

Henderson, Katie

From: Torrence, Rufus
Sent: Tuesday, October 11, 2011 1:50 PM
To: 'Vincent Miles (Vincent@pbwastewater.com)'
Subject: AFIN 26-00145 AR0033316 City of Hot Springs Pretreatment Ordinance - Adoptable Version
Attachments: HTSP Pretreatment Ordinance-Adoptable Version 20111011.doc

ADEQ

ARKANSAS
Department of Environmental Quality

October 11, 2011

Mr. Vincent Miles, Env Compliance Supervisor
Pine Bluff Wastewater Utility
1520 South Ohio Street
Pine Bluff, Arkansas 71601

RE: City of Pine Bluff Draft Ordinance for Streamlining Rule Requirements
(NPDES Permit Number AR0033316, AFIN 35-00149)

Dear Mr. Miles:

On October 14, 2005 EPA modified 40 CFR Part 403. These modifications to Part 403 are commonly referred to as the "Streamlining Rule Revisions". After EPA published the Model Pretreatment Ordinance (MPO) in January 2007, Arkansas NPDES permits for cities with approved pretreatment programs were issued with Streamlining update requirements. The City of Pine Bluff permit has an effective date of September 1, 2009. The City was required to submit a draft ordinance within twelve months of the effective date of the permit. The City submitted the draft ordinance by email on August 16, 2010 and a paper copy by US mail on August 17, 2010. The Department reviewed the ordinance and sent the City a revised version attached to a letter dated September 22, 2010. The City submitted a second draft ordinance attached to an e-mail dated October 7, 2011.

The Department has reviewed the recent draft ordinance. Please find attached an adoptable version with two changes:

1. Section 10.1 has been deleted and marked "Reserved"
2. The Department revised Section 14.2 to define "Special Purpose User".

If the City has no further concerns with the language in the adoptable version, the City must adopt the ordinance by **April 11, 2012** and submit the updated program narrative (with the adopted ordinance) to ADEQ by **June 11, 2012**.

The Department appreciates the City's efforts to comply with the Streamlining revisions.

If the City has any questions, please feel free to contact Rufus Torrence at (501) 682-0626 or torrence@adeq.state.ar.us.

Sincerely,



Rufus Torrence, Auditor/Engineer

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY
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WHEREAS, it is essential that the Pine Bluff Wastewater Utility should have the authority to perform all acts as provided in this Ordinance, in order to effectively regulate the use and operation of the public sewer system of the City of Pine Bluff and the provisions of this Ordinance are necessary for the immediate preservation and protection of the public health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINE BLUFF, ARKANSAS:

SECTION 1 - GENERAL PROVISIONS

1.1 Title, Purpose and Policy

This Ordinance shall be known as "the Pretreatment Ordinance" and sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Pine Bluff and enables Pine Bluff Wastewater Utility, hereafter *Pine Bluff Wastewater Utility*, to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this Ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation, contaminate the resulting biosolids, or interfere with the use and disposal of wastewater or biosolids in compliance with applicable statutes and regulations;
- B. 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;
- C. 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;
- D. To promote re-use and recycling of wastewater and biosolids from the Publicly Owned Treatment Works;
- E. To enable Pine Bluff Wastewater to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other Federal or State laws to which Pine Bluff Wastewater Utility is subject.
- F. It is in the best interest of Pine Bluff Wastewater to clarify and update the provisions of the existing Sewer Use Ordinance(s) to achieve compliance with the Clean Water Act and regulations pursuant to 40 CFR 403 (General Pretreatment Regulations) as amended *October 14, 2005*.

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

1.2 Administration

Except as otherwise provided herein, the Manager shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other Pine Bluff Wastewater Utility personnel.

1.3 Abbreviations

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

| | | |
|------------|---|---|
| ADEQ | - | Arkansas Department of Environmental Quality |
| <i>BMP</i> | - | <i>Best Management Practice</i> |
| BOD | - | Biochemical Oxygen Demand |
| BTEX | - | Benzene, Toluene, Ethylbenzene, Xylene |
| CFR | - | Code of Federal Regulations |
| <i>CIU</i> | - | <i>Categorical Industrial User</i> |
| COD | - | Chemical Oxygen Demand |
| EPA | - | U.S. Environmental Protection Agency |
| gpd | - | gallons per day |
| <i>IU</i> | - | <i>Industrial User</i> |
| mg/L | - | milligrams per liter |
| NPDES | - | National Pollutant Discharge Elimination System |
| O&G | - | Oil and Grease |
| POTW | - | Publicly Owned Treatment Works |
| RCRA | - | Resource Conservation and Recovery Act |
| SIC | - | Standard Industrial Classification |
| <i>SIU</i> | - | <i>Significant Industrial User</i> |
| <i>SNC</i> | - | <i>Significant Noncompliance</i> |
| TSS | - | Total Suspended Solids |
| U.S.C. | - | United States Code |

1.4 Definitions

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

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

- B. And/Or shall mean one item or the other or a combination of both or all.
- C. Approval Authority The Arkansas Department of Environmental Quality (ADEQ).
- D. Authorized or Duly 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 which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.*
 - (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the User is a 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 paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Manager.
- E. Batch Discharge. The discharge of wastewater to a POTW on an intermittent basis.

- F. 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 of this Ordinance[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. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.
- G. Biochemical Oxygen Demand or BOD. The relative oxygen requirements of water and wastewater as determined by generally accepted standard laboratory procedures. The test measures the quantity of oxygen utilized in the biochemical oxidation of organic matter and inorganic matter such as sulfides, ferrous iron, and reduced forms of nitrogen. The test is conducted under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).
- H. BTEX. The sum of the milligram per liter concentrations of benzene, toluene, ethylbenzene, and xylene.
- I. BTEX Waters. Those waters associated with underground petroleum storage tanks. This may include water inside the tanks, water within the excavation pit upon removal of such tanks, or contaminated groundwater in the immediate vicinity of such a tank.
- J. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- K. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical standard.
- L. City. The City of Pine Bluff, Arkansas.
- M. Composite Sample. A series of individual grab samples collected over a known period of time or proportional to flow and combined to make one sample.
- N. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- O. Control Authority. The City of Pine Bluff Wastewater Utility.

- P. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- Q. Existing Source. Any source of discharge, that is not a "New Source".
- R. Extra Strength Surcharge or Surcharge. The additional monthly sewer charge assessed to persons discharging wastewater exceeding the average domestic concentrations for BOD, COD, TSS, and/or Oil and Grease. The surcharge is based on the pounds of pollutant discharged and reflects the additional cost of treating high strength discharges.
- S. Garbage. The solid wastes from the domestic and commercial preparation, cooking and disposing of food, and from the handling, storage, and sale of produce.
- T. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- U. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source.
- V. Industrial User or User. A source of indirect discharge.
- W. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its biosolids processes, use or disposal; and therefore, is a cause of a violation of the POTW's NPDES permit or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- X. Landfill Leachate. Those waters collected from the under drainage collection system of a public use landfill.
- Y. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, pharmaceutical medications, and wastes containing radioactive isotopes.

Z. Manager. The Manager of Pine Bluff Wastewater Utility, or his duly authorized deputy, agent, or representative.

AA. Daily Discharge. The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

Monthly average. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Daily Maximum. Discharge limitation means the highest allowable "daily discharge" during the calendar month.

BB. NPDES. The National Pollutant Discharge Elimination System as administered by the USEPA or ADEQ.

CC. New Source.

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

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous on-site 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.

DD. Non-contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

EE. Oil and Grease or O&G. A group of substances with similar physical characteristics are determined quantitatively on the basis of their common solubility in an organic extracting solvent. These substances including fats, waxes, free fatty acids, calcium and magnesium soaps, mineral oils, and certain other non-fatty materials. It includes other materials recovered by the solvent from an acidified sample (such as sulfur compounds, certain organic dyes, and chlorophyll) and not volatilized during the test. At the discretion of the Manager, the Oil and Grease test may be determined by the latest approved listing in 40 Code of Federal Regulation, Part 136.

FF. Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

- GG. 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.
- HH. pH. A measure of the hydrogen-ion concentration in a solution, expressed *in standard units* as the logarithm (base ten) of the reciprocal of the hydrogen-ion concentration in gram moles per liter (g/mole/L). On the pH scale (0 to 14), a value of 7 at 25°C (77°F) represents a neutral condition. Decreasing values indicate increasing hydrogen-ion concentration (acidity); increasing values indicate decreasing hydrogen-ion concentration (alkalinity).
- II. 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., TSS, turbidity, color, BOD, COD, cyanide, oil & grease, heavy metals, toxicity, or odor).
- JJ. POTW Treatment Plant. That portion of the publicly owned treatment works (POTW) designed to provide treatment to wastewater.
- KK. 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.
- LL. Pretreatment Program. Pine Bluff Wastewater Utility, EPA, and/or Arkansas Department of Environmental Quality approved program to administer the requirements of 40 CFR 403, the General Pretreatment Regulations, and associated National Categorical Standards as adopted into Section 4 of Regulation No. 6.104 of Regulation No. 6: Regulations for State Administration of the National Pollutant Discharge Elimination System.
- MM. Pretreatment Requirement. Any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.
- NN. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

- OO. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this Ordinance.
- PP. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City of Pine Bluff. 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.
- QQ. Sampling/Inspection Manhole. An approved access point to a building sewer which is used for the purpose of collecting a wastewater sample.
- RR. Sanitary Sewer. A sewer in which sewage is carried, and to which storm, surface, and ground water are not intentionally admitted.
- SS. Septic Tank Waste. Any domestic sewage from holding tanks such as vessels, campers, trailers, and septic tanks.
- TT. Sewage. The spent or used water of a community or industry containing dissolved and suspended matter.
- UU. Sewer. A pipe or conduit for carrying sewage.
- VV. Shall is mandatory; May is permissive.
- WW. Significant Industrial User.
- (1) A User subject to categorical pretreatment standards; or
 - (2) A User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down 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 Manager on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

- (3) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential For adversely affecting the POTW's operation or for Violating any Pretreatment Standard or Requirement, the Manager may at any time, on its own initiative or in Response to a petition received from an Industrial User, And in accordance with procedures in 40 CFR 403.8(f) (6), determine that such User should not be considered a Significant Industrial User.
- XX. Slug Load or Slug Discharge. Any discharge at a flow rate or pollutant concentration which could cause a violation of the prohibited discharge standards in Section 2.1 of this Ordinance. *A slug discharge is any discharge of a non-routine, episodic nature, included 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 way violate the POTW's regulations, local limits or permit conditions.*
- YY. Standard Industrial Classification (SIC) Code. A classification pursuant to the *North American Industry Classification System - United States, (1997)* issued by the United States Office of Management and Budget's Economic Classification Policy Committee.
- ZZ. State. The State of Arkansas.
- AAA. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- BBB. Total Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended matter that floats on the surface, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- CCC. Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of the Clean Water Act 307(a) or other acts.
- DDD. Upset. An exceptional incident in which a discharger unintentionally and temporarily is in a state of non-compliance with the categorical pretreatment standards, due to forces beyond the reasonable control of the discharger, and excluding non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

- EEE. User or Industrial User. A source of indirect discharge.
- FFF. Utility. The City of Pine Bluff Wastewater Utility, including the POTW, personnel, and all authorized representatives.
- GGG. 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.
- HHH. Waters of the State. - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Arkansas or any portion thereof.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference, or in any way contaminates the POTW biosolids, scum, or residues to such a level as to render them unacceptable for economical reuse or reclamation. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Liquids, solids, or gases which by reason of their nature and quantity are, or may be, sufficient either alone or by interaction with other substances to cause a fire or explosion hazard or be injurious in any other way to the POTW or the operation of the POTW. Such materials include, but are not limited to, gasoline, diesel, benzene, naphtha, fuel oils, kerosene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, or sulfides, or any wastestream with a closed cup flash point of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH lower than 5.0 S.U. or greater than 11.0 S.U. or having any other corrosive property capable of causing damage or a hazard to the structures, equipment, and personnel of the POTW.

- (3) Solid or viscous substances in quantities or of such size capable of creating a stoppage, plugging, breakage, or any reduction in sewer capacity or any other damage to the POTW such as, but not limited to, *commercial food service oil and grease*, ashes, cinders, sand, plastic, wood, un-ground garbage, whole blood, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc. Any additional sewer or sewerage maintenance expenses caused by such a discharge, or any other expenses attributable thereto will be charged to the User by Pine Bluff Wastewater Utility. Any refusal to pay the additional maintenance expense duly authorized by the Manager shall constitute a violation of the provisions contained herein;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference, upset, or loss of efficiency at POTW. In no case shall a slug load have a flow rate or contain a concentration or quantity 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, quantity, or flow during normal operation of the discharger;
- (5) Waters, wastes, or vapors discharged at such a volume or temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case any such waters or wastes which will cause the POTW influent or pumping station wetwell temperature to exceed 104°F (40.0°C). Any liquid or vapor having a temperature higher than 130° F (54.4° C) at the point of discharge;
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Waters or wastes containing toxic or poisonous solids, liquids, or gases, or oxygen demanding wastes, in sufficient quantity, either singly or by interaction with other wastes to injure or cause interference with any sewage treatment process, to contaminate the POTW sludges, scum, or residue to such a level to render them unacceptable for economical reuse or reclamation, to pass through the POTW and cause a violation of the POTW's NPDES Permit or create a toxic effect in the receiving stream, to cause a public nuisance, or to constitute a hazard or an acute health or safety problem to the POTW workers or the public;

- (8) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (9) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Pine Bluff Wastewater Utility NPDES permit;
- (10) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (11) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Manager;
- (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (13) Medical wastes, *no discharge of "any pharmaceutical medications, prescription or 'over the counter', unused or expired.*
- (14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (15) Detergents, surfactant, or other substances which may cause excessive foaming in the POTW; or
- (16) Hauled or trucked liquid wastes, except at the specific discharge point(s) designated by Pine Bluff Wastewater Utility.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

2.2 National Categorical Pretreatment Standards

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. Those standards, if more stringent than the limitations imposed by the latest approved "Technically Based Local Limits Development Document" for sources in that sub-category, shall supersede the limitations imposed by the Local Limits.

- A. *When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. In accordance with 40 CFR 403.6(c) (2).*
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical standards from which the equivalent limitations were derived. See 40 CFR 403.6(c) (7).
- D. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate. See CFR 403.6(c) (9).

2.3 Reserved

2.4 Specific Pollutant Limitations (Local Limits)

No person shall discharge any waters or wastes at a concentration that would exceed the concentration of pollutants, including but not limited to, those concentrations identified in the "Technically Based Local Limits Development Document", and adopted by the Manager of the Pine Bluff Wastewater Utility and approved by the Arkansas Department of Environmental Quality.

Pine Bluff Wastewater Utility will develop and assign specific discharge permit limitations, or *Best Management Practice (BMP)*, when deemed appropriate by the Manager, for pollutants for permitted Users based on criteria approved by the Manager. The specific permit limits or *BMP* shall ensure that local limit pollutant concentrations will protect the wastewater treatment plant. The Local Limits shall apply to the total flow, total process discharge from the Industrial Users or to another discharge location at the discretion of the Manager. In developing specific permit limits, the Manager may impose mass local limitations in addition to, or in place of, specific local concentration-based limits. In addition, Pine Bluff Wastewater Utility may develop specific discharge limitations, or *BMP* for any pollutants which the Manager of Pine Bluff Wastewater Utility may determine to be of sufficient quantity to cause POTW interference and/or pass through, endanger the health and safety of the POTW personnel or the public health, cause a POTW permit violation or render the POTW sludges unacceptable for economic reuse or reclamation.

2.5 Reserved

2.6 Dilution

No User shall ever 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 a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Manager may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this Ordinance within the time limitations specified by EPA, ADEQ, or the Manager, 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 Manager for review, and shall be acceptable to the Manager 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 Pine Bluff Wastewater Utility under the provisions of this Ordinance.

3.2 Additional Pretreatment Measures

- A. If any waters or wastes which are discharged or which are to be discharged into the public sewers contain or possess any of the characteristics enumerated in Section 2.1(A), 2.1(B), 2.4, and/or 14.1 of this Ordinance and in the judgment of the Manager, may have a deleterious effect upon the sewage works, processes, equipment, sludges, or receiving waters, or which otherwise creates a hazard to life or constitutes a public nuisance, the Manager may (a) reject the wastes, (b) require pretreatment to an acceptable condition for discharge to the public sewer, and/or (c) require control over the quantities and rate of discharge.

If the Manager requires the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Manager and subject to all applicable codes, Ordinances, and laws. Where pretreatment or flow equalization facilities are provided for any waters or wastes, they shall be continuously maintained in satisfactory and effective operation by the owner or occupant at his own expense.

- B. Whenever deemed necessary, the Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Ordinance.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, any flammable wastes, or sand; except that such interceptors shall not be required for residential Users. All interception units shall be of type and capacity approved by the Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the User at their expense. Storage, handling, transportation, and disposal of all wastes generated from such interceptors shall be performed in accordance with all applicable Federal, State, and local regulations that pertain to that type and/or class of waste.

Grease Trap Conditions For Citation Issurance

- Grease and/or solids at or above 25% Rule
 - 25% rule is defined as when the grease trap has accumulated waste, both floatable grease and settable food solids, accounting for 25% or more of its wetted depth, as measured from the static water line to the tank bottom.
- Grease trap overflowing

- Grease trap broken (i.e. baffles, outlets, or cover damaged)

Penalty Assessment

- Citation (written) issued and facility given ten (10) business days to have trap cleaned or repaired.
 - If overflowing facility given 24 hours from time of citation.
- If not cleaned after ten (10) days, three (3) additional days may be provided if letter is sent.
- \$100/day penalty for each day trap is not cleaned following the aforementioned (Letter is to be sent and fee added to water bill) in accordance with Section 10.7 of this ordinance.
- Court/Legal action including cease and desist order, and termination of services with a \$1,000 penalty assessed to the facility. (Matter handled by the City Attorney) in accordance with Section 11 of this Ordinance.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

E. When required by the Manager, the owner of any property serviced by a building sewer carrying industrial waste shall provide a *sampling/inspection* manhole. The *sampling/inspection* manhole shall be safely located and accessible to duly authorized employees and/or representatives of Pine Bluff Wastewater Utility at all times. When deemed necessary by the Manager, the *sampling/inspection* manhole shall be provided with meters or other appurtenances to facilitate the monitoring of the wastewater. The cost of the installation and maintenance of a secure sample point or *sampling/inspection* manhole shall be borne by the owner.

Any *sampling/inspection* manhole located in a parking lot or other area where any vehicles may reasonably be expected to be parked must be protected by a permanent barrier, railing, or other means if it is determined necessary by the Manager to ensure continued and uninterrupted access to the *sampling/inspection* manhole by Pine Bluff Wastewater Utility personnel.

F. Whenever deemed necessary, the Manager may require the pretreatment system operator(s) to be licensed in accordance with the State of Arkansas' Regulation Number 3, including all amendments thereto, for the operation of industrial wastewater treatment systems.

3.3 Accidental Discharge/Slug Control Plans

The Manager shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan *or other action to control slug discharges*. The Manager 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*. Alternatively, the Manager may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Manager of any accidental or slug discharge, as required by Section 6.6 of this Ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Septic tank waste originating from domestic sources may be introduced into the POTW only at locations designated by the Manager, and at such times as are established by the Manager. Such waste shall not violate Section 2 of this Ordinance or any other requirements established by the Manager. The Manager may require septic tank waste haulers to obtain wastewater discharge permits.
- B. Other hauled liquid wastes may be introduced into the POTW also, with prior approval of the Manager. These other wastes may include, but are not limited to, landfill leachate and waters associated with the removal of contaminated ground water. The acceptance of such waters for introduction to the POTW shall comply with Pine Bluff Wastewater Utility current policies on the acceptance of landfill leachate and other contaminated ground water.

The Manager may require haulers of industrial waste to obtain individual wastewater discharge permits. The Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.

- C. The Manager shall require all haulers of liquid wastes discharged into the POTW to use an approved manifest system for each load of hauled liquid waste. This form must contain, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of waste and state whether any wastes are RCRA hazardous wastes.
- D. *Waste Haulers of waste materials removed from grease interceptors, solids traps or other such devices shall not, at any time, discharge any material retained by such devices back into the sanitary sewer collection system.*

SECTION 4 - INDIVIDUAL WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Survey

When requested by the Manager, all Industrial Users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Manager is authorized to prepare a form for this purpose and may periodically require Industrial Users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the Industrial User and shall be considered a violation of this Ordinance. Periodically, a list of all SIU's and commercial facilities will be obtain from the local Chamber of Commerce to identify new facilities.

- B. The Manager may also require any other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

4.3 Permitting - Existing Connections

Any existing Industrial User identified by Pine Bluff Wastewater Utility and required by the Manager to obtain an Individual Wastewater Discharge Permit shall be notified by the Manager in writing and shall complete and return an Industrial Wastewater Discharge Permit Application within the time established by the Manager. The Manager may deny or condition the contribution of pollutants by such User in the Industrial Wastewater Discharge Permit.

4.4 Permit - New Connections

Any User required by the Manager to obtain an *individual* wastewater discharge permit who proposes to begin or recommence discharging industrial wastes into the POTW must obtain a discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. The Manager may deny or condition the contribution of pollutants by such User in the Industrial Wastewater Discharge Permit.

4.5 Application Contents

All Users required to obtain a wastewater discharge permit by the Manager shall submit an Industrial Wastewater Discharge Permit Application to Pine Bluff Wastewater Utility, the form for which shall be provided by Pine Bluff Wastewater Utility. The information required in the Permit Application shall, where requested or appropriate, include, but is not limited to:

- A. Name, address, and location of the Industrial User or discharger and the *name of the operator and owner with contact information*.
- B. Standard Industrial Classification Number (SIC Code).
- C. The nature and concentrations of any pollutants or materials prohibited or regulated by this Ordinance, including the EPA's Priority Pollutant Listing for each pollutant or material.
- D. The time of day and duration of each discharge.
- E. The average daily and maximum daily flow rates including any daily, monthly, or seasonal variations. *Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2.C of this Ordinance(40 CFR 403.6(e)).*
- F. Site plans and details showing all plumbing including storm and sanitary sewers, sewer connections, manholes, sampling/*inspection manholes* the location and description of any pretreatment equipment, and the *appropriate location for monitoring all wastes covered by the permit*.
- G. A description of facilities, activities, and plant processes including all materials which are or may be discharged to the public sewer.

- H. A list of all raw materials used at the facility including MSDS (Material Safety Data Sheets) for all chemicals that are used or stored at the facility *which are, or could accidentally or intentionally be, discharged to the POTW;*
- I. Compliance schedules, where applicable, which meet applicable requirements of the Federal Regulations.
- J. Any other information as may be deemed necessary by the Manager to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. This could result in a delay in the issuance to the discharge permit.

4.6 Application Signatories and Certification

All wastewater discharge permit applications and User reports must be signed by an authorized representative (*defined in section 1.4.D*) of the User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- A. *If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Manager prior to or together with any reports to be signed by an Authorized Representative*

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed *five (5) years* from the effective date of the permit. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

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

A. Wastewater discharge permits *must* contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed *five (5) years*;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Manager in accordance with Section 5.4 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or *Best Management Practices*) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (4) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (5) *Requirements to control Slug Discharge, if determined by the Manager to be necessary; and*
- (6) *Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.*

- B. *Individual* Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (3) Requirements for the development and implementation of spill/*slug* control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, *including flow measurement devices*;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (8) Other conditions as deemed appropriate by the Manager to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Modification

The Manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the POTW and/or it's personnel, the receiving waters, or *the beneficial use of biosolids*;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.4 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Manager and the Manager approves the wastewater discharge permit transfer. The notice to the Manager must include a written certification by the new owner or operator which:

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

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

5.5 Wastewater Discharge Permit Revocation

The Manager may revoke a wastewater discharge permit for good cause including, but not limited to, the following reasons:

- A. Failure to notify the Manager of significant changes to the wastewater prior to the changed discharge;

- B. Failure to provide prior notification to the Manager of changed conditions pursuant to Section 6.5 of this Ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Manager timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

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

5.6 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this Ordinance, a minimum of thirty (30) days prior to the expiration of the User's existing wastewater discharge permit.

5.7 Regulation of Waste Received Outside the City's Jurisdiction

- A. All Users, which are outside the jurisdiction and are not part of another incorporated city, shall be required to agree by written contract to abide by the conditions set forth in this Ordinance, subsequent revisions and amendments to this Ordinance, and any rules and/or regulations promulgated by the Pine Bluff Wastewater Utility in accordance with Section 7.1(F) of this Ordinance.

5.8 Regulation of Waste Received from other Jurisdictions

- A. If another municipality, or User within another municipality, contributes wastewater to the POTW, the Manager shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the Manager shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the Manager may deem necessary.
- C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;
 - (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

- (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Manager; and which of these activities will be conducted jointly by the contributing municipality and the Manger;
- (4) A requirement for the contributing municipality to provide the Manager with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Manager access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Manager; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Manager a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical Users subsequent to the promulgation of an applicable categorical standard, shall submit to the Manager a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below:

- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) Measurement of Pollutants.
 - (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Manager, of regulated pollutants in the discharge from each regulated process.
 - (c) *Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.*
 - (d) *The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.9 of this Ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Manager or the applicable Standard to determine compliance with the Standard.*
 - (e) *The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.*

- (f) *Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;*
 - (g) *The Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.*
 - (h) *The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.*
- (6) Compliance Certification. A statement, reviewed by the User's authorized representative as defined in Section 1.4.D and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this Ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this Ordinance by an authorized Representative as defined in Section 1.4.D of this Ordinance.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(7) of this Ordinance and/or any compliance schedule issued by the Manager under Section 10.5 of this Ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Manager.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any User subject to such pretreatment standards and requirements shall submit to the Manager a report containing the information described in Section 6.1(B)(4-6) of this Ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2; 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

6.4 Periodic Compliance Reports

- A. All Significant Industrial Users shall, at a frequency determined by the Manager, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by 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 documents required by the Manager or the pretreatment standard necessary to determine the compliance status of the user.* All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.
- B. When Pine Bluff Wastewater Utility collects all the information required for the report, the Significant Industrial User, the reporting requirements listed under 6.4.A. above shall be waived.
- C. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

6.5 Reports of Changed Conditions

Each User must notify the Manager of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- A. The Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this Ordinance.
- B. The Manager may reissue a wastewater discharge permit under Section 5.6 of this Ordinance or modify an existing wastewater discharge permit under Section 5.3 of this Ordinance in response to changed conditions or anticipated changed conditions.
- D. No User shall implement the planned change condition(s) until and unless the Manager has responded to the Users notice.

6.6 Reports of Potential Problems

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

6.7 Other Reports - Permitted and Unpermitted Users

All Users shall provide appropriate reports to the Manager as the Manager may require. Such reports may request, but are not limited to, the nature and characteristics of the Users wastewater (industrial waste survey). Failure to complete requested reports or survey shall be considered a violation of this Section and considered reasonable grounds for legal action as provided by this Ordinance.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Manager within thirty (30) days after becoming aware of the violation.

If the City performed the sampling and analysis in lieu of the Industrial User, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

6.9 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 *and amendments thereto*, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA or ADEQ. All samples shall be collected at the *sample/inspection manhole*, or process sampling point as designated by the Manager.

All independent laboratories performing analyses for Industrial Users, including, but not limited to self monitoring reports, Periodic Reports on Continuing Compliance, Baseline Monitoring Reports and/or split sample verification, shall be certified by the Arkansas Department of Environmental Quality Laboratory Certification Program for the specific analysis being performed. The Manager reserves the right to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.

6.10 Sample Collection

A. If as a result of any sampling and analyses authorized by the Manager, or due to the existence of any other information, the Manager may have sufficient reason to suspect the presence of toxic or prohibited substances as limited or prohibited by this Ordinance to exist in the wastewater discharge of a facility, the Manager may direct the owner or operator of said facility to have a representative of that facility's wastewater subjected to the appropriate physical, chemical, and biological tests performed by a qualified laboratory acceptable to the Manager. The purpose of such tests shall be to determine the conformance of the wastewater characteristics to this Ordinance. A prompt report shall be made in writing to the Manager by the laboratory stating the results of the tests. The costs associated with the sampling and testing required by this section shall be borne by the owner or operator.

- B. Any sampling, testing, and/or sample delivery associated with duplicate sample analysis in excess of the regularly scheduled sampling and analysis performed by Pine Bluff Wastewater Utility that is requested by an industrial customer for the purpose of assessing a surcharge or enforcement of this Ordinance will be borne by the owner or operator of the facility. The owner or operator of the facility which has a duplicate analysis performed by an independent laboratory will submit a prompt report in writing from the laboratory giving the results of the analyses and all quality assurance information relative to the analyses.
- C. Except as indicated in Section D and E 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 Manger. Where time-proportional composite sampling or grab sampling is authorized by the Manger, 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 Manager, as appropriate. In addition, grab samples may be required to show compliance within Instantaneous Limits.
- D. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab sample collection techniques.
- E. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data are available, [the Superintendent] may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12 (h)), the Industrial User is required to assure compliance by with applicable Pretreatment Standards and Requirements.
- F. The sampling methods performed shall include at a minimum procedures for sample chain of custody, preservation techniques, and holding times.

6.11 Timing

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

6.12 Record Keeping

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance, 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 under Section 2.4. 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 Pine Bluff Wastewater, or where the User has been specifically notified of a longer retention period by the Manager.

SECTION 7 - POWER AND AUTHORITY OF INSPECTORS

7.1 Right of Entry: Inspection and Sampling

The Manager shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Manager shall have the right to set up on the User's property, or require installation of, such devices (at the Users expense) as are necessary to conduct sampling and/or metering of the User's wastewater discharge.

- C. The Manager may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the User at the written or verbal request of the Manager and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays and/or refusals in allowing the Manager access to the User's premises for the purpose of making an inspection authorized by this section shall be a violation of this Ordinance requiring appropriate enforcement action.

7.2 Search Warrants

If the Manager has been refused access to a building, structure, or property, or any part thereof, and if the Manager is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Pine Bluff Wastewater designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application and affidavit by the Pine Bluff City attorney, the appropriate Municipal Court Judge of the City of Pine Bluff, Arkansas, may issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served by the Manager or the City's attorney in the company of a uniformed police officer of the City of Pine Bluff, Arkansas.

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Manager's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets, secret processes, or proprietary information shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report subject to the provisions of the Arkansas Freedom of Information Act, A.C.A. § 25-19-101 et seq. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

The Manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. *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 2;*

- B. *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 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);*
- C. *Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Manager 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 pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Manager's exercise of its emergency authority to halt or prevent such a discharge;*
- E. *Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;*
- F. *Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;*
- G. *Failure to accurately report non-compliance; or*
- H. *Any other violation(s), which may include a violation of Best Management Practices, which the Manager determines will adversely affect the operation or implementation of the local pretreatment program.*

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 [Reserved]

10.2 Notice of Violation

When the Manager finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Manager shall serve upon that User a written Notice of Violation. The Utility will deliver a notice of violation based on the nature of the noncompliance, the time period, if the noncompliance is recurring and any potential impact which may cause damage to human healthy environment, or the POTW infrastructure. Within ten(10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Manager. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.3 Consent Orders

The Manager is authorized to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such orders, assurances, or other similar documents will include specific action to be taken by the User to correct the non-compliance within a time period specified by the document. Such order, assurances, or other similar documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this Ordinance and shall be judicially enforceable.

10.4 Show Cause Hearing

- A. The Manager may order any User which causes or contributes to violation(s) of this Ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before Pine Bluff Wastewater Utility and show cause why a proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the User show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the User. Whether or not the User appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other enforcement action.

10.5 Compliance Orders and Schedules

When the Manager finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Manager may issue an order or schedule to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued subject to notice and right to a hearing as provided herein unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Cease and Desist Orders

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

- A. Immediately comply with all requirements; and,

- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.7 Administrative Fines

- A. When the Manager finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Manager may fine such User in an amount not to exceed \$1,000.00. Such fines shall be assessed on a per violation basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Each day of a continuing violation shall be deemed a separate violation.
- B. Users desiring to dispute such fines must file a written request for the Manager to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the Manager may convene a hearing on the matter. In the event the User's request is granted, the payment, *together with any interest accruing thereto*, shall be returned to the User. *The Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to a fine.*
- C. Issuance or pursuit of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.8 Emergency Suspensions

The Manager may immediately suspend a User's discharge, after notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Manager may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Manager that the period of endangerment has passed, unless the termination proceedings in Section 10.9 of this Ordinance are initiated against the User.

- B. A User who is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Manager prior to the date of any show cause or termination hearing under Sections 10.4 or 10.9 of this Ordinance.

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

10.9 Termination of Discharge

In addition to the provisions in Section 5.5 of this Ordinance, any User who violates the following conditions of this Ordinance, wastewater discharge permits, or orders issued pursuant to any provision of this Ordinance may be subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in Section 2 of this Ordinance. Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.4 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Manager shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Manager finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Pine Bluff Wastewater Utility may commence proceedings for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Ordinance on activities of the User. The Pine Bluff Wastewater Utility may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A complaint for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to Pine Bluff Wastewater Utility for a maximum civil penalty of \$1,000.00 per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation; and, each day of a continuing violation may be deemed a separate violation.
- B. The Manager may recover all costs recoverable under the law of Arkansas, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Pine Bluff Wastewater Utility.
- C. In determining the amount of civil liability, a Court of competent jurisdiction may take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- D. Filing a suit for civil or criminal penalties shall not be a bar against, or a prerequisite for, taking any other action against a User, provided, that no such suit to collect civil or criminal penalties shall be commenced without a resolution of the Pine Bluff Wastewater Utility authorizing such court action.

11.3 Criminal Prosecution

- A. A person who willfully or negligently violates any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation or imprisonment for such term as allowed by law or both; provided that no criminal prosecution may be commenced without a prior resolution of the Pine Bluff Wastewater Utility authorizing such prosecution.

- B. A person who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one hundred dollars (\$100.00) but not more than five hundred dollars (\$500.00) for any one (1) specified offense or violation thereof, and not less than one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) for each repetition of such event or violation, or be subject to imprisonment for such term as allowed by law, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- C. A person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of at least one hundred dollars (\$100.00) but not more than five hundred dollars (\$500.00) for any one (1) specified offense or violation thereof, and not less than one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) for each repetition of such event or violation, or be subject to imprisonment for such term as allowed by law, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State Law.

12.1 Payment of Outstanding Fees and Penalties

The Manager may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this Ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of forces beyond the reasonable control of the User. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.
- C. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- (1) An upset occurred and the User can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The User has submitted the following information to the Manager within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - (a) A description of the indirect discharge and cause of non-compliance;
 - (b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pretreatment standards.

- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general prohibitions in Section 2.1(A) of this Ordinance or the specific prohibitions in Sections 2.1(B)(1) through (16) of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when Pine Bluff Wastewater Utility was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

- A. For the purposes of this section,
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

- C. (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Manager at least ten (10) days before the date of the bypass, if possible.
- (2) A User shall submit oral notice to the Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. (1) Bypass is prohibited, and the Manager may take an enforcement action against a User for a bypass, unless
- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The User submitted notices as required under paragraph (C) of this section.
- (2) The Manager may approve an anticipated bypass, after considering its adverse effects, if the Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 14 - EXTRA STRENGTH SURCHARGE RATES

14.1 General

The Manager may at any time collect appropriate samples from any Industrial or Commercial User's discharge and conduct analyses to determine the concentrations of BOD/COD, TSS, pH, and Oil and Grease (O&G). If the sampling and analyses performed by the Manager or his designated assistant indicates concentrations of BOD/COD, TSS, and O&G exceeding the limits set forth in 14.2 below, he shall compute an extra strength surcharge as set by the existing Sewer Rate Ordinance, and the owner shall be liable for payment of the amount thereof. The collection of an extra strength surcharge is not a penalty, but rather allows Pine Bluff Wastewater Utility to defray the costs of treating industrial wastewater concentrations that are above average domestic wastewater concentrations. The surcharge shall be considered a sewer charge for which the owner shall be liable in accordance with the applicable law of the State of Arkansas, as amended and upon default in such payment, Pine Bluff Wastewater Utility shall be entitled to those remedies set forth in said statute.

14.2 Computations

In accordance with requirements in Section 28 of the City of Pine Bluff Code of Ordinance and rates as amended by Ordinance 6146 dated August 1, 2005, the Permittee must pay a surcharge when wastewater exceeds the allowable base established in the ordinance and such surcharge shall be computed on the following formula:

- 1) BOD in excess of 300 mg/L
- 2) TSS in excess of 300 mg/L
- 3) O&G in excess of 100 mg/L

$$\text{SURCHARGE} = V \times 8.34 [0.1325 (\text{BOD}-300) \text{ plus } 0.0404 (\text{TSS}-300) \text{ plus } 0.0675 (\text{O\&G}-100)]$$

Where: V = Volume of wastewater in million gallons per month
 8.34 = 8.34 (lb/million gallons)/liter)
 0.1325 = Unit charge for BOD in dollars per pound
 0.0404 = Unit charge for TSS in dollars per pound
 0.0675 = Unit charge for O&G in dollars per pound

In accordance with Sewer Use Ordinance 6146, the Permittee must pay a monitoring charge. This charge is based on the volume of wastewater discharged by the Permittee and the monitoring conducted during the month.

A permit fee determined by the Manager will be assessed to the Permittee. This fee must be paid in full prior to the issuance of this permit. This fee does not include cost

of reissuance of this permit due to revocation, wastewater service termination, or new ownership of a company.

Special Purpose Users

All Special Purpose Users (Leachate, contaminated groundwater producers, temporary disposal sites, etc.) must obtain a permit to discharge into the local sewer system. This permit must be approved by the Manager or designated Wastewater Utility representative. All Special Purpose Users will be regulated in accordance with the pretreatment program requirements and the local sewer use ordinance.

All Special Purpose Users shall be charged the following rates listed below provided the user has agreed to discharge monthly:

| Monthly Volume Charge (\$/CCF) | |
|--|---------|
| Tier 1 (1-5 years) | \$90.00 |
| Tier 2 (5 years) | \$60.00 |
| Tier 3 (Greater than 10 years) | \$40.00 |
| Long Term Discharger (10 years or greater) | \$40.00 |

The User must have two (2) standard permit cycles with the Utility and a monthly average volume of 100,000 gallons. If the quantity after a yearly average should be reduced to less than 100,000 gallons/month, the previous tier shall apply to the discharger.

In addition, the user shall pay for all sampling, testing, and administrative costs to determine if the utility will accept the wastewater for treatment. The utility shall determine the location at which the special purpose users' wastewater will be accepted.

SECTION 15 - MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

The Manager may adopt fees for reimbursement of costs of setting up and operating the Pine Bluff Wastewater Pretreatment Program which may include, but is not limited to the following:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications.
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of sample collection and analyzing a User's discharge.
- C. Fees for reviewing and responding to accidental discharge, including reasonable costs incurred for labor, materials, and proper disposal of incompatible wastes not subject to treatment by the POTW Treatment Plant;
- D. Fees for reviewing written requests for discharge of special wastes;
- E. Other fees as the Manager may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

SECTION 16 - SEVERABILITY

The provisions of this Ordinance are severable, and if any provision, paragraph, word, section, or article of this Ordinance is invalidated by any court of competent jurisdiction, it shall not affect the remainder of this Ordinance and the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.

SECTION 17 - CONFLICT

All Ordinances and parts of Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

PASSED AND APPROVED THIS _____ DAY OF _____, 2011

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

CITY ATTORNEY

SPONSOR