Industrial User Discharges**

The City of Fort Smith Pretreatment Program is required by 40 CFR 403.8(f)(1)(v) of the Pretreatment Regulations to inspect and sample industrial users (IUs). Representatives, Control Authority and his representative, of the POTW has the legal authority to enter any premises of any Industrial User in which a discharge source or treatment system is located or in which records are required to be kept under the conditions of the user's permit to assure compliance with Pretreatment Standards.

The Control Authority or his representative carry out these requirements and conduct facility inspections, surveillance, records examination and copying, and monitoring of industrial wastewater sources discharging to the City's wastewater collection system and treatment plants. The Pretreatment Program's Control Authority and his representative perform monitoring and inspections in order to independently verify compliance with all applicable pretreatment standards. All Significant Industrial User (SIUs), both Categorical and Non-Categorical, shall be inspected at least once per year. Additional inspections, scheduled, unscheduled, or on-demand, may be conducted during the year if the IU has major process changes or modifications to their pretreatment systems, significant noncompliance or multiply permit violations, illegal discharge, and complaint.

Sampling or monitoring of wastewater discharge from SIUs shall be conducted at least annually and performed according to 40 CFR Part 136. In addition, the SIU must also conduct self monitoring at least semiannually. All sampling and analyses conducted for self-monitoring shall be performed by a certified, independent laboratory acceptable to the Control Authority and in accordance with guidelines established in 40 CFR Part 136 and 40 CFR 403.12 of the General Pretreatment Regulations. Non-Significant Industrial Users may be inspected and monitored annually. If sampling conducted by the SIU indicates a violation, the SIU must repeat the sampling and submit analytical results within 30 days after becoming aware of the violation. The SIU must also notify the Control Authority within 24 hours of becoming aware of the violation in addition to performing the follow-up sampling and analysis.

Industrial Users (IUs) shall provide and operate at its own expense, in accordance with plans approved by the Control Authority or the City, a monitoring facility to allow inspection, sampling and flow

measurement of each sewer discharge to the POTW. The monitoring facility shall be situated on the user's premises, except, where such a location would be impractical or cause undue hardship on the user, the City of Fort Smith may concur with the facility being constructed in the public street or other area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be sufficient room in or near such sampling facility or location to allow accurate sampling and preparation of samples for analysis. The facility, sampling point and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the IU.

All IUs shall have an approved monitoring point. The IU is responsible for all maintenance on the approved monitoring point. The approved monitoring point shall be large enough or space is provided nearby for monitoring equipment. Wastewater flow at the monitoring point should convey all of the IU's industrial waste, be visible and accessible for inspection and monitoring, have no bypass capabilities, and allow for unrestricted access at all times.

All IUs shall install and maintain a flow measurement (wastewater flow meter) device for instantaneous rate and/or cumulative flow volume determinations. A water meter may be used in lieu of a flow measurement device if it can be documented that the water usage and waste discharge are the same, or where a measureable adjustment to the metered supply can be made to determine the waste water volume. The Control Authority may require the user to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. All devices used to measure wastewater flow shall be calibrated to ensure their accuracy. The measurement devices shall be maintained at the IU's expense in good operating condition at all time. The IU shall notify the Control Authority in the event the IU becomes aware that the flow measurement device has failed to accurately register the flow.

All samples shall be preserved, contained and held in accordance with 40 CFR Part 136. Grab samples can be taken manually or automatically and is required when analyzing wastewater for pH, cyanide, oil and grease, total phenols, sulfide, and volatile organic compounds, unless otherwise approved by the Control Authority. Composite samples are formed by combining discrete samples over a 24-hour period through flow-proportional composite sampling techniques, unless the Control Authority authorized time-proportional composite sampling or grab sampling. The Control Authority may authorize, as appropriate, composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies. Appropriate containers shall be used when collected samples.

All SIUs (categorical and non-categorical) shall complete and submit an accurate routine self-monitoring report to the Control Authority in a form approved by the Control Authority at least once every six months or dates established by the Control Authority. The report shall contain a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority.

The Control Authority may modify the sampling requirements, parameters sampled and/or analyzed, and frequency of sampling to ensure compliance with federal, state and permit requirements. This may include additional sampling requirements other than stated in the Industrial Users permit. The Control Authority or his representative bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, or conducting a survey or investigation related to noncompliance and enforcement, and testing in accordance with this ordinance.

#### **F. Evaluating the Need for IU Slug Control Plans**

The Control Authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Control Authority may require any user to

develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges.

Each user shall provide protection from accidental discharge or "slug load" of prohibited materials or other substances regulated by the Ordinance. For these purposes, "Slug" shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Division 2 of Article VI of Ordinance #80-11 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 the POTW's regulations, Local Limits or Permit conditions. Upon request by the Control Authority, a detailed plan showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for review and approval. In the case of any accidental discharge or slug, it is the responsibility of the user to immediately telephone and notifies the POTW of the incident. The notification shall include the cause of the discharge, the location of the discharge, type of waste, concentration and volume and corrective actions taken. The user shall submit to the Control Authority within five (5) days following the accidental discharge (or slug) a detailed written report describing the cause 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 person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liabilities which may be imposed pursuant to the Ordinance.

#### **G. Best Management Practices (BMPs)**

The term *Best Management Practices* or *BMPs* means "schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b)." 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.

The Control Authority may develop Best Management Practices (BMPs) to implement 40 CFR 403.5(c)(1) and (c)(2). Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

When BMPs are developed by the Control Authority and approved by ADEQ, the BMPs are enforceable by Federal, State and local law. A Significant Industrial User (or any Industrial User) is in significant noncompliance if the Control Authority determines that its violation, which may include a violation of Best Management Practices, has adversely affected the operation or implementation of the local Pretreatment program.

In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard

The Industrial User shall retain documentation associated with BMPs for minimum of 3 years and shall make such records available for inspection and copying by the Control Authority. The Control Authority may extend this period of retention during the course of any unresolved litigation regarding the Industrial User.

## **H. Investigating Instances of Noncompliance**

The Control Authority shall be guided by the City of Fort Smith Pretreatment Program Enforcement Management Plan.

The Control Authority or his representative bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, or conducting a survey or investigation related to noncompliance and enforcement, and testing in accordance with the Ordinance.

Any person violating the provisions of the Ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

## **I. Complying with Public Participation Requirements**

All records maintained by pretreatment staff regarding the pretreatment program are available for public review. Those wishing the information need only contact the pretreatment office and make the request. The only exception to this is information kept in a confidential file not available for public view due to the proprietary nature of the information. These confidential files are allowed in 40 CFR 403.14. If this information is requested, it is handled in accordance with 40 CFR Part 2 (Public Information).

All pretreatment codes and local limits are also available upon the request of the interested party. At the time changes are made to the local limits public notification is made in the largest local newspaper and a public hearing is held in accordance with 40 CFR Part 403.

The public is notified at least once annually of industrial users found to be in significant noncompliance with applicable pretreatment requirements by publishing the name of the offending industry in the largest local newspaper, as per (40 CFR 403.8). The nature of the violation(s), as well as correction(s) made, are stated.

## **Section 3**

# **Organization, Staffing and Funding**

## Organization, Staffing, and Funding

### Organization

The responsibility for the administration of the Pretreatment Program lies with the Wastewater Operations and Environmental Quality Department of the Utilities Division. All activities of the Division are under the supervision of the Director of Utilities. The Superintendent of Operations has direct authority to conduct the day-to-day operations of the Wastewater Department. The Environmental Manager enforces the Sewer Use Ordinance, as well as, the pretreatment activities of the Environmental Coordinator and Environmental Technicians. The City Attorney is responsible for legal assistance and many enforcement activities. The City Attorney coordinates enforcement activities with the Director of Utilities.

The Wastewater Operations and Pretreatment Department are composed of four (4) subdivisions. These four subdivisions are described below. Included are the titles of positions in each subdivision and the number of employees involved in each position.

#### PLANT OPERATIONS

Superintendent	1
Supervisor	1
Massard WWTP	
Chief Operator	2
Operators	10
"P" Street WWTP	
Chief Operator	3
Operators	12

#### ENVIRONMENTAL QUALITY

Environmental Manager	1
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#### LABORATORY

Laboratory Manager	1
Chemist	1
Lab Technicians	3
Lab Assistants (Part Time)	3

#### ENVIRONMENTAL MONITORING (Pretreatment)

Environmental Coordinator	1
Environmental Technicians	2

#### Watershed/Water Quality

Biologists	2
Assist Biologists (Part time)	2

## **Staffing**

The following is a list of staff positions in the Wastewater Operations and Environmental Quality Department. General duties of each position are described below.

### Director of Utilities

The Director of Utilities has full charge, supervision and management, and control of all utility functions including water and waste treatment, sewer construction and repair, and water storage and distribution. The Director of Utilities has direct authority and control over the budgetary and financial matters of the Division. The Director of Utilities should have a B.S. Degree in Engineering.

### Superintendent of Operations

The Superintendent of Operations plans and directs all activities concerning the operation of both the "P" Street and the Massard Wastewater Treatment Plants and is responsible for the administration of the Pretreatment Program. The Superintendent is also responsible for all expenditures within the Department. The Superintendent of Operations should have a B.S. Degree in Engineering, Biology, Chemistry or ten (10) years management experience and the ability to obtain a Class IV Operators License.

### Environmental Manager

The position of Environmental Manager is responsible for all activities concerning the Pretreatment Program, the water and wastewater laboratory, and the watershed/ water quality management programs. Pretreatment activities include planning sampling and monitoring schedules, providing technical review and assessment of monitoring reports, corresponding with industries in all matters pertaining to the pretreatment program, and directing the activities of two Environmental Technicians. Laboratory activities include managing the lab and overseeing the industrial monitoring and water and wastewater testing done by the laboratory staff. The Environmental Manager should have as a minimum a B.S. Degree in Chemistry, Biology, Environmental Science or Engineering.

Additionally, the Environmental Manager will stay current on pertinent environmental regulations using all available means in order to be able to notify industrial users of any applicable requirements. Such as local, State and Federal training seminars; Subscription to trade/specialty magazines and information services; updated copies of the Federal Register; and use of internet resources; etc.

### Supervisor

This is a technical and supervisory position involving operation and maintenance of the two treatment plants. The supervisor plans, assigns, schedules and supervises employees in the operation and maintenance of sewage treatment plants. The Supervisor should have a High School Diploma, at least five (5) years experience in the operation and maintenance of sewage treatment plants, and the ability to obtain a Class IV Operators License.

### Laboratory Manager

This is a technical position involving chemical, biological, and bacteriological examinations of wastewater. The Laboratory Manager is responsible for the day to day operation of the laboratory facility and oversees all analyses and reports, the quality control program, and for the direction of the activities of two (2) Technicians. The Laboratory Manager should have a B.S. Degree in Chemistry.



### Laboratory Technician/Assistant

The technician is responsible for performing a variety of laboratory procedures involving chemical and bacteriological analyses. Tests are performed according to well defined standardized procedures, but, require the accurate and skilled application of laboratory techniques. The Technician should have an Associate's degree in Chemistry, Biology, or Environmental Science plus one (1) year of experience in an environmental laboratory.

### Environmental Coordinator

The position of Environmental Coordinator is responsible for assisting the Environmental Manager in all activities concerning the Pretreatment Program. Pretreatment activities include planning sampling and monitoring schedules, providing technical review and assessment of monitoring reports, performing annual inspection of industrial users and corresponding with industries in all matters pertaining to the pretreatment program. The Environmental Coordinator should have as a minimum a B.S. Degree in Chemistry, Biology, Environmental Science or Engineering.

### Environmental Technician

The technician is responsible for performing a variety of laboratory procedures involving chemical and bacteriological analyses. Tests are performed according to well defined standardized procedures, but, require the accurate and skilled application of laboratory techniques. Environmental and industrial sampling, inspection and monitoring is also a requirement of this position. The Technician should have an Associate's degree in Chemistry, Biology, or Environmental Science plus one (1) year of experience in an environmental laboratory.

### Operator

This is a position in the operation and maintenance of a water or sewage treatment plant. Duties include responsibility for pumps, control panels, feeders, filters, valves, and other water pollution control equipment. Operators are required to collect samples, perform tests, record operations data, and perform any related work as required. The Operator should have a High School Diploma and the ability to obtain a Wastewater Operator's License within one year.

### City Attorney

The City Attorney is responsible for legal assistance and enforcement activities pertaining to the Pretreatment Program.

### Staffing Levels

The following personnel will be directly involved in the Pretreatment Program. An estimate of the level-of-effort anticipated for each position, expressed as percent involvement, is included.

<b>Position</b>	<b>Percent Involvement</b>	<b>Man-hours</b>
Environmental Manager	33%	695
Environmental Coordinator	100%	2080
Environmental Technician	100%	2080
Laboratory Manager	33%	695
Chemist	50%	1040
Laboratory Technician/Assistant	50%	1040

### Funding

Revenue for the program is obtained through a fee for the permit and monitoring sample fees as per those established in Ordinance 61-11. These charges are to provide adequate funding for general operations and maintenance, capital expenditures and personnel costs and should be adjusted as needed to insure an adequate level of funding.

# **Section 4**

## **Local Limits**

## **Local Limitations**

A component of the National Pollutant Discharge Elimination System (NPDES) Program, the National Pretreatment Program was developed by EPA to control the discharge of pollutants from POTWs. The statutory authority for the National Pretreatment Program lies in the Federal Water Pollution Control Act of 1972, which was amended by Congress in 1977 and renamed the Clean Water Act (CWA). Under Section 307(b), EPA must develop Pretreatment Standards that prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with POTWs. The 1977 amendments to the CWA required POTWs to ensure compliance with the pretreatment standards by each significant local source introducing pollutants subject to pretreatment standards into a POTW. To meet the requirements of the 1977 amendments, EPA developed the General Pretreatment Regulations for Existing and New Sources of Pollution [40 Code of Federal Regulations (CFR) Part 403]. The Control Authority is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

## **Local Limits Process**

To protect its operations and to ensure that its discharges comply with State and Federal requirements, a POTW will design its local limits based on site-specific conditions. Among the factors a POTW should consider in developing local limits are the following: the POTW's efficiency in treating wastes; its history of compliance with its NPDES permit limits; the condition of the water body that receives its treated effluent; any water quality standards that are applicable to the water body receiving its effluent; the POTW's retention, use, and disposal of sewage sludge; and worker health and safety concerns. The General Pretreatment Regulations require the following:

- a) POTWs that are developing pretreatment programs must develop and enforce specific limits on prohibited discharges, or demonstrate that the limits are not necessary [40 CFR 403.8(f)(4)].
- b) POTWs that have approved pretreatment programs must continue to develop and revise local limits as necessary [40 CFR 403.5(c)(1)].
- c) POTWs that do not have approved pretreatment programs must develop specific local limits if pollutants from non-domestic sources result in interference or pass through and such occurrence is likely to recur [40 CFR 403.5(c)(2)].
- d) POTWs may develop Best Management Practices (BMPs) to implement paragraphs (c)(1) and (c)(2) of this section. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act [40 CFR 403.5(c)(4)].

Local limits are developed by POTWs to enforce the specific and general prohibitions, as well as any State and local regulations. The prohibitions and categorical standards are designed to provide a minimum acceptable level of control over IU discharges.

No person shall discharge or cause to be discharged into the City sewer system any wastewater containing substances with levels measured at any time in excess of the limits established by the User's wastewater contribution permit or in excess of the further provisions of this section. Each User's permit may establish specific pollutant limitations based upon the maximum allowable headworks loadings (MAHL) at the POTW treatment plants.

All significant Industrial Users must at a minimum, sample for all parameters required in their discharge permit at the indicated frequency. Additionally, the SIU shall report the results of all analyses by the 15th day of the following month.

Upon identification of a violation, all SIUs shall immediately report any non-compliance to the Control Authority and shall resample for those parameters found to be in violation as required by 40 CFR 403.12 (g). The results of any such repeat analyses must also be immediately reported to the Control Authority.

## **Section 5**

# **Enforcement Response Plan**

### **Enforcement Management Plan and Enforcement Response Plan (ERP)**

The purpose of the City of Fort Smith Enforcement Management System (EMS) is to provide guidance for City staff in all phases of enforcement related to the City's Pretreatment Program. Ordinance 80-11 provides general guidance. The EMS is subject to the provisions of Ordinance 80-11.

The Enforcement Response Plan was developed to provide a uniform application of enforcement responses based on the nature and severity of the violation. The Enforcement Response Plan is meant to allow a range of responses to a violation within the requirements of the Federal Clean Water Act, Ordinance 80-11, and Wastewater Discharge Permit Conditions. It is not intended to provide a specific response to every violation that could be encountered. Legal authority for a pretreatment program is mandated by (40 CFR 403.8).

The full text of this EMS can be found as an attachment to this document and should be referenced for greater detail.

Attachment A – Statement from city attorney



Attachment B – Ordinance 80-11

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 25 OF THE FORT SMITH MUNICIPAL CODE, ARTICLE VI SEWERS AND SEWAGE DISPOSAL, DIVISION 1 GENERALLY; ESTABLISHING DIVISION 2 PRETREATMENT REGULATIONS AND PERMITS; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND, FOR OTHER PURPOSES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: Chapter 25, Article VI, Section 25-181 of the Fort Smith Municipal Code is hereby repealed as stated and is renamed Abbreviations and Definitions and replaced with the following language:

- (a) The following abbreviations, when used in this division, shall have the designated meanings:

BOD	- Biochemical Oxygen Demand
BMP	- Best Management Practice
CFR	- Code of Federal Regulations
CIU	- Categorical Industrial User
COD	- Chemical Oxygen Demand
EPA	- U.S. Environmental Protection Agency
gpd	- gallons per day
mg/l	- milligrams per liter
NPDES	- National Pollutant Discharge Elimination System
POTW	- Publicly Owned Treatment Works
RCRA	- Resource Conservation and Recovery Act
SIU	- Significant Industrial User
SIC	- Standard Industrial Classification
TSS	- Total Suspended Solids
U.S.C	- United States Code

- (b) Unless a provision explicitly states otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated.

*Act or "The Act"*. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

*Approval Authority*. Refers to the Director of Arkansas Department of Environmental Quality (ADEQ) or a delegated representative.

*Authorized Representative of the User*.

- (1) If the User is a corporation:

- a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
  - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit {optional}] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (4) The individuals described in subsections (1) through (3) above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Fort Smith.

***Biochemical Oxygen Demand or BOD.*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).

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

***Building Drain.*** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

***Building Sewer.*** The extension from the building drain to the public sewer or other place of disposal.

***Categorical Pretreatment Standard or Categorical Standard.*** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

***Categorical Industrial User.*** An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

***COD (denoting Chemical Oxygen Demand).*** The measure of the oxygen consuming capacity of inorganic and organic matter present in the 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.

***Collector Building Sewer.*** A sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termini, and with a diameter of at least six (6) inches, and such sewers shall be located outside building walls and footings.

***Composite Method (Sample).*** A composite sample may be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.

***Control Authority.*** Refers to the City Administrator or his or her designated agent.

***Daily Maximum Limit.*** The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

***Environmental Protection Agency or EPA.*** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

***Existing Source.*** Any source of discharge that is not a "New Source."

***Garbage.*** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

***Grab Sample.*** A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

***Indirect Discharge or Discharge.*** The introduction of pollutants into the POTW from any nondomestic source.

***Industrial User.*** A source of indirect discharge, which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

***Industrial Wastes.*** The liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

***Inspector.*** The person or persons duly authorized by the Control Authority to inspect and approve the installation of the building sewers and their connections to the public sewer system.

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

***Medical Waste.*** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

***National Categorical Pretreatment Standard (NCPS).*** Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.6 or the latest revision thereof.

***National Pollutant Discharge Elimination System Permit.*** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342) as issued by the Arkansas Department of Pollution Control and Ecology.

***Natural Outlet.*** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

***New Source.***

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
  - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1) b. or c. above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment; or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

***Owner.*** The "person" or "persons" who possess any interest in the structure or property to which such ownership relates.

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

***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.

***pH.*** The logarithm of the reciprocal of the gram ionic hydrogen equivalents per liter of solution.

***Pollutant.*** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

***Pretreatment.*** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

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

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

***Prohibited Discharge Standards or Prohibited Discharges.*** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Division 2 of this article.

***Properly Shredded Garbage.*** The wastes from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in dimension.

***Public Sewer.*** A sewer in which all owners of abutting properties have substantially equal right and which is controlled by the City.

***Publicly Owned Treatment Works or POTW.*** A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by [the City]. 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.

**Sanitary Sewer.** A sewer in which sewage is carried, and to which storm, surface and groundwaters are not intentionally admitted.

**Septic Tank Waste.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**Sewage.** A combination of the water-carried wastes from residences, business buildings, institutions and industries, i.e., human excrement and gray water (household showers, dishwashing operations, etc.).

**Sewage Treatment Plant.** Any arrangement of devices and structures used for treating sewage.

**Sewage Works.** All facilities for collecting, pumping, treating and disposing of sewage.

**Sewer.** A pipe or conduit for carrying sewage.

*Shall is mandatory; May is permissive.*

**Significant Industrial User (SIU).** A Significant Industrial User is:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
  - a. Discharges an average of twenty five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
  - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - c. Is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

**Slug Load or Slug Discharge.** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Division 2 of this article. A Slug Discharge is any Discharge of a non routine, episodic nature, including but not limited to an accidental spill or a non customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.



**Storm Drain** (sometimes termed "storm sewer"). A sewer, which carries storm and surface water and drainage, but excludes sewage and untreated industrial wastes, other than non-contact cooling water.

**Storm Water.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**Total Suspended Solids or Suspended Solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

**Toxic Pollutant.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of the Clean Water Act, Section 307 (a) or other acts.

**User.** Any person or entity, who contributes, causes or permits the contribution of wastewater into the City's POTWs.

**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.

**Wastewater Treatment Plant or Treatment Plant.** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

**Wastewater Contribution Permit** shall mean a permit to discharge to the City's wastewater treatment systems as outlined in Division 2 of this article.

**Watercourse** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

**SECTION 2:** The first sentence of Chapter 25, Article VI, Section 25-182 is hereby amended to include the following clause added to the end of said sentence:

... as further regulated under this article.

**SECTION 3:** Chapter 25, Article VI, Section 25-186 of the Fort Smith Municipal Code is hereby repealed as stated and replaced with the following language:

- (a) No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage,

non-contact cooling water or unpolluted industrial process waters into any sanitary sewer but such waters shall be discharged into such sewers as are specifically designated as storm sewer or into a natural outlet. The discharge into any storm sewer or into natural outlet of any waters, which may have a deleterious effect upon the receiving stream, is prohibited.

- (b) **Specific Prohibitions.** No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW, or will have an adverse effect on the receiving stream, or will violate any of the provisions of this article. These general provisions apply to all Users of the City's POTWs whether or not the User is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements.

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 explosion hazard in the POTW, including, but not limited to , wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or to be injurious in any other way to the POTW or to the operation thereof. Prohibited materials include, but are not limited to; gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and other substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.**
- (2) **Any wastewater having a pH less than 6.0 or having a pH greater than 12.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.**
- (3) **Any solid or viscous material, which could cause an obstruction to the flow in the sewer or in any way, interferes with the treatment process. Examples of such materials include, but are not limited to; ashes, wax, paraffin, cinders, sand, mud, straw, shavings, wood and sawdust, bones, paunch manure, hair, hides or fleshings, entrails, whole blood, feathers, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds and residues from grinding operations, acetylene generation sludge, chemical residues, acid residues, plastics, tar, asphalt residues, and food processing bulk solids or any discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.**
- (4) **Pollutants, including chlorine and oxygen demanding pollutants (BOD,**

etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a slug load have a flow rate or concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

- (5) Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature that raises the wastewater temperature of the influent to the POTW to more than 104 degrees F (40 degrees C).
- (6) Any noxious or malodorous liquids, toxic gases, vapors or fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair or are sufficient potentially to cause acute worker health and safety problems.
- (7) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- (8) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourth (3/4) horsepower (0.76 horsepower metric) or greater shall be subject to review and approval by the Control Authority.
- (9) Any substance which will cause the POTW to violate its NPDES Permit or the receiving stream water quality standards.
- (10) Any substance that may cause the POTW's effluent, or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the ACT, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or Arkansas State criteria applicable to the sludge management method being used.
- (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

- (12) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulation.
  - (13) Any wastewaters containing materials which exert or cause unusual concentrations of solids or composition; as for example, unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues, or, unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate.
  - (14) Trucked or hauled pollutants, except that such pollutants may be discharged by permitted haulers into selected treatment plants only at locations designated for this purpose.
  - (15) Any wastewater, which either alone or in conjunction with other sources causes a hazard to human life, creates a public nuisance or causes the POTW's effluent to fail toxicity tests.
- (c) Hazardous waste discharge. An industrial user 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 40CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) days of the effective date established by 40 CFR 403.12(p).
- (d) Storage of dangerous materials. The storage of any material in areas served by public sewers or in areas draining into the city sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage works or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human beings or animals, or the receiving stream shall be subject to review by the Control Authority, who at their discretion may require reasonable safeguards to prevent discharge or leakage of such material into the sewers.
- (e) Rejection or control of waste discharge. If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the

substances or possess the characteristics enumerated in the preceding subsections and which, in the judgment of the Control Authority may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may (1) reject the wastes, (2) require pretreatment to an acceptable condition for discharge in the public sewers, and/or (3) require control over the quantities and rates of discharge.

If the Control Authority requires pretreatment or equalization of waste flows into the public sewer, the design and installation of the plants and equipment shall be subject to the review and approval of the Control Authority and subject to the requirements of all applicable codes, ordinances and laws.

- (f) Grease oil and grit interceptors. Grease, oil and grit interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amount or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Control Authority and shall be located as to be readily and easily accessible for cleaning and inspection.

SECTION 4: Chapter 25, Article VI, Section 25-188 of the Fort Smith Municipal Code is

hereby repealed as stated and replaced with the following language:

- (a) Application for wastewater contribution permit users required to obtain a wastewater contribution permit shall complete and file with the Control Authority an application in the form prescribed by the Control Authority. Proposed new users shall apply for such permit at least ninety (90) days prior to connecting to or contributing to the POTW. Upon receipt of the application, the Control Authority will evaluate the data furnished and, if the data is acceptable, may issue a wastewater contribution permit. Pretreatment program charges and fees, as required pursuant to the provisions of Division 2, Section 25-216, shall be eighty-two dollars (\$82.00) per month and sampling and analysis fees per monitoring sample for each Industrial User shall be as follows:

**Sampling and analysis fees:**

metals digestion	\$ 10.00 each sample
metals analysis	\$ 20.00 each analyte
BODs	\$ 30.00 each sample.
COD	\$ 20.00 each sample
TSS	\$ 15.00 each sample
oil & grease	\$ 35.00
total Cyanide	\$ 40.00
flash point	\$ 40.00
pH	\$ 9.00
grab collection	\$ 10.00
composite collection	\$100.00

resampling required by violation as identified above

- (b) In the event that the Control Authority determines that an outside laboratory should be utilized for the analysis of any parameter identified in paragraph (a) above, the actual cost of analysis by the outside laboratory shall be borne by the Industrial User.

SECTION 5: Chapter 25, Article VI, Section 25-189 of the Fort Smith Municipal Code is hereby repealed (the codifier should preserve this section number for future use as needed).

SECTION 6: Chapter 25, Article VI, Division 2 should be titled as Pretreatment Regulations and Permits and the following language is added to the previously reserved sections within that division:

Section 25-206: Scope

The scope of this division shall include general requirements and prohibitions in respect to establishing regulations limiting the discharge of all wastes into the sanitary sewer system which could or would cause damage or obstruction of the sewage collection system, which would damage or interfere with the operation of the sewage treatment plants, which would be detrimental to the quality of the effluent and/or the environment, which would contaminate the resulting sludge preventing the opportunity to recycle or reclaim them, or which would cause unreasonable maintenance, attention and expense to either the collection system or the treatment facilities of the POTW and shall apply to all Users of the sanitary sewer system. Further, this division provides enforcement actions and penalties for violations of the regulations established herein.

Section 25-207: General Provisions

(a) Purpose and Policy

This division sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for the City of Fort Smith and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] sections 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this division are:

- (1) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

- (3) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- (6) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and with any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This division shall apply to all Users of the Publicly Owned Treatment Works. The division authorizes the issuance of individual wastewater discharge permits or general 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.

**(b) Abbreviations**

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

BOD	- Biochemical Oxygen Demand
BMP	- Best Management Practice
CFR	- Code of Federal Regulations
CIU	- Categorical Industrial User
COD	- Chemical Oxygen Demand
EPA	- U.S. Environmental Protection Agency
gpd	- gallons per day
mg/l	- milligrams per liter
NPDES	- National Pollutant Discharge Elimination System
POTW	- Publicly Owned Treatment Works
RCRA	- Resource Conservation and Recovery Act
SIU	- Significant Industrial User
SIC	- Standard Industrial Classification
TSS	- Total Suspended Solids
U.S.C	- United States Code

**(c) Definitions**

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

Act or "The Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. sections 1251 et seq.

*Approval Authority.* Refers to the Director of Arkansas Department of Environmental Quality (ADEQ) or a delegated representative.

*Authorized Representative of the User.*

- (1) If the User is a corporation:
  - a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
  - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater contribution 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 Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) through (3) above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Fort Smith.

*Biochemical Oxygen Demand or BOD.* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).

*Best Management Practices or BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include



treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Building Drain.** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

**Building Sewer.** The extension from the building drain to the public sewer or other place of disposal.

**Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

**Categorical Industrial User.** An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

**COD (denoting Chemical Oxygen Demand).** The measure of the oxygen consuming capacity of inorganic and organic matter present in the 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.

**Collector Building Sewer.** A sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termini, and with a diameter of at least six (6) inches, and such sewers shall be located outside building walls and footings.

**Composite Method (Sample).** A composite sample may be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.

**Control Authority.** Refers to the City Administrator or his or her designated agent.

**Daily Maximum Limit.** The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

**Environmental Protection Agency or EPA.** The U.S. Environmental Protection Agency

or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

***Existing Source.*** Any source of discharge that is not a "New Source."

***Garbage.*** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

***Grab Sample.*** A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

***Indirect Discharge or Discharge.*** The introduction of pollutants into the POTW from any nondomestic source.

***Industrial User.*** A source of indirect discharge, which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

***Industrial Wastes.*** The liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

***Inspector.*** The person or persons duly authorized by the Control Authority to inspect and approve the installation of the building sewers and their connections to the public sewer system.

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

***Medical Waste.*** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

***National Categorical Pretreatment Standard (NCPS).*** Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.6 or the latest revision thereof.

***National Pollutant Discharge Elimination System Permit.*** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342) as issued by the Arkansas Department of Pollution Control and Ecology.

**Natural Outlet.** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**New Source.**

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
  - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
  - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1) b or c above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
  - a. Begun, or caused to begin, as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment; or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - b. Entered into a binding contractual obligation for the purchase of facilities

or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

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

***Owner.*** The "person" or "persons" who possess any interest in the structure or property to which such ownership relates.

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

***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.

***pH.*** The logarithm of the reciprocal of the gram ionic hydrogen equivalents per liter of solution.

***Pollutant.*** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

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***Prohibited Discharge Standards or Prohibited Discharges.*** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 25-209 (a) of this division.

**Properly Shredded Garbage.** The wastes from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in dimension.

**Public Sewer.** A sewer in which all owners of abutting properties have substantially equal right and which is controlled by the City.

**Publicly Owned Treatment Works or POTW.** A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. 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.

**Sanitary Sewer.** A sewer in which sewage is carried, and to which storm, surface and groundwaters are not intentionally admitted.

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**Sewage Treatment Plant.** Any arrangement of devices and structures used for treating sewage.

**Sewage Works.** All facilities for collecting, pumping, treating and disposing of sewage.

**Sewer.** A pipe or conduit for carrying sewage.

*Shall is mandatory; May is permissive.*

**Significant Industrial User (SIU).** A Significant Industrial User is:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
  - a. Discharges an average of twenty five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
  - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

- c. Is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

***Slug Load or Slug Discharge.*** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 25-209 (a) of this division. A Slug Discharge is any Discharge of a non routine, episodic nature, including but not limited to an accidental spill or a non customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

***Storm Drain*** (sometimes termed "storm sewer"). A sewer, which carries storm and surface water and drainage, but excludes sewage and untreated industrial wastes, other than non-contact cooling water.

***Storm Water.*** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

***Total Suspended Solids or Suspended Solids.*** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

***Toxic Pollutant.*** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of the Clean Water Act, Section 307 (a) or other acts.

***User.*** Any person or entity, who contributes, causes or permits the contribution of wastewater into the City's POTWs.

***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.

***Wastewater Treatment Plant or Treatment Plant.*** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

***Wastewater Contribution Permit*** shall mean a permit to discharge to the City's wastewater treatment systems as outlined in section 25-211 of this division.

***Watercourse*** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

#### **Section 25-208: Use of Public Sewers Required**

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other

objectionable wastes.

(b) It shall be unlawful to discharge any sewage or other polluted waters to any natural outlet within the City, or in any area under the jurisdiction of the City, except where suitable treatment has been provided in accordance with a valid, current National Pollutant Discharge Elimination System Permit covering such discharges. The Control Authority may immediately discontinue water service to the User or Owner of any property where an unlawful discharge exists until such discharge of any sewage or polluted waters is properly eliminated.

#### Section 25-209: General Sewer Use Requirements

##### (a) Prohibited Discharge Standards

- (1) **General Prohibitions.** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, non-contact cooling water or unpolluted industrial process waters into any sanitary sewer but such waters shall be discharged into such sewers as are specifically designated as storm sewer or into a natural outlet. The discharge into any storm sewer or into natural outlet of any waters, which may have a deleterious effect upon the receiving stream, is prohibited.
- (2) **Specific Prohibitions.** No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW, or will have an adverse effect on the receiving stream, or will violate any of the provisions of this division. These general provisions apply to all Users of the City's POTWs whether or not the User is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements.

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

- a. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or to be injurious in any other way to the POTW or to the operation thereof. Prohibited materials include, but are not limited to; gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and other

substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.

- b. Any wastewater having a pH less than 6.0 or having a pH greater than 12.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- c. Any solid or viscous material, which could cause an obstruction to the flow in the sewer or in any way, interferes with the treatment process. Examples of such materials include, but are not limited to; ashes, wax, paraffin, cinders, sand, mud, straw, shavings, wood and sawdust, bones, paunch manure, hair, hides or fleshings, entrails, whole blood, feathers, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds and residues from grinding operations, acetylene generation sludge, chemical residues, acid residues, plastics, tar, asphalt residues, and food processing bulk solids or any discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- d. Pollutants, including chlorine and oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a slug load have a flow rate or concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- e. Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature that raises the wastewater temperature of the influent to the POTW to more than 104 degrees F (40 degrees C).
- f. Any noxious or malodorous liquids, toxic gases, vapors or fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair or are sufficient potentially to cause acute worker health and safety problems.
- g. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- h. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourth



(3/4) horsepower (0.76 horsepower metric) or greater shall be subject to review and approval by the Control Authority.

- i. Any substance which will cause the POTW to violate its NPDES Permit or the receiving stream water quality standards.
- j. Any substance which may cause the POTW's effluent, or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the ACT, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State of Arkansas criteria applicable to the sludge management method being used.
- k. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- l. Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.
- m. Any wastewaters containing materials which exert or cause unusual concentrations of solids or composition; as for example, unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues, or, unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate.
- n. Trucked or hauled pollutants, except that such pollutants may be discharged by permitted haulers into selected treatment plants only at locations designated for this purpose.
- o. Any wastewater, which either alone or in conjunction with other sources causes a hazard to human life, creates a public nuisance or causes the POTW's effluent to fail toxicity tests.

**(b) National Categorical Pretreatment Standards**

*The Federal Categorical Pretreatment Standards set forth in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 are hereby incorporated. In cases where this division imposes more stringent requirements, or where no EPA guidelines exist, the provisions of this section shall apply.*

Upon promulgation of the Federal Categorical Pretreatment Standards for a particular subcategory of User, the Federal standard, if more stringent than limitations imposed under this division for sources in that subcategory, shall immediately supersede the specific limitations imposed under this division.

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

**(c) Local Limits**

- (1) No person shall discharge or cause to be discharged into the City sewer system any wastewater containing substances with levels measured at any time in excess of the limits established by the User's wastewater contribution permit or in excess of the further provisions of this section. Each User's permit will establish specific pollutant limitations based upon the maximum allowable headworks loadings (MAHL) at the POTW treatment plants.**
- (2) No person shall discharge, or cause to be discharged, any wastewater containing greases, oils, fats or waxes whether emulsified or not, in concentrations in excess of one hundred fifty (150) mg/L for all substances. Substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred four (104) degrees F are prohibited. Discharge of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause pass through or interference are also prohibited.**
- (3) No person shall discharge, or cause to be discharged, any wastewater containing materials which exert or cause BOD5 concentrations in excess of 450 mg/L or 180 ppd or suspended solids concentrations in excess of 430 mg/L or 180 ppd whichever results in the higher mass emission.**
- (4) The Control Authority may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits, to implement local limits and pretreatment requirements.**

All significant Industrial Users must, at a minimum, sample for all parameters required in their discharge permit at the indicated frequency. Additionally, the SIU shall report the results of all analyses by the 15th day of the following month.

Upon identification of a violation, all SIUs shall immediately report any non-compliance to the Control Authority and shall resample for those parameters found to be in violation as required by 40 CFR 403.12 (g). The results of any such repeat analyses must also be immediately reported to the Control Authority.

**(d) City's Right of Revision**

The City of Fort Smith reserves the right to establish, by ordinance or in wastewater

discharge permits, more stringent standards or requirements on discharges to the POTW(s).

**(e) Special Agreements**

Nothing in this section shall be construed as preventing any special agreement or arrangement between the Control Authority and any User of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or User charges as may be applicable. However, any such "Special Agreements" shall not waive any Federal or State standards and requirements designed to protect the POTW, the sludge use and disposal, and the receiving stream from pass through or interference.

**(f) Compliance by Dilution**

No User shall increase the use of process water or, in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

**(g) Pretreatment Facilities**

Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in this division within the time limitations specified by EPA, the State, or Control Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Control Authority for review, and shall be approved by the Control Authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Control Authority under the provisions of this division.

**(h) Accidental Discharges**

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division. Upon request by the Control Authority, a detailed plan showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for their review and approval. In the case of any accidental discharge, it is the responsibility of the User immediately to telephone and notify the POTW of the incident. The notification shall include the cause of the discharge, the location of the discharge, type of waste, concentration and volume and corrective actions taken. The User shall submit to the Control Authority, within seven (7) days following the accidental discharge, a detailed written report describing the cause 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 person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liabilities, which may be imposed pursuant to this article.

At least once every two (2) years, the Control Authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Control Authority may require any User to develop, submit for approval, and implement such a plan.

**(i) Accidental Discharge/Slug Discharge Control Plans**

The Control Authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Control Authority may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges.

**(j) Hazardous Waste Discharge**

An Industrial User 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 Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within one hundred eighty (180) days of the effective date established by 40 CFR 403.12 (p).

**(k) Storage of Dangerous Materials**

The storage of any material in areas served by public sewers or in areas draining into the City sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage works or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human beings or animals, or the receiving stream shall be subject to review by the Control Authority, who, at his or her discretion, may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

**(l) Rejection or Control of Waste Discharge**

If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the substances or possess the characteristics enumerated in

the preceding subsections and which, in the judgment of the Control Authority, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may (1) reject the wastes, (2) require pretreatment to an acceptable condition for discharge into the public sewers, and/or (3) require control over the quantities and rates of discharge.

If the Control Authority requires pretreatment or equalization of waste flows into the public sewer, the design and installation of the plants and equipment shall be subject to the review and approval of the Control Authority and subject to the requirements of all applicable codes, ordinances and laws.

**(m) Grease, Oil and Grit Interceptors**

Grease, oil and grit interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Control Authority and shall be located as to be readily and easily accessible for cleaning and inspection.

**(n) Flow Equalizing Facilities**

Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**(o) Sampling and Measurement Manhole**

When required by the Control Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary matters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.

Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Control Authority. The manhole shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

**(p) Analytical Requirements**

All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest Federal Standard which is currently prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be

performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority, Approval Authority or other parties approved by EPA.

**(q) Sample Collection**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by the User with applicable pretreatment standards and requirements.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence on hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, COD, and TSS analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas the pH's and oil and grease tests are determined from grab samples taken periodically).

- a. Except as indicated in subsection b and c below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. 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. Composite samples for other parameters unaffected by the compositing procedures, as documented in approved EPA methodologies, may be authorized by the Control Authority as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits. [see 40 CFR 403.12(g)(3)]
- b. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- c. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in 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, the Control Authority may authorize a lower minimum. For the reports required by 40 CFR 403.12(e) and 403.12(h), the Control Authority shall require the number

of grab samples necessary to assess and assure compliance by Industrial Users with applicable pretreatment standards and requirements. (see 40 CFR 403.12(g)(4))

#### **Section 25-210: Septic Tank Truck Discharge Permit**

All persons owning vacuum or "septic tank" pump trucks, or other liquid transport trucks, who wish to discharge septic tank, portable toilet, seepage pit, interceptor or cesspool contents, industrial liquid waste or other liquid wastes to the POTW shall first have a valid vacuum truck discharge permit. All applicants for the vacuum truck discharge permit shall complete the application form, pay the appropriate permit fee, receive a copy of this division governing discharge of wastes to sewer and shall agree, in writing, to abide by this division and all other applicable environmental regulations.

Trucks hauling industrial waste shall discharge only after reporting the source and composition of the waste to the POTW at the authorized discharge site. The Control Authority may deny discharge rights in the event the waste is in violation of the provisions of this division. Trucks hauling only septic tank, portable toilet, seepage pit, interceptor or cesspool contents are exempted from the above reporting requirement. However, discharge of these wastes is also restricted to a site(s) authorized by the Control Authority.

Additionally, the septic tank truck hauler must maintain a daily log of operations, which shall include the name, address and telephone number of person(s) requesting service. The approximate volume of each load is to be logged at the time of service in this log. At the end of each quarter, (March, June, September and December) copies of such log are to be forwarded to the Control Authority.

#### **Section 25-211: Wastewater Contribution Permit**

(a) The purpose of this section is:

- (1) To protect the operation of the POTW;
- (2) To prevent inadequately treated pollutants from passing through the POTW;
- (3) To insure the City's compliance with all aspects of its NPDES Permits, including those aspects dealing with operations to recycle, reclaim or dispose of the sludge generated at the City's POTWs.

(b) All SIUs that wish to connect to or to contribute to the POTW shall obtain a Wastewater Contribution Permit before connecting or contributing to the POTW. At the direction of the Control Authority, the Wastewater Contribution Permit may contain any or all of the following:

- (1) Limits on maximum and average wastewater characteristics, including Best Management Practices, based on applicable general pretreatment standards in 40

CFR part 403, categorical pretreatment standards, local limits and State and local law;

- (2) Limits on average and maximum rate and time of discharge, or requirements for flow regulation and equalization, requirements for installation and maintenance on inspection and sampling facilities;
- (3) Specifications for monitoring programs which will include sampling locations, frequency of sampling, number, types and parameters for tests and reporting/compliance schedules;
- (4) Self-monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of the pollutants to be monitored;
- (5) Statements of applicable civil and criminal penalties for violation of pretreatment standards and requirements and, where required, any applicable compliance schedules;
- (6) Other conditions as deemed necessary by the Control Authority to insure compliance with the division. All costs of sampling and testing for the monitoring program are to be borne by the User.
- (7) Requirements to control slug discharge, if determined by the Control Authority to be necessary.

**(c) Application for Wastewater Contribution Permit**

Users required to obtain a Wastewater Contribution Permit shall complete and file with the Control Authority an application in the form prescribed by the Control Authority. Proposed new Users shall apply for such permit at least ninety (90) days prior to connecting to or contributing to the POTW. Upon receipt of the application, the Control Authority will evaluate the data furnished and, if the data is acceptable, may issue a Wastewater Contribution Permit.

**(d) Modification of Wastewater Contribution Permit Restrictions**

Within nine (9) months of the promulgation of the National Categorical Pretreatment Standard, the Wastewater Contribution Permit of Users subject to that standard shall be revised to require compliance with such standard within the time frame prescribed by the Standard. Any User with an existing Wastewater Contribution Permit shall submit to the Control Authority, within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard, the following information:

- (1) The nature and concentration of any pollutants in the discharge which are limited by such Standard;
- (2) A statement regarding whether such Standard is being met on a consistent basis



and, if not, whether additional operations and maintenance and/or additional pretreatment is required to meet such Standard;

- (3) If additional pretreatment and/or operation and maintenance will be required to meet such Standard, the shortest possible schedule by which the User will provide such additional pretreatment and/or operation and maintenance and the completion date shall be no later than the compliance date established for such Standard.

The User shall submit this information in a format as directed by the Control Authority. Any User that is subject to a National Categorical Pretreatment Standard and that has not previously submitted an application for a Wastewater Contribution Permit, shall submit said application within one hundred eighty (180) days after the promulgation of the applicable pretreatment standard.

**(e) Wastewater Contribution Permits Duration**

Wastewater Contribution Permits shall be issued for a specific period of time, not to exceed five (5) years. The User shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limits or requirements in section (b) (6) are modified or other just cause exists. The User shall be informed of any proposed changes in the User's Permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**(f) Permit Nontransferability**

Wastewater Contribution Permits are issued to a specific User for a specific operation and therefore are not to be transferred or reassigned or sold to a new owner, new User, different premises or new or changed operation without prior written approval of the Control Authority.

**(g) Provisions for Fraud and False Statements**

As per 40 CFR 403.12(n): "Provisions Governing Fraud and False Statements": the reports and other documents required to be submitted or maintained under this section shall be subject to:

- (1) The provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;
- (2) The provisions of Section 309(c)(4) of the ACT, as amended, governing false statements, representation or certification;
- (3) The provisions of Section 309(c)(6) regarding responsible corporate officers.

**Section 25-212: Reporting Requirements**

**(a) 90 Day Compliance Report**

Within ninety (90) days following the date for final compliance with any National Categorical Pretreatment Standard (NCPS), or, in the case of a new source, following commencement of the introduction of wastewater in the POTW, any SIU subject to the NCPS, whether they are initially constructing a pretreatment facility or adding to an existing facility, shall submit to the Control Authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated process and the average and maximum daily flows, by month, for those process units which are limited by the NCPS. The report shall state whether the applicable Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the SIU into compliance with the applicable Pretreatment Standards or requirements. These reports must also contain a certification statement as outlined in 40 CFR 403.6 (a) (2) (ii).

**(b) Periodic Compliance Reports**

All significant Industrial Users must, at a frequency determined by the Control Authority, submit no less than twice per year (June and December) reports indicating the nature, concentration, and flow of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Control Authority or Pretreatment Standard necessary to determine the compliance status of the User.

**(c) Compliance Schedule Reports**

Any SIU subject to a compliance schedule shall submit compliance reports at the dates and at the times required by the Control Authority. Compliance reporting shall detail all progress made towards compliance with the schedule as accepted by the Control Authority.

**(d) Self Monitoring Reports**

All SIUs (categorical and non-categorical) must submit to the Control Authority at least once every six (6) months (or dates established by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. The reports shall be based on sampling and analysis performed in the period covered by the report, and, where possible, performed in accordance with the techniques described in 40 CFR Part 136.

**(e) Date of Receipt of Reports**

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

**(f) Significant Industrial Users**

Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility affecting potential for a slug discharge.

**(g) Record Keeping**

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established in section 25-211 (b)(1). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Control Authority, or where the User has been specifically notified of a longer retention period by the Control Authority.

**(h) Publication**

The Control Authority shall publish annually, in a newspaper of general circulation within Sebastian County, a list of the Users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. Significant violators shall be defined by the most current Federal Regulations and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in section 25-209;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by section 25-209 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by section 25-209 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) 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;
- (7) Failure accurately to report noncompliance; or
- (8) Any other violation(s), which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

#### Section 25-213: Protection from Damage

- (a) No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.
- (b) No person, without first obtaining written consent from the Control Authority, shall cover any manhole on a public sewer with earth or paving, or otherwise render it inaccessible.
- (c) No person, without first obtaining written consent from the Control Authority, shall remove the earth cover from a public sewer to the extent that less than two (2) feet of earth cover remains over or around the pipe. In no circumstance shall the earth cover be removed or graded to the extent that the earth cover may become unstable causing a slide or slough which exposes or damages the public sewer.

#### Section 25-214: Powers and Authorities of Inspectors

- (a) The Control Authority, Inspectors, representatives retained by the City and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter the properties of any User for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this division. The Control Authority or their representative shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. Authorized personnel shall have authority to inspect and copy records pertaining to the discharge of wastewater to

the collection system.

(b) A User may request that specific information which must be submitted to the City be kept confidential. A statement notifying the User that the information submitted with each Wastewater Contribution Permit Application and Industrial Waste Questionnaire shall be available to the public, without restriction, shall be included on each questionnaire. The statement also notifies the User that the City will follow the requirements of 40 CFR Part 2 in its evaluation and approval or denial of each Users request for confidentiality. Generally, to be considered as confidential, information would have to meet one or more of the following criteria:

- (1) It would have to divulge substances, devices, or processes that are patented or for which patents are being sought. This pertains to manufacturing processes, product development, and waste treatment.
- (2) It would have to divulge financial data.
- (3) The User would have to employ processes or produce substances that the nature of which is "Classified" (for military, Federal Intelligence, nuclear power, and some space exploration industries).

Where confidentiality is granted, confidential material shall be removed from the files available for public inspection and kept under control of the Control Authority.

(c) While performing the necessary work on a private property referred to in section 25-214 (a), such duly authorized person shall observe all safety rules applicable to the premises.

#### Section 25-215: Penalties

(a) Any person determined to be guilty of a violation of any provision of section 25-208 or 25-213 shall be deemed guilty of a misdemeanor and shall be subject to the penalties and fines set forth in Section 1-9 of the Fort Smith Code of Ordinances.

(b) Any person found in violation of any of the provisions of this division, except section 25-213, shall be served by the Control Authority with written notice stating the nature of the violation, describing the penalty applicable to the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The User may deliver to the Control Authority, within five (5) days of receipt of such notice, a written request for a hearing before the Control Authority at which hearing the User shall be given an opportunity to show cause why the notice should be rescinded or modified. Any notice issued pursuant to this subsection may provide one or more of the following penalties:

- (1) An administrative penalty of not more than \$1,000.00 for each violation of the division, and each day of a continuing violation may be deemed a separate

violation; and,

- (2) A compliance directive with time schedule mandating procedures which would bring the User into compliance with this division within the designated time schedule, which compliance directive with schedule shall be expressly stated to be subject to enforcement by withdrawal of the User's discharge permit or termination of POTW service upon non-compliance with the compliance directive with schedule; and,
- (3) A withdrawal of the User's discharge permit and termination of POTW service to the User.

The Control Authority shall be guided by the City of Fort Smith Pretreatment Program Enforcement Management Plan in (1) the initial issuance of penalties set forth in notices issued pursuant to this subsection and (2) in the administrative adjustment or amendment to any such penalty as a result of a hearing requested by the User pursuant to the provisions of this subsection. No action to withdraw a User permit shall be final until the Control Authority has given notice of and conducted the show cause hearing provided for in the Enforcement Management Plan.

(c) Any person violating the provisions of this division shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(d) In enforcement of the penalty of withdrawing a User's discharge permit or terminating POTW service to a User, the Control Authority may discontinue water service to the User.

(e) The City shall have the authority, after notice to the discharger, immediately and effectively to halt or prevent any discharge of pollutants to the sanitary sewer system which reasonably appears to present an imminent danger to the health or welfare of persons, or which threatens to interfere with the operation of the City's treatment facilities.

(f) The listing of penalties in this section shall not preclude other appropriate judicial remedies available with reference to any violation of this article. In particular, the Control Authority may petition any Court of competent jurisdiction to grant injunctive or other legal or equitable relief by reason of a violation. No judicial action against an Industrial User to collect a civil penalty for violation of pretreatment standards or requirements shall be commenced without a prior majority vote of the Board of Directors.

#### Section 25-216: Pretreatment Charges and Fees

The Control Authority may adopt fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- (1) Fees for wastewater discharge permit application including the cost of processing

such applications;

- (2) 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;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and
- (5) Other fees as the Control Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this division and are separate from all other fees, fines, and penalties chargeable by the Control Authority.

(See charges and fees set forth in section 25-188)

#### SECTION 7: Validity

A. All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

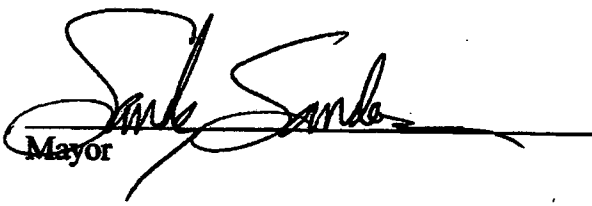
B. Should any portion of this Ordinance be unconstitutional or invalid and so declared by a Court of competent jurisdiction, then the remainder of this Ordinance, and any remaining applications of this Ordinance, shall not be affected by such partial unconstitutionality or invalidity.

#### SECTION 8: Emergency Clause

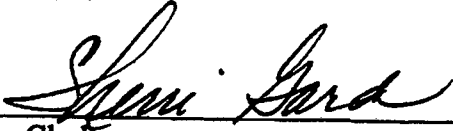
It is hereby determined and declared that an emergency exists by reason of the necessity of establishing reasonable controls over the disposal of waste and wastewaters within the City and with reference to the operation of the City's sewage treatment facilities and that the immediate effect of the provisions of this Ordinance are necessary to preserve the health, safety and welfare of the inhabitants of the City so that it is hereby declared and determined that this Ordinance shall be in full force and effect as of the date of its adoption.

PASSED AND APPROVED this 4<sup>th</sup> day of October 2011.

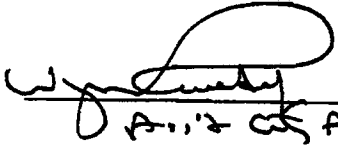
APPROVED:

  
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
Publish 1 Time  
Arlene C. Allen



Attachment C – Ordinance 61-11

Utilities

ORDINANCE NO. 61-11

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 25 OF THE FORT SMITH MUNICIPAL CODE, ESTABLISHING CHARGES FOR WATER AND SANITARY SEWER CONNECTIONS; ESTABLISHING FEES FOR INDUSTRIAL USER PERMITS AND VACUUM TRUCK DISCHARGE PERMITS TO THE UTILITY SYSTEMS OF THE CITY OF FORT SMITH; ESTABLISHING A PERMIT PROCEDURE FOR CERTAIN CONNECTIONS TO THE UTILITY SYSTEMS OF THE CITY; PROHIBITING UNAUTHORIZED USE OF UTILITY EASEMENTS AND RIGHTS-OF-WAY; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND, FOR OTHER PURPOSES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: Chapter 25, Article III, Section 25-67 of the Fort Smith Municipal Code is hereby amended to read as follows:

The City Administrator, or his authorized representative, shall have the sole authority to determine the adequacy of existing water system mains and sanitary sewer collection lines for the purpose of making additional service connections thereto. Likewise, the City Administrator, or his authorized representative, shall have the sole authority to determine whether it would be economically feasible for the city itself to extend and/or replace water or sewer lines into additional and/or existing service areas. The City Administrator, or his authorized representative, shall have the authority to issue written permits authorizing the designated permittee to have access to the city's easements and rights-of-way for the installation of water service lines and sanitary sewer service lines, and for extensions to the water and sewer utility systems of the city in circumstances where, pursuant to Resolution R-188-84, the City Administrator, or his authorized representative, has determined that it would not be economically feasible for the city itself to extend or replace water or sewer lines into additional and/or existing service areas or has determined that existing water or sewer lines are not adequate for additional connections.

SECTION 2: Chapter 25, Article III, Section 25-68, subsections (a), (b), (c) and (d) of the Fort Smith Municipal Code are hereby repealed as stated and replaced with the following language:

- (a) One-Inch and Two-Inch Metered Water Service Installation
  - (1) All connections of water service lines, up to and including connections two-inches

16 square feet or less

Effective October 1, 2011	\$ 32.00
Effective July 1, 2012	\$ 64.00
Effective January 1, 2013	\$ 95.00

Above 16 square feet for each square foot

Effective October 1, 2011	\$ 2.00
Effective July 1, 2012	\$ 4.00
Effective January 1, 2013	\$ 6.00

- (7) The charge for any installation of a water service accomplished by the city utilizing the services of a contractor to bore under any street, alley or easement shall include the actual cost of said contract services plus the base charge established in paragraph (2) above, as well as any additional amounts required as established in paragraphs (3) and (4) above.
- (8) All charges shall be included as part of the initial water billing(s) and shall be paid by the customer and shall be subject to late charges or termination of service if payment becomes delinquent.

(b) Greater than Two-Inch Metered Water Service Installation

- (1) All connections of water service lines to the city's public water lines, which connections are greater than two-inches (2") in diameter, shall be accomplished by city personnel or by a contractor retained by the city, for the purpose of attaching the tapping sleeve and valve to the water main and for performing water main tapping services. The city shall provide, at the customer's expense, the tapping sleeve and valve and water meter for these connections. All other materials and labor used in the construction of a service line and meter vault shall be in accordance with plans and specifications of the city and shall be the financial responsibility of the customer.
- (2) Any installation of a metered water service line that is greater than two-inches (2") shall include the following charges:

Meter and strainer	actual cost
Tapping sleeve and valve - materials	actual cost

Tapping sleeve and valve attachment  
and tapping service - labor

\$ 160.00

(c) Temporary Water Service

- (1) All connections for temporary water service from a fire hydrant or other supply point on the city's public water lines or from an unmetered private water line shall be metered by the city and the installation of said meters shall be accomplished by city personnel. The city shall provide all equipment and labor and all materials, including the water meter, to accomplish the temporary connection from the water main. The city, in its sole discretion, shall determine the appropriate location for the temporary water service connection.
- (2) The base charge for installation of a temporary water service connection shall be \$60.00.
- (3) The charge for relocation of any temporary water service connection to a subsequent supply point shall be \$30.00.
- (4) The responsibility for protection from damage or theft shall be the responsibility of the customer.
- (5) All installation, relocation and damage repair charges shall be included as part of the water billing(s) and shall be paid by the customer and shall be subject to late charges or termination of service if payment becomes delinquent. Payment of all charges shall be required before the release of any security deposit is made.

SECTION 3: Chapter 25, Article III, Section 25-69, subsections (a), (b), (c) and (d) of the Fort Smith Municipal Code are hereby repealed as stated and replaced with the following language:

(a) Sanitary Sewer Service Installation

- (1) All connections of sanitary sewer service lines to the city's public sanitary sewer lines, including connections up to and including those four-inches (4") in diameter, shall be accomplished by city personnel or a contractor retained by the city. The city shall provide all equipment, labor and all materials, including a "clean-out" to be placed at the approximate location of the property or private easement line where the customer's private sanitary sewer service line is to connect to the city's installation. The city, in its sole discretion, shall determine the appropriate route for the connection.

- (2) The base charge for installation of a sewer service connection to a sewer main that does not require the crossing or cutting of any pavement, sidewalk or other type of improved hard surface shall be:

Effective October 1, 2011	\$ 780.00
Effective July 1, 2012	\$ 945.00
Effective January 1, 2013	\$1,110.00

- (3) The base charge for installation of a sewer service connection to a sewer main that requires the open excavation of any paved street, alley, or easement, not-to-exceed 27-feet of paved width, shall be:

Effective October 1, 2011	\$1,467.00
Effective July 1, 2012	\$1,633.00
Effective January 1, 2013	\$1,800.00

- (4) Any installation of a sewer service connection that requires open excavation of any paved street, alley or easement exceeding 27-feet of paved width, or requires replacement of other type of improved hard surface, shall result in an additional amount being added to the charges established in paragraphs (2) or (3) above as follows:

16 square feet or less

Effective October 1, 2011	\$ 32.00
Effective July 1, 2012	\$ 64.00
Effective January 1, 2013	\$ 95.00

Above 16 square feet for square foot

Effective October 1, 2011	\$ 2.00
Effective July 1, 2012	\$ 4.00
Effective January 1, 2013	\$ 6.00

- (5) Any installation of a sewer service accomplished by the city utilizing the services of a contractor to bore under any street, alley or easement shall result in the actual cost of said contract services being added to the base charges established by paragraph (2) or (3) above, as well as any additional amounts required as established in paragraph (4) above.

- (6) Any installation of a sewer service accomplished by the city utilizing the services of a contractor for an aerial pipeline crossing that incorporates support piers or self-supporting pipe shall result in the actual cost of said contract services being added to the base charges established in paragraph (2) or (3) as well as any additional amounts required as established in paragraph (4) above.
- (7) If the property for which a sewer service connection is being requested is determined to have been assessed previously and has paid the appropriate sewer tie-on connection fee required for each service connection requested, then an amount of \$350.00 shall be deducted from the base charges set by paragraph (2) or (3) above for said connection.
- (8) For any connection to the sanitary sewer lines of any sewer improvement district, the charges established by this section shall be in addition to any tie-on fee charged by the district.
- (9) All charges shall be included as part of the initial water billing(s), or included as part of the next water billing(s) if a current water customer, and shall be paid by the customer and shall be subject to late charges or termination of service if payment becomes delinquent.

**SECTION 4:** The last paragraph, consisting of one sentence, of Chapter 25, Article VI, Section 25-187 of the Fort Smith Municipal Code is hereby amended to read as follows:

The septic tank discharge permit fee shall be \$2,000.00 per year from date of issuance.

**SECTION 5:** The last sentence of Chapter 25, Article VI, subsection (c) of Section 25-188 of the Fort Smith Municipal Code is hereby amended to read as follows:

- (a) The fee for the permit shall be \$82.00 per month and sampling and analysis fees per monitoring sample for each Industrial User as follows:

**Sampling and analysis fees**

metals digestion	\$ 10.00 each sample
metals analysis	\$ 20.00 each analyte
BOD <sub>5</sub>	\$ 30.00 each sample
COD	\$ 20.00 each sample
TSS	\$ 15.00 each sample
oil & grease	\$ 35.00

total cyanide	\$ 40.00
flash point	\$ 40.00
pH	\$ 9.00
grab collection	\$ 10.00
composite collection	\$ 100.00
resampling required by violation	as identified above

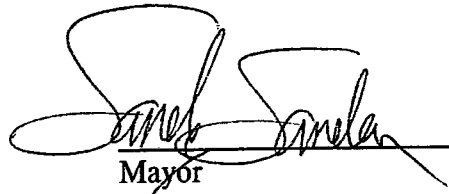
(b) In the event that the city determines that an outside laboratory should be utilized for the analysis of any parameter identified in paragraph (a) above, the actual cost of analysis by the outside laboratory shall be borne by the Industrial User.

SECTION 6: Repealing Clause. All Ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

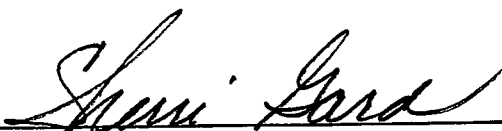
SECTION 7: This Ordinance shall become effective on the 1st day of September, 2011.

PASSED AND APPROVED this 2nd day of August, 2011.

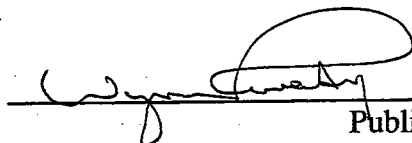
APPROVED:

  
 \_\_\_\_\_  
 Mayor

ATTEST:

  
 \_\_\_\_\_  
 City Clerk

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Publish One Time

**Attachment D – Enforcement Response Plan**



# Enforcement Management System

## 1. General

The purpose of the City of Fort Smith Enforcement Management System (EMS) is to provide guidance for City staff in all phases of enforcement related to the City's Pretreatment Program. Ordinance 80-11 provides general guidance. The EMS is subject to the provisions of Ordinance 80-11.

## 2. Enforcement Management System

Ordinance 80-11 implements the City of Fort Smith Pretreatment Program mandated by the Clean Water Act and the General Pretreatment Regulations. The ordinance provides limitations on discharges in Section 25-209 for significant industrial users and for enforcement actions in Section 25-215. The enforcement philosophy is progressive; that is, problems are addressed at the lowest level and with the least formality possible consistent with the specific problem. No enforcement procedure is contingent upon the completion of any less formal procedure. The procedures provided in the EMS are for general guidance of the City staff; its procedures are not jurisdictional and are not a basis for defense to action taken by the City as a result of a violation of Ordinance 80-11, a permit or other applicable law.

Section 25-211 of Ordinance 80-11 requires that all significant industrial users obtain a wastewater discharge permit as a condition of discharge. Permits may be for a period as long as five years, and may limit wastewater constituents and flows, may require installation and operation of sampling and monitoring facilities, establish compliance schedules and require submission of periodic reports and notices as needed. The wastewater discharge permit represents the City's first means of controlling the wastewater discharge by significant industrial users since, if permit requirements are met by the permittee, no further enforcement activity should be required.

## 3. Responsibilities

The EMS is administered by the Environmental Manager under the general supervision of the Superintendent of Operations, the Director of Utilities and in close coordination with Legal Counsel. The Environmental Manager may delegate certain tasks to subordinates. The Environmental Manager shall maintain records of activities conducted as part of the EMS and render periodic reports to the Director of Utilities at such frequency and in such detail as the Director shall determine.

Specific responsibilities are set forth in succeeding sections of this document.

## 4. Collection and Dissemination of Information

For each industrial user, the Environmental Manager shall determine what data are required or needed to determine compliance with applicable pretreatment standards as well as when and how it can be obtained. The Environmental Manager shall specify reporting requirements for each industrial user in its permit as required by the United States Environmental Protection Agency (EPA) and shall then track the submission of reports. If information submitted is deficient or late, the industrial user shall be notified and required to complete the submission as detailed in the appropriate enforcement response.

Baseline monitoring reports, 90-day compliance reports, reports required by compliance directives and continuing compliance reports as received shall be retained for at least three years under the provisions of 40 CFR, 403.12(0).

The Environmental Manager shall notify significant industrial users of applicable pretreatment standards and any Resource Conservation and Recovery Act (RCRA) requirements as described in 40 CFR, Part 403.8(f)(2)(iii). By reporting the results of City sampling and analysis to industrial users, the Environmental Manager will provide feedback to users on compliance status and inform industrial users of their compliance with City's enforcement requirements and City's general responses to instances of noncompliance.

## **5. Sampling and Inspection of Industrial Users**

The Environmental Manager shall prepare and update, as required, an inspection plan for field investigations including sample collection, facility inspections and flow monitoring. Field investigations shall be used to verify compliance status, to monitor industrial user self-monitoring activities, to collect samples, to initiate emergency or remedial action and to gather additional information. City personnel may conduct routine compliance monitoring or special monitoring in response to violations, technical problems or support for permit modifications. Routine wastewater sampling shall be conducted for each significant industrial user at least once per month.

The Environmental Manager shall further develop such checklists and procedures for routine inspections as are necessary to assure that the results of each visit are documented and notify industrial users of any deficiencies found during any inspection. The Environmental Manager shall advise Region VI of the EPA and the Arkansas Department of Environmental Quality (ADEQ) of its routine and special field investigation activities each year. Joint investigations of industrial users with the EPA or (ADEQ) may be conducted by mutual agreement.

## **6. Compliance Screening**

Using all available information, the Environmental Manager, or his designated agent, shall conduct an initial compliance review or screening process to determine and assess compliance with schedules, reporting requirements and applicable pretreatment standards. Such screening shall be undertaken at least monthly. Review completed under this section is designed to identify apparent violations.

During the screening process, the reviewer shall verify that any required reports are submitted on schedule, cover the proper time period, include all information required in the particular report and are properly signed. As part of this process, the reviewer will compare the information supplied with the requirements in the industrial user's permit. Any discrepancy shall be considered to be a violation of the EMS. To the extent possible, the industrial user will be required to correct such discrepancies immediately upon their discovery.

## **7. Enforcement Evaluation**

Violations and discrepancies identified during the compliance screening process will be evaluated by the Environmental Manager, or his designated agent, to evaluate the type of enforcement response required. The enforcement response guide attached to the EMS will be used for this determination.

## **8. Significant Noncompliance (SNC)**

After completion of the compliance screening, violations will be characterized and a determination made as to whether the user is in Significant Noncompliance (SNC). Certain instances of noncompliance are not of sufficient impact to justify extensive enforcement actions. However, certain violations or patterns of violations are significant and must be identified as such. Such SNC may be on an individual or long-term basis of occurrence.

Categorization of industrial users as being in SNC allows the City to establish priorities for enforcement action and provides a means for reporting on the significant industrial user performance summary.

Instances of SNC are industrial user violations that meet one or more of the following criteria (From 40 CFR Part 403.8 (f)(2)(vii)):

- A. Chronic violations of wastewater Discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(I) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(I) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of the above cited CFR, to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report non-compliance;
- H. Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

When an industrial user is in SNC, the City shall (1) report such information to the EPA Region VI and ADEQ as part of the Pretreatment Annual Report; (2) list the industrial user in the local newspaper with the largest distribution in accordance with paragraph 9 as having significant violations; and (3) address the SNC through appropriate enforcement action.

#### **9. Publishing Lists of Industrial Users with Significant Violations**

General Pretreatment Regulations require the City to publish, at least annually, in the largest daily newspaper within the City's distribution, a list of industrial users which were significantly violating applicable pretreatment standards and requirements during the previous twelve months. The procedures for compiling the list of such users are as follows:

- A. The Environmental Manager shall prepare a compliance history from City records for each individual significant industrial user.
- B. The compliance history so obtained for each industrial user shall be reviewed to determine if a pattern of non-compliance exists or if the industry has been or continues to be in SNC. To the extent that an industry meets these criteria, it will be placed on the list for publication.

## 10. Informal and Formal Means of Enforcement

Means of enforcement available to the City are:

### Informal Actions

- Notices of Violation
- Final Violation Notice
- Review Meetings

### Formal Actions

- Standards Meeting and Compliance Schedule
- Administrative Order/Penalties
- Show Cause Hearing
- Consent Order
- Termination of Permit
- Termination of Service
- Judicial Remedies, Injunctive Relief or Civil Penalties

## 11. Description of Enforcement Activities

The categories of enforcement activities are described in the succeeding paragraphs.

### A. Informal Actions

1. Notice of Violation: A Notice of Violation(s) is a written notice to the industrial user that the City has observed a violation of pretreatment standards or requirements and expects the non-compliance to be corrected. The Notice of Violation shall state that additional enforcement action may be pursued if corrections are not accomplished in a timely manner. A notice of violation shall also state that an explanation of the violation does not excuse it or any previous violations. Notices of violation shall be sent by certified mail, return receipt requested, with copies maintained in the industrial user's file.
2. Final Violation Notice: A Final Violation Notice shall be issued upon the instance of a repeat violation as determined by repeat sampling. The Final Violation Notice shall have the same content as a NOV. However, if said compliance is not achieved in a timely manner, the Control Authority shall proceed with other methods as outlined in other sections of this document. Final Violation Notices shall be sent by certified mail, return receipt requested, with copies maintained in the industrial user's file.
3. Review Meetings: Where further violations continue to occur, the industrial user shall be notified by the Superintendent of Plant Operations in writing as to the particulars of the violations and be called for a voluntary meeting with the industrial user. Review meetings are intended to provide a voluntary means of preventing future violations of the City's Pretreatment Program. The notice sent to the industrial user shall be sent by certified mail, return receipt requested, with copies maintained in the industrial user's file, and shall be entitled "Notice of Review".

Neither the Notice of Violation nor Final Violation Notice is a precondition for calling a review meeting. No informal action is a prerequisite for instituting formal enforcement procedures.

### B. Formal Actions

1. Standards Meeting: In cases where, following a review meeting, continued violations occur or where violations of themselves are either of significant magnitude or duration, an industrial user may be required by the Control Authority through a "Notice of Standards Meeting" to attend a "Standards Meeting."

Notice of such a meeting shall be sent by certified mail, return receipt requested. Attendance is mandatory by the industrial user and failure to comply with such a notice may result in other formal action. The Standards Meeting shall establish procedures, investigations and studies as the Environmental Manager deems necessary and desirable to determine the cause of such violations and methods to correct them. The Director of Utilities shall chair the Standards Meeting and minutes shall be kept.

## 2. Administrative Remedies.

- A. **Administrative Order to Comply:** Administrative Orders (AOs) are enforcement documents that direct industrial users to undertake or to cease specified activities. Administrative orders are the first formal response to significant non-compliance, and may incorporate compliance schedules, administrative penalties, and termination of service orders. Compliance with the terms and conditions of the AO will not be construed to relieve the user of its obligation to comply with applicable Federal, State or local law. Violation of the AO itself may subject the user to all penalties available under the Ordinance 80-11. No provision of the order will be construed to limit the Control Authority's authority to implement its pretreatment program. The provisions of the order shall be binding upon the user, its officers, directors, agents, employees, successors, assigns, and all persons, firms, and corporations acting under, through, or on behalf of the industrial user.
- B. **Administrative Penalties:** Notwithstanding any other section of this EMS, any user who is found to have violated any provision of Ordinance 80-11, or pretreatment regulation, requirement, or permits and orders issued, may be fined using a flat rate schedule with escalation not to exceed one thousand dollars (\$1,000.00) per violation.

Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. The fine schedule for violations of industrial discharge permits shall begin at one hundred dollars (\$100.00) per violation and increases by \$100.00 increments for each subsequent violation to a maximum of \$1,000.00 per violation. If the industry remains in full compliance for a period of one year, the cycle begins anew and subsequent fines are assessed at \$100.00 and increased by \$100.00 increments.

- C. **Environmental Projects.** The purpose of the Pretreatment Program is to bring non compliant industrial users into compliance with local, state and federal environmental regulations. In order to allow first time significantly non compliant industrial users to more quickly become compliant, the City of Fort Smith may allow the non compliant industry to redirect the collection of administrative penalty funds into physical environmental improvements at the industrial user's facility. This will allow the industrial user to reinvest the funds rather than be purely punitive in nature and bring the industrial user back into compliance. This option shall be a onetime venture and approval shall be at the discretion of the Control Authority.
- D. **Performance Bond.** The purpose of the performance bond is to provide both relief from administrative penalties and an extra incentive to come into compliance with local, state and federal regulations. In certain instances, non compliant industries may accrue significant administrative penalties. At the discretion of the Control Authority, when these administrative penalties exceed \$10,000.00, a "Performance Bond" may be issued. In general, the non compliant industry shall pay the Control Authority the full sum of penalties issued. If the non compliant industry returns to compliance for a satisfactory amount of time (i.e. twelve consecutive months) then a percentage of the funds may be returned to the industrial user as a compliance incentive. Approval of this option shall be at the discretion of the Control Authority.
3. **Show Cause Hearing:** The Control Authority may order any user who causes or allows an unauthorized discharge into the City's sanitary sewer system or violates the City's pretreatment program to show "cause" why the City should not revoke the user's wastewater discharge permit or take such other enforcement action as is dictated by the facts of the case. The Control Authority shall issue such a notice for Show Cause Hearing specifying the time and place of a hearing to be held by the Control Authority. Such notice shall state the reasons why the action is to be taken and the proposed enforcement action. Such notice shall direct the user to show cause before the Control Authority why such action should not be taken. Following such hearing, the City may take such action as it deems appropriate. The

notice of the Show Cause Hearing shall be served personally or by certified or registered mail, return receipt requested, with copies maintained in the industrial user's file.

Subsequent to a Show Cause Hearing, appropriate actions may include the following:

- A. **Consent Order.** The Consent Order is an agreement between the Control Authority and the industrial user containing: (1) compliance schedules; (2) stipulated fines or remedial actions; and (3) signatures of the Control Authority and industry representatives.
- B. **Termination of Permit:** Any user who violates the conditions of Ordinance 80-11, or a wastewater discharge permit or order, or any applicable State and Federal law, is subject to permit termination. The Control Authority shall have legal authority to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of persons, or to the environment, or which threatens to interfere with the POTW's operation.
- C. **Judicial Remedies:** If any person discharges sewage, industrial wastes, or other wastes into the City's sanitary sewer system contrary to provisions of Ordinance 80-11, its wastewater discharge permit or order, or any applicable State or Federal law, the Control Authority, through legal counsel, may commence an action for appropriate legal and/or equitable relief, including recovery of civil penalties assessed by the Control Authority, in the appropriate court in Sebastian County, subject to the provisions of Section 25-215 of Ordinance 80-11.
- D. **Injunctive Relief:** Whenever an industrial user has violated or continues to violate the provisions of Ordinance 80-11, its wastewater discharge permit or order, or any applicable State or Federal law, the Control Authority through legal counsel may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.

## **12. Variances**

The Control Authority may grant individual variances for local limits in accordance with procedures established in Ordinance 80-11. Variances shall not exceed 2.5 times the limitation on discharge for specific pollutants, and the Control Authority may impose such conditions, exceptions, time limitations, duration and other limitations as are consistent with the EMS and the City's pretreatment program. No variance shall be granted to exceed five years. Variances may also be issued as a component part of a compliance directive issued to an industrial user following a standards meeting as described in Section 11 B.1.

# Enforcement Response Guide

## PART I: Sampling, Monitoring, and Reporting

Non-compliance	Circumstances	Range of Response	Personnel
Failure to sample, monitor or report (routine reports, BMRS).	Isolate or Infrequent.	Phone call or written notice of violation (NOV) requiring a report within 15 days. if no response is received, issue an Administrative Order (AO).	EC, EM
Failure to provide reports for compliance schedules, self-monitoring data or categorical standards or to resubmit incomplete, inaccurate or improper reports returned to user by the City within 30 days from the due date or the date the report was returned to the user for re-submission.	Reports not submitted or properly resubmitted for 30 days or more after their due date. --- SNC.	Standards Meeting, or Show Cause Hearing, depending on circumstances.	EC, EM, Director of Utilities
Failure to sample, monitor, report or notify.	IU does not respond to letters, does not follow through on verbal or written agreement, or frequent violation --SNC.	AO or judicial action, including penalties if no response is received.	EM, Director of Utilities, Legal Staff
Failure to sample, monitor, report or notify.	Frequent or continued violation	Termination of permit, services	EM, Director of Utilities
Failure to notify of effluent limit violation or slug discharge.	Isolated or infrequent. No known effects.	Phone call or NOV. If no response within 14 days, call Review Meeting.	EC, EM
Failure to notify of effluent limit violation or slug discharge.	Frequent or continued violation --- SNC.	Show Cause Hearing, AO, or judicial actions, including penalties.	EC, EM, Director of Utilities, Legal Staff
Failure to notify of effluent limit violation or slug discharge.	Known environmental or POTW damage results --- SNC.	Judicial action and penalties. Sewer ban.	Director of Utilities, Legal Staff
Minor sampling, monitoring, or reporting deficiencies (computation or typographical errors).	Isolated or infrequent.	Phone call or NOV. Corrections to be made on the next submittal. AO if continued.	EC, EM
Major or gross sampling, monitoring, or reporting deficiencies (missing information, late reports).	Isolated or infrequent.	NOV or AO. Corrections to be made on the next submittal.	EC, EM
Major or gross reporting deficiencies.	Continued. Remains uncorrected 30 days or more --- SNC.	AO or judicial action.	EM, Director of Utilities, Legal Staff

Note: SNC - Denotes that the circumstances of a particular violation are severe enough to meet the criteria specified for Significant Non-compliance (SNC).

EC - Environmental Coordinator

EM - Environmental Manager

**PART I: Sampling, Monitoring, and Reporting (Cont'd)**

<b>Non-compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>	<b>Personnel</b>
Reporting false information.	Any instance --- SNC.	Judicial action, penalties, sewer ban.	Director of Utilities, Legal Staff
Missed interim date.	Will not cause late final date or other interim dates.	NOV.	EC
Missed interim date.	Will result in other missed interim dates. Violation for good or valid cause.	NOV or AO.	EC, EM
Missed interim date.	Will result in other missed interim dates. No good or valid cause --- SNC.	NOV, AO, or Show Cause Hearing.	EC, EM, Director of Utilities
Missed final date.	Violation due to force majeure (strike, act of God, etc.).	Contact permittee and require documentation of good or valid cause; Show Cause Hearing	EC, EM, Director of Utilities
Missed final date.	90 days or more outstanding. Failure or refusal to comply without good or valid cause.	AO, judicial action (including penalty), Show Cause Hearing.	EC, EM, Director of Utilities, Legal Staff
Failure to install monitoring facilities.	Continued --- SNC.	Standards Meeting, Show Cause Hearing.	EC, EM, Director of Utilities

**PART II: Effluent Limits**

<b>Non-compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>	<b>Personnel</b>
Exceeding final limits (categorical, local or prohibited).	Infrequent or isolated minor violations greater than application pretreatment standards or less than TRC.	NOV	EC
Exceeding final limits.	Infrequent or isolated major violations exceed the limits by TRC of a single effluent limit. (SNC if interference or pass through occurs).	NOV, Review Meeting, Show Cause Hearing (if interference or pass-through occurred).	EC, EM, Director of Utilities
Exceeding final limits.	Violation(s) which place an industrial user in SNC.	Standards Meeting or Show Cause Hearing.	EC, EM, Director of Utilities
Exceeding Interim Limits (categorical or local).	Without known interference or pass-through.	NOV, Review Meeting or AO.	EC, EM, Director of Utilities
Exceeding Interim Limits.	Results in know environmental or POTW damage --- SNC.	AO, Show Cause Hearing or judicial action including penalty.	EC, EM, Director of Utilities, Legal Staff

Note: SNC - Denotes that the circumstances of a particular violation are severe enough to meet the criteria specified for Significant Non-compliance (SNC).  
 EC - Environmental Coordinator  
 EM - Environmental Manager



**PART II: Effluent Limits (Cont'd)**

<b>Non-compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>	<b>Personnel</b>
Reported slug load.	Isolated without known damage.	AO or Show Cause Hearing.	EC, EM
Reported slug load.	Isolated with known interference, pass-through, or damage --- SNC.	AO or judicial action including penalty.	EM, Director of Utilities, Legal Staff
Reported slug load.	Recurring --- SNC.	Show Cause Hearing or judicial action including penalty.	EM, Director of Utilities, Legal Staff
Discharge without a permit or approval.	One time without known environmental or POTW damage.	Review Meeting or AO.	EC, EM
Discharge without a permit or approval.	One time that results in environmental or continuing violation --- SNC.	AO, Show Cause Hearing or judicial action.	EM, Director of Utilities, Legal Staff
Discharge without a permit or approval.	Continuing violation with known environmental or POTW damage--SNC.	Judicial action including penalty.	EM, Director of Utilities, Legal Staff

**PART III: Non-compliance detected through Inspections or Field Investigations**

<b>Non-compliance</b>	<b>Circumstances</b>	<b>Range of Response</b>	<b>Personnel</b>
Minor violation of analytical procedures.	Any instance.	NOV.	EC
Major violation of analytical procedures.	No evidence of intent.	NOV or AO.	EC, EM
Major violation of analytical procedures.	Evidence of negligence or intent -- -SNC.	AO or judicial action and penalty.	EM, Director of Utilities, Legal Staff
Minor violation of permit condition.	No evidence of negligence or intent.	NOV. Immediate correction required.	EC
Minor violation of permit condition.	Evidence of negligence or intent -- - SNC.	Show Cause Hearing, judicial action including penalty, or permit termination.	EM, Director of Utilities, Legal Staff
Refusal of access to City personnel for the purpose of inspection, sampling or monitoring.	Failure or refusal to comply with Ordinance 80-11 or permit conditions -- SNC.	Obtain search warrant, Show Cause Hearing for permit termination.	EM, Director of Utilities, Legal Staff
Failure to comply with repeated requests.	Frequent or continued	Termination of permit, services	EM, Director of Utilities

Note: SNC - Denotes that the circumstances of a particular violation are severe enough to meet the criteria specified for Significant Non-compliance (SNC).  
 EC - Environmental Coordinator  
 EM - Environmental Manager



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**FedEx** *NEW Package*  
Express *US Airbill*

FedEx Tracking Number **8003 5262 7570**

**1 From** - This portion can be removed for Recipient's records.

Date 12/13/12 FedEx Tracking Number 800352627570

Sender's Name STEVE FLOYD Phone 479 784-2330

Company CITY OF FT SMITH

Address 3900 KELLEY HWY Dept./Floor/Suite/Room

City FORT SMITH State AR ZIP 72904-5610

**2 Your Internal Billing Reference**

**3 To**  
Recipient's Name RURUS TORRENCE Phone 501 682-0626

Company ADEQ

Address 5301 NORTHSHORE DRIVE Dept./Floor/Suite/Room  
We cannot deliver to P.O. boxes or P.O. ZIP codes.

Address  
Use this line for the HOLD location address or for continuation of your shipping address.

City NORTH LITTLE ROCK State AR ZIP 72118

**0449099649**



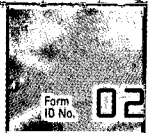
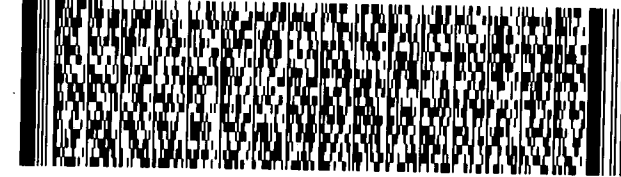
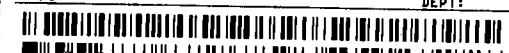
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ORIGIN ID: FSMA (479) 784-2231  
CITY OF FT SMITH  
3900 KELLEY HWY  
FORT SMITH, AR 729045610  
UNITED STATES US

SHIP DATE: 13DEC12  
ACTWGT: 1.0 LB  
CAD: POS1322  
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**TO RURUS TORRENCE**  
**ADEQ**  
**5301 NORTHSHORE DR**

**NORTH LITTLE ROCK AR 72118**  
(501) 682-0744 REF: DEPT:



**4 Express Pac**  
NOTE: Service order

**Next Business**

- FedEx First Ove  
Earliest next business locations. Friday ship Monday unless SATU!
- FedEx Priority C  
Next business mornin delivered on Monday is selected?
- FedEx Standard  
Next business afterno Saturday Delivery NO

**5 Packaging**

- FedEx Envelope

**6 Special Har**

- SATURDAY De  
NOT available for Fe
- No Signature F  
Package may be left obtaining a signature

**Does this shipment contain dangerous goods?**  
One box must be checked.

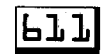
- No  Yes  Yes  
As per attached Shipper's Declaration. Shipper's Declaration not required.
  - Dry Ice  
Dry Ice, 3, UN 1845 \_\_\_\_\_ x \_\_\_\_\_ kg
  - Cargo Aircraft Only
- Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

**7 Payment Bill to:**

- Sender  
Acct. No. in Section 1 will be billed.
  - Recipient
  - Third Party
  - Credit Card
  - Cash/Check
- Enter FedEx Acct. No. or Credit Card No. below. Obtain recip. Acct. No.

Total Packages \_\_\_\_\_ Total Weight \_\_\_\_\_ lbs. Credit Card Auth. \_\_\_\_\_

\*Our liability is limited to \$100 unless you declare a higher value. See the current FedEx Service Guide for details.



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