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1.0 INTRODUCTION

The Federal Water Pollution Act (Public Law 92-500) as amended by the Clean Water Act of 1977 (Public Law 95-217) established responsibilities of Federal, State, and Local governments, industry and the public to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in Publicly Owned Treatment Works (POTW's) or which may contaminate sewage sludge.

General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR, Part 103) were promulgated by the U.S. Environmental Protection Agency (EPA) on June 26, 1978 and have been amended. The basic objectives of the Pretreatment Program were defined as follows:

1. Prevent the introduction of pollutants into a POTW which will interfere with the treatment operations and the use of disposal of digested sludge.
2. Prevent the introduction of pollutants into a POTW which would pass through untreated and remain in unacceptably high concentrations in the plant effluent.
3. Improve the feasibility of recycling and reclaiming the industrial wastewaters and sludges.
4. Enforce applicable EPA Categorical Standards.
5. Generally, to reduce the health and environmental risk of pollution caused by discharges to POTW's.

The Pretreatment Regulations (40 CFR, Part 403) require any POTW with a total design flow of greater than 5 million gallons per day (MGD) and receiving from Industrial Users pollutants which could pass through or interfere with the operation of the POTW, or are otherwise subject to Categorical Pretreatment Standards, to establish a POTW Pretreatment Program. The Regional Administrator or Director may require a POTW with a design flow of 5 MGD or less to develop a Pretreatment Program if he or she finds that the nature or volume of the industrial effluent causes: treatment plant upsets, violations of POTW effluent limitations, contamination of municipal sludge, or passes through untreated.

The EPA has deemed that the City of Hot Springs must develop a Pretreatment Program under the direction of the City of Hot Springs Control Authority Representative. This document outlines various Pretreatment Program requirements and serves as an instrument to develop, implement and carry on an Industrial Pretreatment Program for the City of Hot Springs Utilities.

2.0 POTW PRETREATMENT PROGRAM REQUIREMENTS

The EPA has defined five (5) essential components of any Pretreatment Program. They are:

1. Technical Information Support
2. Legal Authority
3. Program Implementation
4. Staffing and Organization
5. Funding

The following paragraphs provide a summary of the regulatory requirements of each of these five components.

2.1 Technical Information Support

This component of a Pretreatment Program requires a POTW to adequately identify the pollutants entering its systems from its Industrial Users. This information is normally obtained by conducting an Industrial Waste Survey. From the results of the survey, types of pollutants can be identified and appropriate sampling and analysis can then be conducted in order to quantify and qualify the volume and type of pollutants being discharged into the POTW system. The technical information component provides the necessary background to determine the extent and magnitude of the Pretreatment Program.

2.2 Legal Authority

One of the most significant components of a Pretreatment Program is the provision of adequate legal authority to develop, administer, and enforce the program. At a minimum, the POTW should have the legal authority to perform the following functions:

1. Deny or condition new or increased contributions.
2. Require compliance with applicable Pretreatment Standards.
3. Control industrial discharges to the POTW to insure compliance.
4. Require development of compliance schedules for installation of technology.
5. Require submission of notices and self-monitoring reports.
6. Carry out inspections, surveillance, and monitoring reports.
7. Obtain remedies for noncompliance.
8. Authority to immediately and effectively halt or prevent any discharge.

A required part of any Pretreatment Program is a letter from the utilities' attorney. The attorney's letter specifically refers to the basic statutory authority for the Pretreatment Program, and summarizes a review of the City's Pretreatment Ordinance 4577 (as amended and codified) and the Control Authority Representative or his Designee(s) authority to implement a Pretreatment Program.

2.3 Program Implementation

The success of a local Pretreatment Program largely depends upon the existence of procedures which are well thought out and easy to follow. The Pretreatment Program should be flexible enough to allow adjustments to day-to-day operating situations. At a minimum, a Pretreatment Program should provide procedures that will enable the Control Authority Representative or his Designee(s) to:

1. Identify and locate industrial users subject to discharge controls.
2. Identify the character and volume of pollutants discharged to the POTW system.
3. Notify industrial users of applicable standards and requirements.
4. Receive and analyze self-monitoring reports and other notices from industrial users subject to National Categorical Standards.
5. Randomly surveillance and inspection to identify noncompliance.
6. Investigate instances of noncompliance.
7. Provide for public participation and publish annually in the largest local newspaper a list of industrial users that were significantly not in compliance with pretreatment standards that year.

2.4 Staffing and Organization

The Control Authority Representative or his Designee(s) must have sufficient qualified personnel to carry out the authorities and procedures required by a Pretreatment Program. The Program includes a description of the POTW organization that will administer the Program, including organization charts.

2.5 Funding

Pretreatment Program regulatory requirements simply specify that the Control Authority Representative or his Designee(s) have sufficient resources to carry out the responsibilities and procedures required in the Program. A description of the POTW's funding levels is part of this document.

3.0 EXISTING WASTEWATER TREATMENT FACILITIES

The City of Hot Springs Utilities currently operates two wastewater treatment facilities. The Central WWTP is 11 MGD return activated sludge and the Southwest WWTP is 1.2 MGD sequencing batch reactor.

The Central Wastewater Treatment Facility consists of bar screening, 3 aerated grit removal chambers, 3 primary sedimentation clarifiers, 3 conventional activated sludge aeration basins, 4 secondary sedimentation clarifiers, 4 mixed media filtration chambers, 2 disinfection basins and de-chlorination. The sludge handling is comprised of 2 gravity thickeners, 2 anaerobic digesters and 1 dewatering belt press. After the sludge is dewatered, it is disposed of at the Central Wastewater Treatment Plant's Composting Facility.

The Southwest Wastewater Treatment Facility consists of bar screening, 2 sequencing batch reactors, 1 aerobic digester, 1 decant chamber, nylon filtration, stair step effluent aeration and aerobic digester and 1 dewatering belt press. After the sludge is dewatered, it is transported and disposed of at the Central Wastewater Treatment Plant's Composting Facility.

4.0 EXISTING WATER AND SEWER SYSTEM ORGANIZATION

The Water and Sewer System for Hot Springs is owned, operated and controlled by the Control Authority (City of Hot Springs Governing Entity) as defined in section 9-3-42.4 of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances.

The Control Authority Representative (as defined in section 9-3-42.4 of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances) is responsible for all day-to-day administrative and management functions including all operation and maintenance responsibilities. Overall goals and objectives of the utilities are established by the Control Authority with assistance from the Control Authority's attorney and the Control authority Representative. The maintenance of the water distribution and wastewater collection system is performed by the Control Authority Representative's designee (s). Wastewater laboratory analyses are performed in-house at the Wastewater Treatment Plant. All billings are done through the Control Authority's customer service. Both water and sewer fees are billed to residential, commercial and industrial customers based upon monthly water consumption volumes.

5.0 INDUSTRIAL USERS SURVEY

Since the Pretreatment Program's inception, EPA model industrial user surveys are sent out periodical in order to make an evaluation of each industry operations. Industrial user surveys are also sent to smaller industries and commercial businesses in order to make an assessment of their operations. Any new waste stream generating industry that connects to the sewer system is issued an industrial user survey. If warranted, a site visit is conducted.

Since the Pretreatment Program's inception, periodic updates of the vital information from each significant industrial user (SIU) have been received. This list, as updated annually, will be included with the annual POTW Pretreatment Report, as required under 40 CFR 403.12(i).

Prior to allowing any discharge into the POTW by a user outside the City's legal jurisdiction, the utility shall require proof that discharges to be treated will not contain hazardous materials that would be regulated under the Resource Conservation and Recovery Act (RCRA), heavy metals, or toxic organic materials. The Control Authority Representative or his designee (s) shall notify potential users of any applicable requirements under subtitles C and D of RCRA. Currently the only users outside the City's legal jurisdiction are generators of household domestic waste whose wastewater is brought to the POTW via approved waste haulers. Additionally, the City shall be able to subject the potential user to all provisions of the Pretreatment Code.

Since the population of industries is a dynamic, rather than static, factor, a system of periodically updating the industrial user survey is necessary. Updating is accomplished by review of water service installation records, the City's Planning and Development Department, review of new telephone directories, watching the local daily newspaper for articles in regard to industrial activity, and site review of the industrial areas for visual evidence of additions to the industrial population. New industry will be subject to permit application procedures as outlined in the Pretreatment Ordinance, and existing permitted industries' information are updated annually.

The Pretreatment Ordinance shall require any indirect discharger to the POTW to comply with the reporting requirements of Sections 204 (b), 307, and 308 of the Clean Water Act of 1977, including any requirements established under 40 CFR 403.

6.0 TECHNICAL INFORMATION HISTORY

Periodically, the Control Authority must determine the extent to which prohibited pollutants were being discharged to the sewer system. Twenty-four hour composite influent samples are collected at the head of the existing treatment facility and at designated areas of the sewer system that only service household domestic waste. This is conducted in order to determine TBLL (Technically Based Local Limits) for the wastewater treatment facility. The sample results are used as an indication of the quality of wastewater entering the treatment facility.

Influent and effluent samples of each process are taken daily and analyzed for pollutant parameters of concern.

The Control Authority Representative or his designee (s) conducts an annual scan for the priority pollutants in the plant influent, effluent, and sludge. The source(s) of the pollutants will be determined if present in the scans. All sludge will be processed on site and it is analyzed and disposed of in accordance with 40 CFR 503. The sludge is then dewatered and transported to the Central Wastewater Treatment Plant's Compost Facility.

7.0 SLUG CONTROL EVALUATION

All Significant Industrial Users (SIUs) are required to be evaluated for the need to implement a Slug Control Plan. All existing SIUs were evaluated and are continuously evaluated during their annual inspection by the Control Authority or his Designee (s). Any new industry is evaluated immediately upon being designated as an SIU.

SIUs are required to notify the POTW immediately of changes that occurred at the industrial user's facility affecting the potential for a slug discharge, thereby allow the Control Authority Representative or his Designee to reevaluate the need for a Sludge Control Plan or other actions to prevent such discharges. The conditions are found in Section 9-3-44.3 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9 of the City's Code of Ordinances.

8.0 BEST MANAGEMENT PRACTICES (BMPs)

SIUs that are subject to BMP based categorical pretreatment standards will be required in their individual permits to maintain and submit to the Control Authority or his Designee (s) adequate documentation of their compliance with the BMP based standard. Some SIUs will be required to maintain compliance with BMPs in lieu of numerical limits, or may be required to maintain compliance in addition to having numerical limits. In either case, the SIU's individual permit will dictate the conditions. The conditions are found in Section 9-3-43.4 thru 9-3-46 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9 of the City's Code of Ordinances.

9.0 EVALUATION OF LEGAL AUTHORITY AND PROPOSED AUTHORITY FOR IMPLEMENTATION OF PRETREATMENT PROGRAM

An evaluation of the legal authority required by the Control Authority (City of Hot Springs Governing Entity) to enact, implement, operate and enforce a Pretreatment Program was conducted by the Control Authority's attorney. A letter from the Control Authority's attorney addressing these various aspects is contained in Section A. This section also includes applicable City ordinances relating to the City's wastewater treatment and sewer collection.

The matters in which the Control Authority Representative or his designee(s) will implement the Pretreatment Program requirements and enforce them are set forth in the industrial pretreatment code ordinances and their amendments.

10.0 SPECIFIC LIMITATIONS FOR DISCHARGE OF PROHIBITED POLLUTANTS

National Pretreatment Standards for Prohibited Discharges are specified in 40 CFR 403.5. These general standards specify that pollutants discharged into POTW's by any source of a non-domestic discharge shall not inhibit or interfere with the operation or performance of the POTW nor cause Pass Through. These general and specific prohibitions apply to all such users of a POTW whether or not the user is subject to other National Pretreatment Standards or any National, State or local pretreatment requirements. The following are classified as specific prohibitions and may not be introduced into a POTW.

1. Pollutants, which create a fire or explosion, hazard in the POTW, including, but not limited to, pollutants with a closed cup flashpoint of less than 140 degrees Fahrenheit (60EC) using test methods specified in 40 CFR 261.21 and any Pollutants which cause an exceedence of 10% of the lower explosive limit (LEL) at any point in the POTW;
2. Wastewater having a pH less than 6.0 s.u. or more than 11:0 s.u. and/or otherwise cause corrosive structural damage to the POTW and/or equipment;

3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in sewers, or other interferences with the operation of the POTW;
4. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration, will cause interference with the POTW;
5. Wastewater having a temperature greater than 110 F, or which will inhibit biological activity in the treatment plant resulting in interference at the introduction into the treatment plant to exceed 104 F (40 C);
6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute workers health and safety problems; and;
8. Any trucked or hauled pollutants, except at discharge points designated by the Control authority Representative or his Designee(s) in accordance with Section 9-3-44.4 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9 of the City's Code of Ordinances.
9. Fats, oils, and greases of animal or vegetable origin in concentrations greater than 150 mg/l.

The establishment of specific limits for prohibition may be required of the POTW by the State or EPA and may be incorporated in the NPDES Permit issued to the POTW.

The National Categorical Standards being developed by EPA also specify quantities or concentrations of pollutants, which may be discharged to a POTW by existing or new Industrial Users in specific industrial categories and subcategories. The Control Authority Representative or his Designee(s) will keep updated with all existing newly promulgated standards and information concerning newly issued National Categorical Standards or Revisions to Existing Standards be a review of the Federal Register, review of government regulatory literature, and annual participation in regional and State pretreatment seminars. The Control Authority Representative or his Designee(s) will notify all users subject to existing or newly issued or revised standards.

In accordance with 40 CFR 403.12(b), all existing industries subject to newly promulgated categorical standards will be informed of their responsibility to submit Baseline Monitoring Reports, as well as other monitoring requirements per Section 9-3-47 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9 of the City's Code of Ordinances. While the Control Authority Representative or his Designee(s) is responsible for this notification and administrative process, failure of the Control Authority Representative or his Designee(s) to do so does not remove the industry's responsibility to submit all the proper information at the proper time.

Industries will be notified in writing of any change in State and/or Local limitations that affects the monitoring and permit. Industries will be notified of these changes affecting them.

The Control Authority Representative or his Designee(s) establishes specific limits on pollutants that may interfere with or inhibit the treatment process by limiting the loading of various pollutants at the influent to the POTW.

To protect against pass through and/or interference, no Industrial User may discharge or cause to be discharged into the POTW and wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLS) developed from time to time by the Control Authority Representative of the City of Hot Springs Municipal Utilities as required by the City of Hot Springs NPDES permit No. AR0033880 authorized by 40 CFR 403.15 and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City Pretreatment Program. At the discretion of the Control Authority Representative, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the Control Authority Representative, mass limitations may be imposed in addition to or in the place of concentration based TBLLs.

The Control Authority Representative may also develop Best Management Practices (BMPs) in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment standards. When new Local Limits are implemented and/or revised, the Control Authority Representative will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3). This requirement of notice also applies when local limits are set on a case-by-case basis.

11.0 ORGANIZATION AND STAFFING

The Control Authority Representative or his Designee(s) will have the day-to-day responsibility of implementation and carrying out the Pretreatment Program.

The Control Authority Representative or his Designee(s) operates its Pretreatment Program by sharing various program tasks among its existing staff. As stated above, the Control Authority Representative or his Designee(s) is responsible for the day-to-day operation of the program and serves as the final reviewer of permit applications. The permits will be issued under the Control Authority Representative or his Designee(s) signature. The Control Authority Representative or his Designee(s) is responsible for establishing the monitoring schedule along with records and filing procedures. The Control Authority Representative or his Designee(s) will also be responsible for review of compliance reports and initiating noncompliance actions against any industry not complying with its particular permit. The final decision of enforcement is the decision of the Control Authority Representative with the concurrence of the Control Authority. In addition to the current pretreatment staffing, the

Control Authority Representative or his Designee(s) may have the management staff of the Wastewater Treatment Plant and Laboratory staff available to assist in the monitoring and implementation program, along with office employees for clerical support.

The Control Authority periodically has agreements with consulting engineer firms and legal counsel to assist in implementing and enforcing the Pretreatment Program. A wastewater laboratory is available as part of the wastewater treatment plant operations.

The responsibilities of the Pretreatment Program are proposed to be distributed as follows:

Control Authority (City of Hot Springs Governing Entity)

1. Set overall goals and objectives.
2. Provide support both financially and legislatively.

Control Authority Representative (City of Hot Springs Governing Entity's Designee)

1. Implement objectives and goals of the Board.
2. Provide appropriate staffing, budget, and administrative support for implementation and operation of the program.
3. Final review and assess enforcement action against industrial users and commercial businesses.

Control Authority Representative or his Designee(s)

1. Day-to-day responsibility of implementing and carrying out the Pretreatment Program.
2. Receive and review discharge permit applications.
3. Develop necessary permit conditions and compliance schedules.
4. Develops and issue discharge permits.
5. Review, develop and maintain permits, monitoring report records and filing procedures.
6. Reporting and documentation of instances of noncompliance.
7. Initiate noncompliance actions against any industry not complying with its particular permit.

8. Provide assistance to the Control Authority Representative on all administrative matters concerning the Pretreatment Program.
9. Provide assistance to the Consulting Engineer Firms and Legal Counsel.
10. Serve as primary contact on all matters requiring technical and legal assistance.
11. Publish yearly public notice in the local newspaper.
12. Keep updated on newly promulgated Federal and State standards and requirements. Identify to whom they apply and notify those industries of the conditions, which are applicable.
13. Assist and maintain all files and records of all permits, monitoring reports, and documentation of instances of noncompliance.

Legal Counsel

1. Provide assistance in the development and adoption of required ordinances and and revisions of existing ordinances necessary to implement and maintain the Pretreatment Program.
2. Provide legal consultation with the Control Authority, Control Authority Representative and Control Authority Representative and Designee(s) in the administration of the Pretreatment Program.
3. Represent the Control Authority at show cause hearings. Administer enforcement or legal action as directed by the Control Authority.

12.0 PRETREATMENT MONITORING AND REPORTING

The Control Authority Representative or his Designee(s) defines an SIU as one which must meet the criteria per 40 CFR 403.3 (v), as noted in Section 9-3-42.4 of the Industrial Pretreatment Code 4577, of Article IV, under Title 9, of the City's Code of Ordinances.

Reporting requirements for POTWs and SIUs are described in 40 CFR 403.12 with paragraph (b) of that section discussing reporting requirements for SIUs upon the effective date of an applicable Categorical Pretreatment Standard; paragraph (e) describing periodic reports of continued compliance for Categorical SIUs; paragraph (g) discussing monitoring and analysis requirements to demonstrate compliance; paragraph (h) describing minimum reporting requirements for significant non-categorical industrial users (refer to Section 9-3-47 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9, of the City's Code of Ordinances); and paragraph (p) outlining hazardous waste notification requirements under 40 CFR 261, and RCRA.

When sampling for BMR and initial permit applications, the Control Authority Representative or his Designee(s) intends for these guidelines to be used in establishing initial flow measurement, sampling, and analysis requirements in order to identify the volume and the concentration (average and maximum) of various pollutants in the discharges from new industries. Subsequent "spot sampling" of SIUs will determine if the parameters being required to be monitored in their permit actually reflect the parameters known to be present in the IU permit.

After submittal and review of all information from the new industries on their wastewater discharges; specific pollutant limits, pretreatment requirements, and any required compliance schedule will be proposed. The frequency of self-monitoring shall be as specified by the Control Authority Representative or his Designee(s). All other SIUs monitoring frequencies will be determined by the Control Authority Representative or his Designee(s). Necessary requirements will be specified and recorded on the discharge permit to be issued to the industrial user.

A wastewater discharge permit shall include such conditions as deemed reasonably necessary by the Control Authority Representative or his Designee(s) 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. Wastewater discharge permits shall contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no Event shall exceed five (5) years;
- (b) A statement that the wastewater discharge permit is nontransferable without Prior notification to the Control Authority Representative or his Designee(s) In accordance with Section 9-3-46.5 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9, of the City's Code of Ordinances and Provisions for furnishing the new owner or operator with a copy of the existing Wastewater discharge permit;
- (c) Effluent limits, Best Management Practices (BMPs), based on applicable Pretreatment standards;
- (d) Self monitoring, sampling, reporting, notification and record keeping Requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on Federal, State, and Local law;
- (e) 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;

- (f) Requirements to control sludge discharge, if determined by the Control Authority Representative or his Designee(s).

Wastewater discharge permits may contain, but not be limited to, the following conditions:

- (a) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;
- (b) 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 POTW;
- (c) Requirement for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or no-routine discharges;
- (d) Development and implementation of waste minimization plans;
- (e) The unit charge or schedule of user charges and fees;
- (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (g) A statement that compliance with the wastewater discharge permit does not relieve the industrial user 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;
- (h) Requirements for notifying the Control Authority Representative or his Designee(s) of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- (i) Other conditions as deemed appropriate by the Control Authority Representative or his Designee(s) to ensure compliance with local, State and Federal laws, rules and regulations.

The Control Authority Representative or his Designee(s) shall be responsible for receiving and reviewing self-monitoring reports from the various industries. Annually, the Control Authority Representative or his Designee(s) shall submit a report to the Arkansas Department of Environmental Quality summarizing monitoring activity from the industrial dischargers required to monitor. The contents of this report are outlined in the Control Authority's NPDES permit. Depending on the industrial discharger, any or all of the following compliance sampling and analysis types will be followed:

- A. Scheduled monitoring (sampling and analysis on a fixed schedule)
- B. Random monitoring (sampling and analysis that is unannounced or performed with short notice.
- C. Demand monitoring (sampling and analysis triggered by an event such as a public complaint or an observed POTW operating problem)

Once a year the Control Authority Representative or his Designee(s) will publish in the local newspaper (The Sentinel Record) the names of SIUs which are significantly noncompliant of their established permit limits, and any other pretreatment standards. Section 9-3-50 of the Industrial Pretreatment Code Ordinance 4577 defines significantly noncompliant as being violations of such consequence to meet the latest 40 CFR 403 criteria.

12.1 Pretreatment Monitoring Equipment

The Control Authority has composite samplers which are used to collect samples from each industry and also to collect periodic composite samples of the influent to the Utilities' Wastewater Treatment Facilities and all permitted industries.

12.2 Industrial User Site Inspections

The Control Authority Representative or his Designee(s) shall retain the right of entry into the I.U.'s premises for the purpose of sampling, inspection, or wastewater records examination. All significant industries shall be inspected annually.

12.3 Procedures for Follow Up of Instances of Noncompliance

Procedures for follow up of instances of noncompliance if detected from self-monitoring reports, random sampling, or POTW monitoring shall be as follows:

A. Noncompliance Detected from Reviewing Self-Monitoring Reports

Should a noncompliance instance be detected from reviewing self-monitoring reports the Control Authority Representative or his Designee(s) shall notify the industry by telephone noting the date, time and parameter (s) resulting in noncompliance. The industry will be required to submit a written response within 30 days noting reason for noncompliance and stating a plan of action to get into compliance and to prevent future violations of noncompliance.

B. Noncompliance Detected from Random Sampling

Should a noncompliance instance be detected from a random sampling and should the Control Authority Representative or his Designee(s) suspect or have reason to suspect that noncompliance is occurring frequently the Control Authority Representative or his Designee(s)

shall perform a representative sample collection and analysis of the wastewater discharge from the industry in question. Should the analysis verify that the industry is in noncompliance, the Control Authority Representative or his Designee(s) shall notify the industry in writing of such noncompliance requesting a written response from the industry within 30 days noting reason for noncompliance and stating plan of action to get into compliance and to prevent future violations of noncompliance.

C. Noncompliance Detected from Analysis of POTW Influent

Should analysis of the influent to the POTW indicate the specific limits of prohibited pollutants are exceeded the Control Authority Representative or his Designee(s) shall perform a follow up investigation to determine cause and probable source of pollutant.

The investigation shall include contacting suspected industry or industries, either by telephone or correspondence, inquiring about the release or discharge of non-normal waste loadings. Additional sample collection and analysis of the POTW influent shall take place and the industry shall be notified in writing of the results of the investigation requesting written response within a specified time noting reason for noncompliance and stating plan of action to get into compliance and to prevent future violation of noncompliance.

D. Emergency, Quick Response Sampling

Due to the nature of industrial wastes being discharged and the type of waste treatment employed at the City's POTW, a quick response for sampling and investigation for possible acute treatment plant disturbances is not likely to be required. Should it appear an emergency situation exists, however, the Control Authority Representative or his Designee(s) will be able to perform sample collection and analysis of discharges from suspected industry or industries. Should an industry be identified as the cause for treatment plant disturbance, they shall be notified in writing of any violations requesting written response within a specified time noting reason for violations and requesting plan of action to get into compliance and to prevent future violations of noncompliance.

E. Enforcement Procedures – Alternatives

In situations involving emergencies or where the involved industry has failed to promptly respond and correct the problem, enforcement procedures and remedies set forth in Section 9-3-51 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9, of the City's Code of Ordinances and as outlined in the Enforcement Response Plan (Attachment H). The options include immediate cutoff of discharge, revocation of permit, administrative procedures, imposition of fines and suits by the utility for injunctive relief and/or damages caused to the system. All such remedies are authorized by the ordinances and can be utilized singly or in combination. These remedies, as appropriate, shall be promptly sought in cases of improper discharge

E1. Enforcement Hierarchy and Steps

Specific steps to be used in enforcement are listed below. These procedures can be used singly or in conjunction with each other in an effort to bring about I.U. compliance. Generally speaking, the steps are listed in the order of increasing severity. It should also be noted that the first item listed may or may not necessarily be the first step due to the severity of the violation. For example, a late self-monitoring report might bring about a (step 1) Notice of Violation. A chemical spill, on the other hand, may force an immediate (step 10) Termination of Service.

1. Telephone Call
2. Notice of Violation
3. 2nd Notice of Violation
4. Review Meeting
5. Increase monitoring frequency and/or parameters
6. Administrative Show Cause
7. Administrative Fines
8. Administrative Orders
9. Revocation of Permit
10. Termination of Water and/or Sewer Services
11. Civil Fines
12. Court Injunctions
13. Criminal Prosecution

It has been the experience of the Control Authority Representative that by far the majority of the violations are rectified upon a telephone call or the issuance of a single Notice of Violation. Refer to the Enforcement Response Plan in Attachment (H) for more detailed enforcement information.

E.2. Enforcement Response Plan

40 CFR 403.8 (f) (5) describes the responsibility of the POTW to develop and set up an Enforcement Response Plan. This plan is detailed in Attachment (H),

12.4 Chain of Custody Provision

The Control Authority Representative or his Designee(s) utilizes the contract laboratory's sample containers. After a sampling tour is complete, the samples are transferred to the contract lab's sample containers. The contract laboratory's chain of custody form is used to relinquish all heavy metal, volatile, semi-volatile organics and priority pollutants of concern. Noncompliance sampling, i.e., sampling performed when the industry is suspected of being in noncompliance, will be done by the Control Authority Representative or his Designee(s). In the case of any in-house wet chemistry, the Control Authority Representative or his Designee(s) shall be trained and qualified in EPA approved methods of sample collection and wet chemistry analysis; shall be responsible for developing any required system of log books or other documents that documents and/or provides a sequential series of in-house chain of custodies from the time of sample collection through laboratory analysis.

12.5 Sampling and Analysis Methods and Procedures

As noted in the Section 9-3-47.10 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9, the City's Code of Ordinances, all analysis shall be performed in accordance with procedures established by the EPA Administrator pursuant to Section 301 (g) of the Clean Water Act and contained in 40 CFR, Part 136, and amendments thereto or with any other test procedures approved by the Administration, unless otherwise specified in an applicable categorical pretreatment standard. Where 40 CFR, Part 136, does not include a sampling and analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedure approved by ADEQ. (Further details for sample collection are stated in Section 9-3-47.11 of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9, of the City's Code of Ordinances

12.6 Safety

Whether sampling and monitoring activities are conducted in-house or by contract, appropriate safety equipment (e.g. first aid kits, gas masks, hard hats, ladders, traffic equipment, blowers, etc.) must be provided and maintained by the staff and/of contractor. The implementation of a sampling and monitoring program involving personnel working in and under hazardous conditions (industrial processors, manholes, sewer lines, etc.) must follow proper safety considerations. The Control Authority Representative or his Designee (s) should fully investigate each monitoring point for safety considerations prior to monitoring and sampling at the location.

13.0 PRETREATMENT PROGRAM DEVELOPMENT AND OPERATING COST

The original Pretreatment Program for, was approved on September 30, 1988 and later modified on February 25, 2002. The industrial user survey is an ongoing process. The legal authority review was completed and updated. Sampling and analysis of the treatment plant influent is an ongoing process. Specific limitations have been developed and will be updated from time to time. A method of monitoring and reporting are outlined. The Pretreatment Program is properly staffed and organized. All of the above are necessary in order to gain basic information on the extent of industrial pollutants being discharge to the Control Authority's sewer system and to maintain an appropriate Pretreatment Program. Since the program has already been developed, the only costs still being incurred by the Control Authority are the daily operating costs. The current estimated Pretreatment Program operating cost varies from year to year.

The Control Authority does contract out on some occasion's technical assistance from the Consulting Engineer. The handling of the permit application from the industrial users and program administration will be handled by the Control Authority Representative or his

Designee (s). Legal assistance will be provided by the Control Authority's City attorney and on some occasion, outside legal firm. Sampling is performed by Control Authority Representative or his Designee (s) and analysis of those samples through the Control Authority's in-house and contract laboratories. Monitoring equipment has been purchased and is maintained through the Control Authority's normal purchasing procedures.

The Pretreatment Program continual operating cost is supported by Funding Resolution 3775, which was passed by the Control Authority on October 6, 1997. Those costs associated with technical and legal assistance should vary drastically from year to year depending on industrial and commercial business activities in the community. The cost associated with the Pretreatment Program will be funded from the Utilities' wastewater treatment plant operating budget. Section 9-3-1, of Rates and Charges Ordinance 5274, under Article I of Title 9, of the City's Code of Ordinances, allow the Control Authority to adopt permit fees and other fees, if necessary, in order to carry out the requirements of the Pretreatment Program.

14.0 PRETREATMENT PROGRAM IMPLEMENTATION

As noted previously the major elements in implementing the Pretreatment Program is the development and adoption of a sewer use ordinance following EPA and ADEQ guidelines. An ordinance patterned after the EPA model ordinance has been passed by the Control Authority has been approved by ADEQ. This ordinance outlines the major components of the Pretreatment Program for the Control Authority. (See Section E)

The Control Authority recognizes the fact that Federal regulation are constantly changing to match the needs of the populations and to protect our water source and environment. Since original program approval, new Federal pretreatment regulations in the form of the Pretreatment Implementation Review Task (PIRT) Force recommendations, the Domestic Sewage Study and the Streamlining Regulation, have been brought to the forefront. An attempt has been made to incorporate the pertinent changes outlined in these regulatory revisions into this document.

As the Control Authority Representative or his Designee (s) continues to attend Pretreatment Seminars and review pending regulatory changes, it can be expected that this program will again be revised to meet the changes that come about.

15.0 CONFIDENTIAL INFORMATION

Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring program and from inspections shall be available to the public or other governmental agency without restriction unless the industry specifically requests and is able to demonstrate to the satisfaction of the Control Authority Representative or his Designee (s) that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industry.

When requested by the person furnishing a report, the portions of a report which might disclose trade secret processes, shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this program, and the National Pollutant Discharge Elimination System (NPDES) Permit; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Control Representative or his Designee (s) as confidential, shall not be transmitted to any governmental agency or to the general public by the Control Authority or his Designee (s) until and unless a ten day notification is given to the industry.

All public information concerning this program will be available for inspection and review during the hours of 0800hrs to 1630hrs at the City of Hot Springs Municipal Utilities WWTP, 320 Davidson Drive, Hot Springs, AR 71901

Attorney Statement

Brian W. Albright
City Attorney
balbright@cityhs.net

J. Trent Daniels
Deputy City Attorney
tdaniels@cityhs.net



City of Hot Springs

626 Malvern Avenue
Hot Springs National Park,
Arkansas 71901
(501) 623-4023 Telephone
(501) 624-7486 Facsimile

March 28, 2012

Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: Attorney's Statement as to Legal Authority of the City of Hot Springs, Arkansas, to Implement and Enforce Its Pretreatment Program

Dear Sir or Madam,

I act as the City Attorney for the City of Hot Springs, Arkansas. As such, I also act as counsel for the Hot Springs Municipal Sewer System ("Utility") which is a Publicly Owned Treatment Work ("POTW") for the City of Hot Springs, Arkansas ("City"). The City is currently seeking approval for modifications to its pretreatment program. As part of this approval process, the City is required to obtain a statement of counsel pursuant to *40 C.F.R. § 403.9(b)(1)*. This letter is submitted in order to fulfill that obligation.

It is my opinion that the Board of Directors of the City of Hot Springs ("Directors"), which is the governing body of the City, by and through the City Manager or his designee, has adequate authority to carry out the program described in *40 C.F.R. § 403.8*, based on the authority granted to the City, the Directors, and the Manager of the City's Pretreatment Ordinance, Ordinance No. 5837, passed September 6, 2011.

The Board of Directors, constituting the governing body of the Utility, adopted its ordinance pursuant to *A.C.A. § 14-235-101-225*. *A.C.A. § 14-235-207* grants to the Directors the following powers:

(b) After the construction, installation, and completion of the works or the acquisition of them, the Committee shall: (1) operate, manage, and control them and may order and complete any extensions, betterments, and improvements of and to the works that it may deem expedient if funds for them are available, or are made available, as

provided in this subchapter; (2) establish rules and regulations for the use and operation of the works and of other sewers and drains connected with them so far as they may affect the operation of the works; and (3) do all things necessary or expedient for the successful operation of the works.

Furthermore, the City of Hot Springs is authorized "to perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs including, but not limited to, the power to tax." *A.C.A. § 14-43-602*. In addition, the City has the general authority to enforce its ordinance by the imposition of fines, forfeitures, and penalties, *A.C.A. § 14-55-601*, and the specific authority to collect in a court of competent jurisdiction civil or criminal penalties in an amount not to exceed \$1,000 for each violation by industrial users of pretreatment standards or requirements. *A.C.A. § 8-4-103(g)(1)*. Based on the above, it is my opinion that the City, the Directors, and the Utility have adequate authority to carry out the program described in *40 C.F.R. § 403.8* and the proposed pretreatment ordinance ("Ordinance") will implement that authority.

Specifically, the following references to the legal authority requirements of *40 C.F.R. § 403.8(f)(1)* are correlated with appropriate sections of the proposed pretreatment ordinance which implement the required authority of the City, the Directors, and the Utility. Where the authority is not apparent from a reading of the ordinance provision, an explanation is provided.

40 C.F.R. § 403.8(f)(1)(i) – New contributions to the POTW may not be made without a Significant Industrial User first obtaining a waste water discharge permit (Ordinance § 4.2, 4.3, and 4.4) which may contain various conditions and prohibitions (Ordinance § 5.2). Existing Significant Industrial Users (those connected to the system prior to the effective date of the modification to the pretreatment ordinance) are currently required by the Utility to obtain a waste water discharge permit under the current Ordinance No. 4165 and will be subject to the conditions found in the proposed new ordinance. If there has been an increase or change in a Significant Industrial User's contribution to the system, the Industrial User is required to notify the City (Ordinance § 6.5) in which event the City may issue a permit under Ordinance § 4.7 or modify the Industrial User's existing permit under Ordinance § 5.4.

40 C.F.R. § 403.8(f)(1)(ii) – In order to require compliance with applicable pretreatment standards, the City must be able to require compliance with the EPA's listed general prohibitions, *40 C.F.R. § 403.5(a)*; specific prohibitions, *40 C.F.R. § 403.5(b)*; and local limits developed to implement the general and specific standards, *40 C.F.R. § 403.6*. Ordinance § 2.1 prohibits discharges to the sewer system which would result in pass through or interference which are defined in the ordinance to include causing the City to violate its NPDES permit. Ordinance § 2.1(A) - § 2.1(B) prohibits discharges to the sewer system of those specific pollutants listed in *40 C.F.R. § 403.5(b)*. Furthermore, Ordinance § 2.1(B) - § 2.1(B)(18) prohibits discharges of certain other items, including, but not limited to, noxious liquids, gases, solids, or other waste water which would create a public nuisance or hazard to life; waste water which would import color to the POTW discharge; waste water containing radioactive wastes; waste water containing medical waste; and waste water

causing the POTW's waste water to fail a toxicity test. Ordinance § 2.2 incorporates the national categorical pretreatment standards found in *40 C.F.R. Chapter I, subchapter N. Parts 405-471*, and prohibits any discharges not in conformity with those regulations for those users subject to such standards. Ordinance § 2.3 prohibits discharges not in compliance with those limits set by the State of Arkansas, and Ordinance § 2.4 prohibits discharges not in compliance with those limits set by the City. These sections empower the City to enforce the prohibitions contained in *40 C.F.R. § § 403.5(a), (b), (c), and (d)*.

40 C.F.R. § 403.8(f)(1)(iii) – The City has control via a permit system authorized by Ordinance § § 4 and 5. Ordinance § 5.2 requires that every permit include the following conditions: (1) that no discharge permit shall exceed five (5) years; (2) that no permit is transferable without prior notification and approval from the City; (3) effluent limits based on applicable standards in federal, state, and local law; (4) self-monitoring, sampling, reporting, notification, and record keeping requirements; and (5) a statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards.

40 C.F.R. § 403.8(f)(1)(iv)(B) – The City may require a user to submit all notices and self-monitoring required by EPA regulations through authority granted in Ordinance § 6.

40 C.F.R. § 403.8(f)(1)(v) – The City may carry out inspection, surveillance, and monitoring procedures under authority granted in Ordinance § § 6.13 and 7.

40 C.F.R. § 403.8(f)(1)(vi)(A) – The City, upon recommendation by the Utility, may commence action for appropriate legal and/or equitable relief in any court of competent jurisdiction which relief includes injunctive relief. (Ordinance § 11.1) Furthermore, the Ordinance provides that the City may seek civil (Ordinance § 11.2) and criminal (Ordinance § 11.3) penalties not to exceed \$1,000 per day per violation.

40 C.F.R. § 403.8(f)(1)(vi)(B) – The City may take enforcement responses for any user's noncompliance with the Ordinance, which Ordinance requirements include the duty to allow inspections and the duty to report. The City has the authority to immediately suspend a user's discharge permit (after informal notice to the user) whenever such suspension is necessary in order 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 or that threatens to interfere with the operation of the City, or which presents or may present an endangerment to the environment. (Ordinance § 10.7).

40 C.F.R. § 403.8(f)(1)(vii) – Confidentiality requirements are provided for in Ordinance § 8.

The City will implement requirements of its pretreatment program and apply pretreatment standards to individual Significant Industrial Users through the use of a sewer use permit system and by direct enforcement of the pretreatment ordinance.

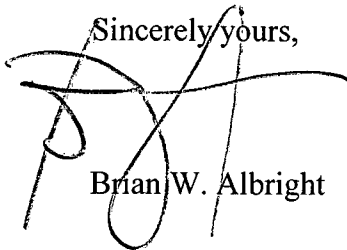
The City intends to ensure compliance with pretreatment standards and requirements through an inspection, reporting, and sampling program authorized under Ordinance § § 6 and 7. The inspection, reporting, and sampling program allows the City to determine non-compliance with any discharge limitations and requirements independent of information supplied by the Significant Industrial User. The inspection and sampling program is described in the monitoring sections of the Enforcement Response Plan and the Program Structure for the Hot Springs Municipal Sewer System.

Finally, in order to enforce the pretreatment program, the Utility and the City have the power to notify the user of non-compliance incidents, provide notices of violations, obtain consent orders, hold show-cause hearings, issue compliance orders, issue cease and desist orders, suspend discharges in emergencies, and terminate discharge permits (Ordinance § 10). Furthermore, the City and the Utility are prepared to take court action where necessary to enforce compliance with the City's Ordinance and the Utility's permits and orders.

The above statement is intended for use with the City's submission of its pretreatment program to the Arkansas Department of Environmental Quality, and the Environmental Protection Agency, and should be used for no other purpose without the express prior written consent of the undersigned.

Thank you for your attention to this matter. Should you have any questions, concerns, or comments, please do not hesitate to call.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'B. Albright', written over the typed name.

Brian W. Albright

BWA:bj

Enclosure: as noted

cc: Mr. Lance Hudnell
Mr. Steve Mallett
Mr. Gary Carnahan
Mr. Richard Penn

Industrial
Pretreatment Code
Ordinance 4577
under Article VI of
Title 9 of the
City's Code of
Ordinances

ORDINANCE NO. 5837

AN ORDINANCE AMENDING THE INDUSTRIAL WASTEWATER PRETREATMENT CODE (ORDINANCE NO. 4577, ORDINANCE NO. 4725 AND ORDINANCE NO. 5830).

WHEREAS, Ordinance No. 4577 (as amended by Ordinance No. 4725 and Ordinance No. 5830) adopting an Industrial Wastewater Pretreatment Code (codified at H.S.C. 9-3-41, *et seq*) should be repealed, and a new Industrial Wastewater Pretreatment Code should be adopted.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Hot Springs, Arkansas, as follows:

SECTION 1. The attached Hot Springs Industrial Wastewater Pretreatment Code is hereby adopted.

SECTION 2. This Ordinance shall be codified in the Code of Ordinances and the sections may be renumbered or relettered to accomplish such intention.

PASSED: 9/6/2011

APPROVED: Ruth Carney
RUTH CARNEY, MAYOR

APPROVED: Lance Spicer
LANCE SPICER, CITY CLERK

APPROVED AS TO LEGAL FORM: Brian W. Albright
BRIAN W. ALBRIGHT, CITY ATTORNEY

ARTICLE IV. INDUSTRIAL WASTEWATER PRETREATMENT CODE

9-3-41. Code adopted.

- (a) The following City of Hot Springs Industrial Wastewater Pretreatment Code regulating discharges from industries served by the municipal sewer system and prescribing administration procedures and penalties for violation of said code is hereby adopted by reference as if set out herein word for word.
- (b) Any person, firm or corporation violating any of the terms, provisions and regulations of the Hot Springs Industrial Wastewater Pretreatment Code as adopted herein shall be subject to the penalties as stated in said Hot Springs Code.
- (c) If any provisions, paragraph, work, section or article of this ordinance or the reference codes are invalidated by any court of competent jurisdiction, the remaining provisions, paragraph, words, sections and chapters shall not be affected and shall continue in full force and effect. (Ord. No. 4577, ' ' 1-3, 11-18-96)

Editor=s note-Three copies of the Hot Springs Industrial Wastewater Pretreatment Code are on file in the office of the City Clerk for inspection and view by the public, and notice thereof was made by publication on November 21, 1996, in the Sentinel Record (a newspaper of general circulation within the City of Hot Springs, Arkansas)

9-3-42. General provisions.

9-3-42.1. Purpose and policy.

This code sets forth uniform requirements for users of the publicly owned treatment works for the city of Hot Springs and enables the city 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 code are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (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 reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

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- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
- (f) To enable the city to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This code shall apply to all users of the publicly owned treatment works. The code authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

9-3-42.2. Administration.

Except as otherwise provided herein, the control authority representative shall administer, implement, and enforce the provisions of this code. Any powers granted to or duties imposed upon the control authority representative is hereby delegated by the control authority.

9-3-42.3. Abbreviations.

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

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

9-3-42.4. Definitions.

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

Act or "the act." The federal water pollution control act, also known as the Clean Water Act, as amended, 33 U.S.C. ' 1251 et seq.

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Approval authority. The Director of the Arkansas Department of Environmental Quality is designated as the approval authority.

Authorized representative of the user.

- (a) If the user is a corporation:
 - (1) 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
 - (2) The SIU manager of one or more manufacturing, production, or operating facilities, provided the SIU manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the SIU manager in accordance with corporate procedures.
- (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) 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.
- (d) The individuals described in paragraphs (a) through (c) 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 control authority

representative.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

Best Management Practice or BMPs means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in Section 9-3-43.1 (a) and (b) [40 CFR 403.5 (a) 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.

Chemical Oxygen Demand or COD. A measure of oxygen required to oxidize all compounds, both organic and inorganic in water.

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.

City. The City of Hot Springs, Arkansas.

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Control Authority. City of Hot Springs Governing Entity

Control Authority Representative. The Control Authority's authorized representative or his designee (s) charged to supervise the operation of the POTW along with certain duties and responsibilities outlined by this code. (Ord. no. 4725, 2 (a), 4-20-98)

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

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

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

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.

Indirect discharge (or discharge). The introduction of pollutants into the POTW from any nondomestic source.

Instantaneous maximum allowable discharge limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued 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 sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limit. Specific discharge limits developed and enforce by the Control Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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

Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit. The highest allowable average of "daily discharges" measured during a calendar month, calculated as the sum of all "daily discharges" measured during that month.

New source.

- (a) 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:

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

- (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) 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.
- (b) 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 (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (1) Begun, or caused to begin, as part of a continuous onsite construction program
 - a. any placement, assembly, or installation of facilities or equipment; or
 - b. 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
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

Pass through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the

city's NPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

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

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

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 9-3-43.1 of this code.

Publicly owned treatment works (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. '1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Shall. As used in this Code shall is always mandatory. (Ord. No. 4725, ' 1 (b), 4-20-98)

Significant industrial user.

- (a) A Industrial User subject to categorical pretreatment standards ; or
- (b) A user that:
 - (1) discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (2) 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
 - (3) is designated as such by the control authority representative on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (c) Upon a finding that a user meeting the criteria in Subsection (b) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority representative may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 9-3-43.1 of this code. A Slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulation, Local Limits or Permit conditions.

Standard Industrial Classification (SIC) code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

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

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

User or industrial user. A source of indirect discharge.

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 any state or any portion thereof.

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Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

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

9-3-43. General sewer use requirements.

9-3-43.1. Prohibited discharge.

- (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. 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) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140EF (60EC) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 6.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature greater than 110°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

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- (8) Trucked or hauled pollutants, except at discharge points designated by the control authority representative in accordance with Section 9-3-44.4 of this code;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater 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 city's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the control authority representative;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the control authority representative in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 150mg/l;

- (18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than twenty-five percent (25%) or any single reading over fifty percent (50%) of the Lower Explosive Limit of the meter.

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.

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9-3-43.2. National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the control authority representative may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority representative shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

9-3-43.3. State pretreatment standards. [Reserved]

9-3-43.4. Local limits.

To protect against pass through and/or interference, no Industrial User may discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Control Authority Representative of the City of Hot Springs Municipal Utilities as required by the City of Hot Springs NPDES permit No. AR0033880, authorized by 40 CFR 4032.15 (c) and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City Pretreatment Program. At the discretion of the Control Authority Representative, TBLLs may be imposed and shall apply at the

“monitoring point” described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of “total” metals unless otherwise indicated. At the discretion of the Control Authority Representative, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The Control Authority Representative may also develop Best Management Practices (BMPs) in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented and/or revised, the Control Authority Representative will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3). This requirement of notice also applies when local limits are set on a case-by-case basis.

9-3-43.5. City's right of revision. [Reserved]

9-3-43.6. 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 control authority representative 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.

9-3-44. Pretreatment of wastewater.

9-3-44.1. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this code and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 9-3-43.1 of this code within the time limitations specified by the EPA, the state, or the control authority representative for review, and shall be acceptable to the control authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this code.

9-3-44.2. Additional pretreatment measures.

- (a) Whenever deemed necessary, the control authority representative 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 code.
- (b) The control authority representative may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

- (c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authority representative, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, 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 control authority representative 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.
- (d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

9-3-44.3. Accidental discharge/slug control plans.

The control authority representative shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The control authority representative may require any user to develop, submit for approval, and implement such a plan. Alternatively, the control authority representative 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 nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the control authority representative of any accidental or slug discharge, as required by Section 9-3-47.6 of this code; 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.

9-3-44.4. Hauled wastewater.

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the control authority representative, and at such times as are established by the control authority representative. Such waste shall not violate Section 9-3-43 of this code or any other requirements established by the city. The control authority representative may require septic tank waste

haulers to obtain wastewater discharge permits.

- (b) The control authority representative shall require haulers of industrial waste to obtain wastewater discharge permits. The control authority representative may require generators of hauled industrial waste to obtain wastewater discharge permits. The control authority representative also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this code.

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- (c) Industrial waste haulers may discharge loads only at locations designated by the control authority representative. No load may be discharged without prior consent of the control authority representative. The control authority representative may collect samples of each hauled load to ensure compliance with applicable standards. The control authority representative may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial 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 industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

9-3-45. Wastewater discharge permit application.

9-3-45.1. Wastewater analysis.

When requested by the control authority representative, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The control authority representative is authorized to prepare a form for this purpose and may periodically require users to update this information.

9-3-45.2. Wastewater discharge permit requirement.

- (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the control authority representative, except that a significant industrial user that has filed a timely application pursuant to Section 9-3-45.3 of this code may continue to discharge for the time period specified therein.
- (b) The control authority representative may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this code.
- (c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this code and subjects the wastewater discharge permittee to the sanctions set out in Sections 9-3-51 through 9-3-53 of this code. 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.

9-3-45.3. Wastewater discharge permitting: Existing connections. [Reserved]

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9-3-45.4. Wastewater discharge permitting: New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 9-3-45.5 of this code, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

9-3-45.5. Wastewater discharge permit application contents.

All users required to obtain a wastewater discharge permit must submit a permit application. The control authority representative may require all users to submit as part of an application the following information:

- (a) All information required by Section 9-3-47.1(b) of this code;
- (b) Description of activities, facilities, and plant process on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (d) Each product produced by type, amount, process or processes, and rate of production;
- (e) Type and amount of raw materials processed (average and maximum per day);
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (g) Time and duration of discharges; and
- (h) Any other information as may be deemed necessary by the control authority representative to evaluate the wastewater discharge permit application.

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

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9-3-45.6. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative 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."

9-3-45.7. Wastewater discharge permit decisions.

The control authority representative will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the control authority representative will determine whether or not to issue a wastewater discharge permit. The control authority representative may deny any application for a wastewater discharge permit.

9-3-46. Wastewater discharge permit issuance process.

9-3-46.1. 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. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the control authority representative. Each wastewater discharge permit will indicate a specific date upon which it will expire.

9-3-46.2. Wastewater discharge permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the control authority representative 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 shall contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

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- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 9-3-46.5 of this code, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, Best Management Practices (BMPs), based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- (6) Requirements to control Slug Discharge, if determined by the control authority representative to be necessary.

(b) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans;
- (5) The unit charge or schedule of user charges and fees;

- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

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- (8) Other conditions as deemed appropriate by the control authority to ensure compliance with this code, and state and federal laws, rules, and regulations.

9-3-46.3. Wastewater discharge permit appeals.

The control authority representative shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the control authority representative to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

- (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (d) If the control authority representative fails to act within thirty days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (e) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the proper court with the proper jurisdiction within the statute of limitations.

9-3-46.4. Wastewater discharge permit modification.

The control authority representative 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 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;

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- (d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the wastewater discharge permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (h) To correct typographical or other errors in the wastewater discharge permit;
or
- (i) To reflect a transfer of the facility ownership or operation to a new owner or operator.

9-3-46.5. Wastewater discharge permit transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the control authority representative and the control authority representative approves the wastewater discharge permit transfer. The notice to the control authority representative shall 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.

9-3-46.6. Wastewater discharge permit revocation.

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

- (a) Failure to notify the control authority representative of significant changes to the wastewater prior to the changed discharge;
- (b) Failure to provide prior notification to the control authority representative of changed conditions pursuant to Section 9-3-47.5 of this code;
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

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- (d) Falsifying self-monitoring reports;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the control authority representative 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 code.

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

9-3-46.7. Wastewater discharge permit reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 9-3-45.5 of this code, a minimum of sixty (60) days prior

to the expiration of the user's existing wastewater discharge permit.

9-3-46.8. Regulation of waste received from other jurisdictions.

- (a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the control authority shall enter into an intermunicipal agreement with the contributing municipality.
- (b) Prior to entering into an agreement required by paragraph (a) above, the control authority representative 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;

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- (2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

- (3) Such other information as the control authority 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 code and local limits which are at least as stringent as those set out in Section 9-3-43.4 of this code. 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 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 control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority;

- (4) A requirement for the contributing municipality to provide the control authority 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 control authority representative 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 control authority; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

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9-3-47. Reporting requirements.

9-3-47.1. 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 users currently discharging to or scheduled to discharged to the POTW shall submit to the control authority 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 control authority representative 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 control authority representative, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 9-3-47.10 of this code.

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- c. Sampling must be performed in accordance with procedures set out in Section 9-3-47.11 of this code.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. 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 9-3-47.2 of this code.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 9-3-45.6 of this code.

9-3-47.2. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Section 9-3-47.1(b)(7) of this code.

- (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 referral to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the control authority representative 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 control authority representative.

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9-3-47.3. 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 control authority representative a report containing the information described in Section 9-3-47.1(b)(4-6) of this code. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 9-3-45.6 of this code.

9-3-47.4. Periodic compliance reports.

- (a) All significant industrial users shall, at a frequency determined by the control authority representative 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 documentation required by the control authority representative or Pretreatment Standard necessary to determine compliance status of the user. All periodic compliance reports must be signed and certified in accordance with Section 9-3-45.6 of this code.
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly

operated, kept clean, and maintained in good working order at all times.
The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the control authority representative, using the procedures prescribed in Section 9-3-47.11 of this code, the results of this monitoring shall be included in the report.

9-3-47.5. Reports of changed conditions.

Each user must notify the control authority representative of any planned significant changes to the user's operations or system which might alter the nature, qualify, or volume of its wastewater at least thirty (30) days before the change.

- (a) The control authority representative 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 9-3-45.5 of this code.

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- (b) The control authority representative may issue a wastewater discharge permit under Section 9-3-45.7 of this code or modify an existing wastewater discharge permit under Section 9-3-46.4 of this code in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

9-3-47.6. Reports of potential problems.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the control authority representative 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 control authority representative, 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 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 code.

- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) **Significant Industrial Users are required to notify the control authority representative immediately of and changes at its facility affecting the potential for Slug Discharge.**

9-3-47.7. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the control authority representative as the control authority representative may require.

9-3-47.8. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the control authority representative 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 control authority representative within thirty (30) days after becoming aware of the violation. The user is not required to resample if the control authority representative monitors at the user's facility at least once a month, or if the control authority representative samples between the user's initial sampling and when the user receives the results of this sampling.

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9-3-47.9. Notification of the discharge of hazardous waste.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However,

notifications of changed conditions must be submitted under Section 9-3-47.5 of this code. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 9-3-47.1, 9-3-47.3, and 9-3-47.4 of this code.

- (b) Dischargers are exempt from the requirements of paragraph (a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the control authority representative, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this code, a permit issued thereunder, or any applicable federal or state law.

9-3-47.10. 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, 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 ADEQ.

9-3-47.11. Sample collection.

- (a) Except as indicated in Section (b) and (c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority representative. Where time-proportional composite sampling or grab sampling is authorized by the control authority representative, the samples must be representative of the

discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority representative as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- (b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (c) For sampling required in support of baseline monitoring and 90 day compliance reports required in sections 9-3-47.1 and 9-3-47.3 [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority representative may authorize a lower minimum. For the reports required by paragraphs section 9-3-47.3 [40 CFR 403.12 (e) and 403.12 (h)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

9-3-47.12. 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.

9-3-47.13. Record keeping.

Users subject to the reporting requirements of this code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this code and 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 9-3-43.4. 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 the city or where the user has been specifically notified of a longer retention period by the control authority representative.

9-3-48. Compliance monitoring.

9-3-48.1. Right of entry - Inspection and sampling.

The control authority representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this code and any wastewater discharge permit or order issued hereunder. Users shall allow the control authority representative 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 control authority representative will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (b) The control authority representative shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (c) The control authority representative 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 annually to ensure their accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the control authority representative and shall not be replaced. The costs of clearing such access shall be born by the user.
- (e) Unreasonable delays in allowing the control authority representative access to the user's premises shall be a violation of this code.

9-3-48.2. Search warrants.

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

9-3-49. 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 control authority representative'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 control authority representative, 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 or secret processes 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. 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.

9-3-50. Publication of users in significant noncompliance.

The control authority representative shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements 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 defined in section 9-3-43.1;
- (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 9-3-43.1 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 the a pretreatment standard or requirement as defined by section 9-3-43.1 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority representative 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 control authority representative's exercise of its emergency authority to halt or prevent such a discharge;

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- (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 thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s) which the control authority representative determines will adversely affect the operation or implementation of the local pretreatment program.

9-3-51. Administrative enforcement remedies.

9-3-51.1. Notification of violation.

When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may serve upon that user a written notice of violation. Within thirty (30) 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 control authority representative. 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 control authority representative to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

9-3-51.2. Consent orders.

The control authority representative may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 9-3-51.4 and 9-3-51.5 of this

code and shall be judicially enforceable.

9-3-51.3. Show cause hearing.

The control authority representative may order a user which has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority representative and show

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cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

9-3-51.4. Compliance orders.

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

9-3-51.5. Cease and desist orders.

When the control authority representative finds that a user has violated, or continues to violate, any provisions of this code, 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 control authority representative 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.

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9-3-51.6. Administrative fines.

- (a) When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may fine such user in an amount not to exceed \$1,000.00. Such fines shall be assessed on a per violation, per day 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.
- (b) A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- (c) Users desiring to dispute such fines must file a written request for the control authority representative to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the control authority representative may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The control authority representative may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

9-3-51.7. Emergency suspensions.

The control authority representative may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority representative 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 control authority

representative 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 control authority representative may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority representative that the period of endangerment has passed, unless the termination proceedings in Section 9-3-51.8 of this code are initiated against the user.

- (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the control authority representative prior to the date of any show cause or termination hearing under Sections 9-3-51.3 or 9-3-51.8 of this code.

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

9-3-51.8. Termination of discharge.

In addition to the provisions in Section 9-3-46.6 of this code, any user who violates the following conditions is 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 9-3-43 of this code.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 9-3-51.3 of this code why the proposed action should not be taken. Exercise of this option by the control authority representative shall not be a bar to, or a prerequisite for, taking any other action against the user.

9-3-52. Judicial enforcement remedies.

9-3-52.1. Injunctive relief.

When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may petition the proper court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this code on activities of the user. The control authority representative may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

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9-3-52.2. Civil penalties.

- (a) A user who has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The control authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- (c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

9-3-52.3. Criminal prosecution.

- (a) A user who willfully or negligently violates any provision of this code, 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, per day.

- (b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000.00. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this code, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this code shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day.
- (d) In the event of a second conviction, a user shall be punished by a fine of not more than \$1,000.00 per violation, per day.

9-3-52.4. Remedies nonexclusive.

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

9-3-53. Affirmative defenses to discharge violators.

9-3-53.1. Upset.

- (a) For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance 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 users 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 control authority representative 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 noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

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- c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (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 noncompliance 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.

9-3-53.2. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 9-3-43.1(a) of this code or the specific prohibitions of this code 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 the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

9-3-53.3. Bypass.

- (a) For the purposes of this section,
 - (1) "Bypass" means the intentional diversion of wastewater 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 reasonable 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 control authority representative, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the control authority representative 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 control authority representative 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 control authority representative 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 control authority representative may approve an anticipated bypass, after considering its adverse effects, if the control authority representative determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

(Ord. No. 4577, ' ' 1-3, 11-18-96; Ord. No. 4725, ' 1, 4-20-98)

ENFORCEMENT
RESPONSE
PLAN

ENFORCEMENT RESPONSE PLAN

1. Purpose

The purpose of The City of Hot Springs Municipal Utilities' Enforcement Response Plan is to provide a course of action for personnel responsible for all enforcement related matters of the pretreatment program. A general course of action is currently provided by the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances. The Enforcement Response is subject to the provisions of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances.

2. Enforcement Response Plan

The City of Hot Springs Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances implements the Municipal Utilities Pretreatment Program mandated by the Clean Water Act and Federal Pretreatment Regulations. It provides general prohibitions in section 9-3-43.1, specific parameter concentration limitations on the discharges of significant non-categorical industrial users in section 9-3-43.4 and enforcement actions in section 9-3-51. The Enforcement Response intent is to address problems at the lowest level and with the least formality. This course of action depends on the nature of the problems. The Enforcement Response Plan is used as a general guide for enforcement personnel. The procedures are not jurisdictional and are not a basis for defense to action taken by the City of Hot Springs Municipal Utilities as a result of a violation of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, industrial discharge permit and/or any applicable regulation.

3. Responsibilities

The Enforcement Response Plan is administered by the Control Authority Representative or his Designee (s), and Legal Counsel. The Control Authority Representative or his Designee (s) shall maintain records of activities conducted as part of the Enforcement Response Plan and render periodic reports to the Control Authority.

4. Collections and Dissemination of Information

For each industrial user, the Control Authority Representative or his Designee (s) shall determine what data are required or needed to determine compliance with applicable pretreatment standards as well as when and how it can be obtained. The Control Authority Representative or his Designee (s) shall specify reporting requirements for each industrial user in its permit as required by EPA code federal regulations and shall then track the submission of reports. If information submitted is deficient or late, the industrial user shall be notified and required to complete the submission as detailed in the appropriate enforcement response. Baseline monitoring reports, ninety (90) day compliance reports, continuing compliance reports, and any applicable reports required by the Control Authority or his Designee (s) shall be retained for at least three (3) years under the provisions of 40 CFR 403.12.

The Control Authority Representative or his Designee (s) shall notify the significant industrial users of applicable pretreatment standards and any Resource Conservation and Recovery Act (RCRA) requirements as described in 40 CFR 403.87 (f)(2)(iii). By reporting the results of the control authority monitoring and analysis to industrial users, the Control Authority Representative or his Designee (s) will provide feedback to users on compliance status and inform industrial users of their compliance with the city's enforcement requirements and general responses to instances of non-compliance.

5. Sampling and Inspection of Industrial Users

The Control Authority Representative or his Designee (s) shall develop and update an inspection report for industrial inspections. This report will include industrial sample collection, facility inspections, and flow monitoring. This report shall be used to verify compliance status, industrial self-monitoring activities. This report shall also be used to determine monitoring frequencies and implement emergency or remedial action and to gather additional information. The Control Authority Representative or his Designee (s) may conduct special monitoring in response to violations, technical problems, or support for permit modifications.

The Control Authority Representative or his Designee (s) shall continually develop such checklists and procedures for routine inspections as are necessary to assure that the results of each visit are documented and notify industrial users of any deficiencies found during inspection. The Control Authority Representative or his Designee (s) shall inform Arkansas Department of Environmental Quality (ADEQ) of its routine and special inspection activities annually. Joint inspection of industrial users with EPA and/or ADEQ may be conducted by mutual agreement.

6. Compliance Review

Using all available information, the Control Authority Representative or his Designee (s) shall conduct a compliance review or screening process to determine and assess compliance with schedules, reporting requirements, and applicable pretreatment standards. Such screening shall be conducted monthly.

During the screening process, the Control Authority Representative or his Designee (s) shall verify that any reports are submitted on schedule, cover the proper time period, include all information required in the particular report and are properly signed. As part of the process, the Control Authority Representative or his Designee (s) will compare the information submitted with the requirements in the industrial user's permit. Any discrepancies shall be considered a violation. The industrial user will be required to correct such discrepancies immediately upon their discovery.

7. Enforcement Evaluation

After violations and discrepancies have been identified during the compliance review process, the Control Authority Representative or his Designee (s) will determine the type of enforcement response action. The Enforcement Response Plan procedures will be used as a guide to make this determinations.

8. Signification Noncompliance (SNC)

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

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

Instances of SNC is when an industrial user's violations meet one or more of the following criteria 40 CFR 403.8 (f)(2)(viii):

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all measurements 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 defined in section 9-3-43.1.
- B. Technical Review Criteria (TRC) violations, define 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 limit, as defined by section 9-3-43.1 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil & grease, and 1.2 for all other pollutants except pH).
- C. Any other violation of the pretreatment effluent limit (daily maximum or longer term average) that the Control Authority Representative or his Designee (s) determines has caused, alone or in combination with other discharges, interference or pass through at the POTW (including endangering the health of POTW personnel or the general public).
- D. Any discharge of pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- E. Failure to meet, within 90 days after the scheduled date, a compliance-scheduled milestone contained in local control mechanism or enforcement order and/or for starting construction, completing construction, or attaining final compliance.
- F. Failure to provide within thirty (30) days after the due date required reports, such as baseline monitoring reports, and reports of compliance with compliance schedules.
- G. Failure to accurately report non-compliance.

When an industrial user is in SNC, the city shall implement the following:

- A. Report such information to ADEQ as part of the Pretreatment Annual Report.
- B. List the industrial user in the largest local newspaper.
- C. Address the SNC through the appropriate enforcement action.

9. Publishing Lists of Industrial Users with Significant Violations

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

- A. The Control Authority Representative or his Designee (s) shall prepare a compliance history for each individual significant industrial user.
- B. The compliance history of each industrial user shall be reviewed to determine if a pattern of non-compliance exists or if the industry has been or continues to be in SNC. If the industry meets these criteria, it will be placed on the list for publication.

10. Administrative & Judicial Enforcement Remedies

Informal Actions:

Telephone Call, Notice of Violation, Final Violation Notice, & Review Meeting

Formal Actions:

Formal Meeting, Show Cause Hearing, Administrative Order/Fines, Consent Order, Termination of Service, Injunctive Relief, Civil & Criminal Penalties

11. Description of Enforcement Activities

1. Telephone Call = A telephone call is a documented call to the industrial user that the control authority has observed a violation of the pretreatment standards of requirements and expects the non-compliance to be corrected. The telephone call shall ask for an explanation of the violation(s) and if any action has been taken to correct the violation(s).
2. Notice of Violation = A Notice of Violation is a written notice to the industrial user that the control authority has observed a violation of the pretreatment standards or requirements and expects the non-compliance to be corrected. The NOV shall state that additional enforcement action may be pursued if corrections are not accomplished in a timely manner. A NOV shall state also that an explanation of the violation must be sent to the Control Authority Representative or his Designee (s) in a specified time. A NOV shall be sent by certified mail, return receipt requested, with copies maintained in the industrial user's file.

3. Final Violation Notice = A final violation notice shall be issued upon that instance of a repeat violation as determined by repeating sampling. The final violation notice shall have the same content as a NOV. However; if said compliance is not achieved in a timely manner, the control authority will proceed with further action. A final violation notice shall be sent by certified mail, return receipt requested, with copies maintained in the industrial user's file.
4. Review Meeting = Where further violations continue to occur, the Control Authority Representative or his Designee (s) shall notify the industrial user by telephone as to the particulars of the violation(s) and call for voluntary meeting with the industrial users. Review meetings are intended to provide a voluntary means of preventing future violation(s) of the City's Pretreatment Program.

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

B. Formal Actions

1. Formal Meeting = In cases where, following a review meeting, continued violations occur or where violations of themselves re either of significant magnitude or duration, an industrial user may be required by the Control Authority Representative or his Designee (s) to attend a formal meeting. A notice of such a meeting shall be sent by certified mail, return receipt requested. Attendance is mandatory by the industrial user and failure to comply with such a notice may result in other formal action. The formal meeting shall establish procedures, investigations and studies ad the Control Authority Representative or his Designee (s) deems necessary to determine the cause of such violations and methods to correct them. The Control Authority Representative or his Designee (s) shall chair the formal meeting and minutes shall be kept. The meeting shall be audio and/or video recorded.
2. Show Cause Hearing = The Control Authority Representative of his Designee (s) may order any user who causes or allows an unauthorized discharge into the city's collection system or violates the city's pretreatment program to show cause why the city should not revoke the user's wastewater discharge permit or take such other enforcement action as is dictated by the facts of the case. The Control Authority or his Designee (s) shall issue such a notice of show cause hearing specifying the time and place of the hearing to be held by the Control Authority Representative or his Designee (s). Such notice shall state the reasons why the action is to be taken and proposed enforcement action. Such notice shall direct the user to show cause before the Control Authority Representative or his Designee (s) why such action should not be taken. Following such hearing, the Control Authority Representative or his Designee (s) may take such action, as it deems appropriate. The Show Cause Hearing Notice shall be served personally or by certified mail, return receipt requested, with copies maintained in the industrial user's file.

Subsequent to a show cause hearing, appropriate actions may include the following:

- A. Administrative Order = Administrative Order is an enforcement document which directs the industrial user to undertake or cease specified activities. An administrative order is the first formal response to significant non-compliance, and may incorporate compliance schedules, administrative penalties, and termination of services. Compliance with the terms and conditions of the AO will not be construed to relieve the user of its obligation to comply with applicable federal, state, or local laws. Violation of the AO itself may subject the user to all penalties available under the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances. No provision of the order will be construed to limit the Control Authority Representative or his Designee (s)'s authority to implement its pretreatment program. The provisions of the order shall be binding upon all designated industrial user's representatives.
- B. Administrative Penalties = Notwithstanding any other section of this Enforcement Response Plan, any user who is found to have violated any provision of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, or pretreatment regulations, requirement, or permit and orders issued, may be fined, not to exceed one thousand dollars (\$1000) per violation.
- C. Consent Order = The Consent Order is an agreement between the Control Authority Representative or his Designee (s) and the industrial user containing compliance schedules, stipulated fines, or remedial actions, and signatures of the Control Authority Representative or his Designee (s) and industry representatives.
- D. Termination of Service = Any user who violates the conditions of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, or wastewater discharge permit or AO, or any applicable state and federal laws is subject to permit termination. The Control Authority Representative or his Designee (s) shall have legal authority to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of persons, or the environment, or which threatens to interfere with the POTW's operation.
- E. Injunctive Relief = Whenever an industrial user has violated or continues to violate the provisions of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, its wastewater discharge permit or AO, or any applicable state or federal laws, the Control Authority Representative or his Designee (s) through legal counsel may petition the court for the issuance of a preliminary and/or permanent injunction which restrains or compels the activities on the part of the industrial user.

- F. Civil Penalties = An industrial user who has violated, or continues to violate any provision of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, wastewater discharge permit or AO, or any applicable state or federal laws shall be liable to the city for a maximum civil penalty of \$1000 per violation per day. 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. The Control Authority Representative or his Designee (s) through legal counsel may recover reasonable attorney's fees, courts cost, and other expenses, and the cost of any actual damages incurred by the control authority. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against the user.
- G. Criminal Penalties = An industrial user who willfully or negligently violates any provision of the Industrial Pretreatment Code Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, a wastewater discharge permit or any applicable state, federal, or local laws shall upon conviction, be guilty of a misdemeanor, punishable for a fine of not more than \$1000 per violation per day. Any industrial user 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, punishable by a fine of not more than \$1000 per violation per day. An industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to Sewer Use Ordinance 4577 under Article VI of Title 9 of the City's Code of Ordinances, wastewater discharge permit, or AO issued hereunder, or how falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required shall upon conviction, be punished by a fine of not more than \$1000 per violation per day.

**HOT SPRINGS MUNICIPAL UTILITIES
RETREATMENT ENFORCEMENT RESPONSE PLAN**

UNAUTHORIZED DISCHARGES (NO PERMIT)

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Unpermitted Discharges	IU unaware of requirement; no harm done to POTW	Phone call; NOV with application form	D(s)
	IU unaware of requirement, harm to POTW/environment	AO with fine; civil action	CAR
	Failure to apply continues after notice by POTW	Civil action; Criminal investigation – Terminate services	CAR
Nonpermitted Discharges (failure to renew)	IU has not submitted application within 10 days of due date	Phone call; NOV	D(s)

DISCHARGE LIMIT VIOLATION

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Exceedance of local or federal limits (permit limit)	Isolated; not significant	Phone call; NOV	D(s)
	Isolated; significant (no harm)	To develop spill prevention plan	D(s)
		AO with fine	CAR
	Isolated; harm to POTW or environment	AO with fine	CAR
		Show cause order Civil Action	D(s) CAR
Recurring on harm to POTW or environment	AO with fine	CAR	
Recurring; significant (harm)		AO with fine	CAR
		Civil Action	CAR
		Terminate service	CAR

MONITORING AND REPORTING VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Reporting violations	Report is improperly signed or certified	Phone call or NOV	D(s)
	Report is improperly signed or certified after notice by POTW	AO Show cause order	CAR CAR
	Isolated; not significant (reports five days late)	Phone call; NOV	D(s)
	Significant (report 30 days or more late)	AO to submit with fine per additional day	CAR
	Reports always late or no reports at all	AO with fine Show cause order Civil Action	CAR CAR CAR
	Failure to report spill or changed discharge (no harm)	NOV	D(s)
	Failure to report spill or changed discharge (results in harm)	AO with fine Civil Action	CAR CAR
	Repeated failure to report spills	Show cause order Terminate service	CAR CAR
Falsification	Criminal investigation Terminate service	CAR CAR	

MONITORING AND REPORTING VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Failure to monitor correctly	Failure to monitor all pollutants as required by permit	NOV	D(s)
	Recurring failure to monitor	AO with fine Civil Action	CAR CAR
Improper sampling	Evidence of intent	Criminal investigation Terminate service	CAR CAR
Failure to install monitoring equipment	Delay of less than 30 days	NOV	D (s)
	Delay of 30 days or more	AO to install with fine For each additional day	CAR
	Recurring; violation of AO	Civil Action Criminal investigation Terminate Service	CAR CAR CAR
Compliance Schedules	Missed milestone by less than 30 days; or will not affect final milestone	NOV AO with Fine	D(s) CAR
	Missed milestone by more than 30 days; or will affect final milestone (good cause for delay)	AO with Fine	CAR
	Missed milestone by more than 30 days; or will affect final milestone (no good cause)	Show cause order Civil Action Terminate service	CAR CAR CAR
	Recurring violation or violation of schedule in AO	Civil Action Criminal investigation Terminate service	CAR CAR CAR

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Improper sampling	Unintentionally using incorrect sample collection techniques	NOV	D(s)
Inadequate record keeping	Inspector find files incomplete to missing (no evidence of intent)	NOV	D(s)
	Recurring	AO with fine	CAR
Failure to report additional monitoring	Inspection finds additional files	NOV	D(s)
	Recurring	AO with fine	CAR

Time Frames for Responses

- A. All violations will be identified and documented within five (5) days of receiving compliance information.
- B. Initial enforcement responses (involving contact with the industrial user and requesting information on corrective action(s)) will occur within fifteen (15) days of violation detection.
- C. Follow up actions for continuing or reoccurring violations will be taken within thirty (30) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations, which threaten health, property or environmental quality, are considered emergencies and will receive immediate response such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within thirty (30) days of the identification of significant noncompliance.

KEY:

D(s) = Designee (s)
 CAR = Control Authority Representative
 NOV = Notification of Violation
 AO = Administrative Order
 IU = Industrial User
 POTW = Publicly Owned Treatment Work

Industrial
Pretreatment
Program
Funding
Resolution
3775

RESOLUTION NO. 3775

A RESOLUTION COMMITTING SUPPORT FOR MODIFICATION, THE CONTINUAL DEVELOPMENT, IMPLEMENTATION AND FUNDING OF THE CITY OF HOT SPRINGS MUNICIPAL UTILITIES PRETREATMENT PROGRAM.

WHEREAS, the City of Hot Springs Municipal Utilities is charged with the on-construction, maintenance and control of the collection system and wastewater treatment facility for the purpose of protecting the receiving streams, public health and welfare; and

WHEREAS, reducing priority pollutant loading and prohibiting hazardous pollutants from entering the collection system and wastewater treatment facility; and

WHEREAS, assuring the safe, proper, correction operation and maintenance of the collection system and wastewater treatment facility; and

WHEREAS, the Industrial Pretreatment Program, including revisions to the Pretreatment Code of the City of Hot Springs Ordinance No. 4577, has been revised to provide procedural and legal mechanisms to regulate the quality and/or quantity of wastewaters entering the collection system and wastewater treatment facility.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Hot Springs, Arkansas:

That the City of Hot Springs, Arkansas, will commit its full support and funding to the continual development and implementation of the Municipal Utilities Industrial Pretreatment Program.

PASSED: October 6, 1997

APPROVED: Helen Selig
HELEN SELIG, MAYOR

ATTEST: Lance Hudnell
LANCE HUDNELL, CITY CLERK

Technically

Based Local

Limits (TBLLs)

CALCULATIONS OF ARKANSAS WATER QUALITY-BASED EFFLUENT LIMITATIONS

For an Arkansas Lake

(Reserved)

N/A

Lake Catherine

STEP 1: INPUT TWO LETTER CODE FOR ECOREGION (Use Code at Right)

Basin Name

FACILITY

Permittee

NPDES Permit No.

Outfall No. 002 (Discharge to the Arkansas River)

Plant Ave Flow (MGD) from HTSP 2008 Annual Report

SIUs Ave Flow (MGD) from HTSP 08 report at 2.3% of Ave

Domestic Flow (MGD)

Plant Design Flow (MGD)

Plant Design Flow (cfs)

Hot Springs

AR0033880

001

11.59

0.27

11.32

12.00

18.54

RECEIVING STREAM

Is this a large river? (see list at right)(enter "1" if yes, "0" if no; make entry as a number)

Name of Receiving Stream:

Waterbody Segment Code No.

Is this a lake or reservoir? (enter '1' if yes, '0' = no; make entry as a number)

Is seasonal critical flow applicable (1=yes, 0=no); see Reg 2 page 1-3 for details.

Is Jet Stream model applicable (1=yes,0=no); see CPP attmt V section IV.

(Reserved)

(Reserved)

(Reserved)

(Reserved)

(Reserved)

(Reserved)

0

Lake Catherine

2F

1

0

?

?

?

(Reserved)

(Reserved)

(Reserved)

2.00

28.00

20.00

3384.00

No

6.89

0.87

0.33

1.00

N/A

1.55

3.11

TSS (mg/l)

Hardness (mg/l)

Enter 7Q10 (cfs)

(Reserved)

Long Term Ave / Harmonic Mean Flow (cfs)

Using Diffusers (Yes/No)

pH (Avg)

Percent (%) of 7Q10 for Chronic Criteria

Percent (%) of 7Q10 for Acute Criteria

Water Effect Ration (WER)

EPA Statistical Factor for Data (Not Applicable to these calculations)

Ave Monthly Limit LTA Multiplier (Ref: page 103 TSD for WQ-Based Toxics Control)

Max Daily Limit LTA Multiplier (Ref: " " " ")

(Reserved)

(Reserved) (Reserved)

Codes & TSS for Ecoregions and Large Rivers

Ouachita Mts. Eco (OM) = 2.0 mg/l	Arkansas (Ft. Smith to Dardanelle Dam) 12.0 mg/l
Ozark Highlands Eco (OH) = 2.5 mg/l	Arkansas (Dardanelle Dam to Terry L&I) 10.5 mg/l
Boston Mts. Eco (BM) = 1.3 mg/l	Arkansas (Terry L&D to L&D No. 5) 8.3 mg/l
Ark River Valley Eco (AV) = 3.0 mg/l	Arkansas (L&D No. 5 to Mouth) 9.0 mg/l

Gulf Coastal Eco (GC) = 5.5 mg/l	White (Above Beaver Lake) 2.5 mg/l
Delta Ecoregion (DL) = 8.0 mg/l	White (Below Bull Shoals to Black Riv) 3.3 mg/l
	White (From Black River to Mouth) 18.5 mg/l
	St. Francis River 18.0 mg/l
	Ouachita (Above Caddo River) 2.0 mg/l
	Ouachita (Below Caddo River) 5.5 mg/l
	Red River 33.0 mg/l

Total Hardness for:

Arkansas River = 125 mg/l

Red River = 211 mg/l

Ouachita River = 28 mg/l

St. Francis River = 103 mg/l

White River = 116 mg/l

Gulf Coastal = 31 mg/l

Ouachita Mount = 31 mg/l

Ozark Highlands = 148 mg/l

Ark River Valley = 25 mg/l

Boston Mount = 25 mg/l

Delta = 81 mg/l

Large Rivers

Mississippi River, Arkansas River, Red River

White (Below confluence with Black River)

Ouachita (Below confluence with Little Miss. River)

For industrial and federal facility, use the highest monthly average flow for the past 24 months. For POTWs, use the design flow.

#VALUE! => No violation or Not Applicable

WQ Limits for the Hot Springs

Aquatic Life
AML, ug/l

Cadmium Total	3.65
Chromium (hex)	18.82
Copper Total	24.91
Lead Total	4.52
Mercury Total	0.02
Nickel Total	371.64
Selenium Total	9.61
Silver Total	1.55
Zinc Total	241.04
Chromium (Tri)	554.92
Cyanide Total	10.00
Beryllium Total	10.19
Arsenic	576.72

Hot Springs Maximum Allowable Headworks Loading

Pollutant	% Rem***	Water Quality	Water Quality*	Sludge	Sludge+	Inhibition**	Inhibition++	MAHL	MAHC	Domestic Allocation for %SF	MAIL	Max Inf Exceeded	Max Effluent	
		mg/l	lbs/day	mg/kg	lbs/day	mg/l	lbs/day	lbs/day	mg/l	lbs/day	lbs/day^	lbs/day	MAHC	vs WQS(mg/l)
Cadmium Total	67	0.0036	1.068	85	0.866	1.00	96.66	0.866	0.00896	0.28	0.65	0.366	No	No
Copper Total	81	0.0249	12.673	4300	36.244	1.00	96.66	12.673	0.13111	5.73	9.50	3.772	No	No
Lead Total	61	0.0045	1.120	840	9.402	1.00	96.66	1.120	0.01159	4.63	0.84	0.000	No	No
Mercury Total	80	0.00002	0.006	57	0.649	0.10	9.67	0.006	0.00006	0.0283	0.0042	0.000	No	No
Nickel Total	42	0.3716	61.936	420	6.827	1.00	96.66	6.827	0.07063	1.98	5.12	3.137	No	No
Selenium Total	50	0.0096	1.858	100	1.365	0.20	19.33	1.365	0.01413	0.47	1.02	0.552	No	No
Silver Total	75	0.0016	0.600	0	0.000	0.25	24.165	0.600	0.00620	0.47	0.45	0.000	No	No
Zinc Total	65	0.2410	66.568	7500	78.778	0.800	77.33	66.568	0.68868	16.53	49.93	33.400	No	No
Chromium Total	82	0.5549	297.994	3000	24.978	1.00	96.661	24.978	0.25841	0.01	18.73	18.725	No	No
Cyanide Total	69	0.0100	3.117	0	0.000	0.10	9.666	3.117	0.03225	3.87	2.34	0.000	No	No
Arsenic	45	0.5767	101.357	75	1.138	0.10	9.666	1.138	0.01177	0.28	0.85	0.570	No	No
Molybdenum	50	0.0000	0.000	75	1.024	0.20	19.332	1.024	0.01059	#####	0.77	0.000	No	No
Beryllium	50	0.010190	1.970	0	0.000	0.10	9.6661	1.970	0.02038	#####	1.48	0.000	No	No

Dry tons/day of sludge**** Safety Factor

* lbs/day = mg/l * 8.34 * average flow / (1-%Rem)

** Page 3-44 of EPA 833B87202 Be est @ 0.10 mg/l and Zinc Level from 04-19-2005 Inf analysis

+ lbs/day = (dry tons/day * 0.002 * critria(mg/kg)) / % Rem

++ lbs/day = mg/l * Flow * 8.34

^ lbs/day = (1 - SF) * MAHL

MAIL = Maximum allowable industrial loading = Allocation for % SF - Domestic

*** Page 3-56 EPA 833B87202, Be & Mo est @ 50

****Dry tons/day of sludge from last audit report dated 9-24-08 on page 3 at (1246 dt/year)/365 days/yr = 3.41 dt/day

In accordance with Section 9-3-43.4, of the Industrial Pretreatment Code Ordinance 4577, of Article IV, under Title 9, of the City's Code of Ordinances, the Control Authority Representative or his designee (s) may use the Contributory Method to determine the daily maximum allocation loading of each permitted industry that may have the capability to discharge pollutants of concern above the domestic level. Dissemination will be determined by the following calculation:

$$\text{[(Allocated lbs per day of pollutant loading)]} / \text{[(8.34 x SIU flow-MGD)]} = \text{Allowable Pollutant Concentration (mg/l)}$$