

# ADEQ

ARKANSAS  
Department of Environmental Quality

August 17, 2009

Trevor L. Bowman  
Water/Wastewater Director  
City of Siloam Springs  
P. O. Box 80  
Siloam Springs, Arkansas 72761

RE: City of Siloam Springs Draft Ordinance/Article for Streamlining Rule Requirements  
(NPDES Permit Number AR0020273, AFIN 04-00106)

Dear Mr. Bowman:

On October 14, 2005 EPA modified 40 CFR Part 403. These modifications to Part 403 are commonly referred to as the "Streamlining Rule Revisions". After EPA published the Model Pretreatment Ordinance (MPO) in January 2007, Arkansas NPDES permits for cities with approved pretreatment programs were issued with Streamlining update requirements. The City of Siloam Springs permit has an effective date of October 1, 2007. The City was required to submit a draft ordinance within twelve months of the effective date of the permit. The City submitted a document (Pretreatment Program Review for Streamlining Rule Revision Required Changes dated September 2, 2008) attached to Mr. Trevor Bowman's letter dated September 26, 2008 (received by the Department on September 29, 2008). The Department appreciates the City's efforts to comply with the Streamlining revisions. However, the document did not include all the required Streamlining Rule updates.

To verify compliance with the Streamlining revisions, the Department reviewed the City's recommended changes to Article V of the City's codes along with the complete Article V which was downloaded from the City of Siloam Springs' website. The Department noted the additional necessary corrections and updates to comply with the new rule. These required corrections and updates are indicated in red on the enclosures. The Department noted recommended changes in green which should enhance the City's existing legal authority. The Department also provided instructions and listed items which require attention. These instructions and items of attention are highlighted in yellow. The Department welcomes any concerns which you or members of the City staff may have. The City is encouraged to make suggestions on improving the Department's changes.

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

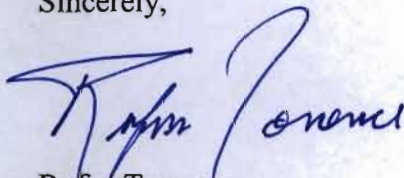
5301 NORTHSHORE DRIVE / NORTH LITTLE ROCK / ARKANSAS 72118-5317 / TELEPHONE 501-682-0744 / FAX 501-682-0880  
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August 17, 2009  
Page 2 of 2

The Department used the enclosed checklist to ensure that (1) all the required "Streamlining" updates were included in the attached draft and (2) all recommended language to enhance the existing legal authority was included.

The Department looks forward to working with you and your staff on these "Streamlining" changes. If you have any questions or concerns, please contact my office at 501-682-0626 or by email at [torrence@adeq.state.ar.us](mailto:torrence@adeq.state.ar.us).

Sincerely,

A handwritten signature in blue ink that reads "Rufus Torrence". The signature is stylized with a large initial "R" and a long, sweeping underline.

Rufus Torrence  
ADEQ Engineer

CC: Cindy Gardner, Technical Assistance Manager, Enforcement Branch

Enclosures: DRAFT Proposed Revisions to Article V. Industrial Pretreatment  
ADEQ Checklist-Pretreatment Program Legal Authority Reviews

## ADEQ CHECKLIST - PRETREATMENT PROGRAM LEGAL AUTHORITY REVIEWS

NAME OF POTW: City of Siloam Springs  
 DATE OF REVIEW: August 14, 2009

Note: Several changes to the National Pretreatment Regulations made as a result of the Streamlining Rule are more stringent than the previous Federal requirements and therefore are considered required modifications for the POTW. Therefore, to the extent that existing POTW legal authorities are inconsistent with these required changes, they must be revised. Where local authorities are already consistent with these required provisions, further changes are not necessary.

NONE = No Provision necessary    REQ = Required Provision    REC = Recommended Provision    X X = Required Streamlining Rule Change

A. Definitions [403.3 & 403.8(f)(2)]	Part 403 Citation	Model SUO Section	PROVISIONS			POTW* Ordinance Section	Comments / Notes
			NONE	REQ	REC		
1. Act, Clean Water Act	403.3(b)	§ 1.4 A		X		§ 1.4 A	
2. Authorized or Duly Authorized Representative of the User	403.12(l)	§ 1.4 C		X		§ 1.4 C	Must Change
3. Best Management Practices or BMPs	403.3(e)	§ 1.4 E		X**	X		Must Add
4. Categorical Pretreatment Standard or Categorical Standard						§ 1.4 E	
5. Indirect Discharge or Discharge	403.3(i)	§ 1.4 M		X		§ 1.4 N	
6. Industrial User (or equivalent)	403.3(j)	§ 1.4 LL		X		§ 1.4 JJ	
7. Interference	403.3(k)	§ 1.4 O		X		§ 1.4 P	
8. National Pretreatment Standard, Pretreatment Standard or Standard	403.3(l)	§ 1.4 BB		X		§ 1.4 Z	
9. New Source	403.3(m)	§ 1.4 T		X		§ 1.4 R	
10. Pass Through	403.3(p)	§ 1.4 V		X		§ 1.4 T	Must Change
11. Pretreatment Requirement	403.3(t)	§ 1.4 AA		X		§ 1.4 Y	
12. Publicly Owned Treatment Works or POTW	403.3(q)	§ 1.4 DD		X		§ 1.4 BB	
13. Significant Industrial User <i>[NOTE: §1.4 GG(3) is an optional streamlining provision for Non-Significant Categorical Industrial User classification.]</i>	403.3(v)	§ 1.4 GG		X		§ 1.4 EE	
14. Significant Noncompliance	403.8(f)(2)(vii)	§ 9 (A-C)		X X		§ 9 (A-C)	
14. Significant Noncompliance	403.8(f)(2)(vii)	§ 9 (D-H)			X	§ 9 (D-H)	

\*Ordinance No. 00-11 (Amending Ordinance No. 1084)

\*\*The City is not required to allow BMPs but if the City elects to allow this option or has CIUs with BMP requirements as categorical standards, then a definition is required.

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
15. Slug Load or Slug Discharge	403.8(f)(2)(vi)	§ 1.4 HH		X		§ 1.4 FF	
16. Other definitions based on terms used in the POTW Ordinance						*****	
17. Control Authority							Must Add
18. Approval Authority						§ 1.4 B	Must Add
19. Categorical Industrial User							Must Add
20. Waters of the State							May Add
21. Local Limits							May Add
<b>B. National Pretreatment Standards – Prohibited Discharges</b>							
1. General Prohibitions							
a. Interference	403.5(a)	§ 2.1A		X		§ 2.3A	
b. Pass Through	403.5(a)	§ 2.1A		X		§ 2.3A	
2. Specific Prohibitions [403.5(b)]							
a. Fire/Explosion Hazard (60° C or 140° F flashpoint)	403.5(b)(1)	§ 2.1B(1)		X		§ 2.3B(1)	
b. pH/Corrosion	403.5(b)(2)	§ 2.1B(2)		X		§ 2.3B(2)	
c. Solid or Viscous/Obstruction	403.5(b)(3)	§ 2.1B(3)		X		§ 2.3B(3)	
d. Flow Rate/Concentration (BOD, etc.)	403.5(b)(4)	§ 2.1B(4)		X		§ 2.3B(4)	
e. Heat: exceeds 40° C (104°F)	403.5(b)(5)	§ 2.1B(5)		X		§ 2.3B(5)	
f. Petroleum/Nonbiodegradable Cutting/Mineral Oils	403.5(b)(6)	§ 2.1B(6)		X		§ 2.3B(6)	
g. Toxic Gases/Vapor/Fumes	403.5(b)(7)	§ 2.1B(7)		X		§ 2.3B(7)	
h. Trucked/Hauled Waste	403.5(b)(8)	§ 2.1B(8)		X		§ 2.3B(8)	

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
3. National Categorical Standards	403.8(f)(1)(ii)	§ 2.2		X		§ 2.4	
4. Local Limits Development <i>[NOTE: POTWs may develop Best Management Practices (BMPs) to implement the prohibitions listed in 40 CFR 403.5(a)(1). Such BMPs shall be considered local limits and Pretreatment Standards.]</i>	403.5(c) & (d)	§ 2.4		X		§ 2.6	May Change
5. Prohibition Against Dilution as Treatment	403.6(d)	§ 2.6		X		§ 2.9	
6. Best Management Practices Development <i>[NOTE: Optional streamlining provision.]</i>	403.5(c)(4)	§ 2.4C			X	§ 2.6	May Add
<b>C. Control Discharges to POTW System</b>							
1. Deny/Condition New or Increased Contributions	403.8(f)(1)(i)	§§ 4.8 & 5.2		X		§§ 4.7 & 5.2	Must Change
2. Individual Control Mechanism (e.g., permit) to ensure compliance <i>- Permit Content</i>	403.8(f)(1)(iii)	§ 4.2		X		§ 4.2	
a. Statement of Duration	403.8(f)(1)(iii)(B)(1)	§§ 5.1 & 5.2A(1)		X		§§ 5.1 & 5.2A(1)	
b. Statement of Nontransferability	403.8(f)(1)(iii)(B)(2)	§ 5.2A(2)		X		§ 5.2A(2)	
c. Effluent Limits	403.8(f)(1)(iii)(B)(3)	§ 5.2A(3)		X		§ 5.2A(3)	

	NONE = No Provision necessary	REQ = Required Provision	REC = Recommended Provision	PROVISIONS			POTW Ordinance Section	Comments / Notes
				NONE	REQ	REC		
d. Best Management Practices <i>[Note: This is a required streamlining provision for CIUs with BMP requirements as part of its Categorical Standards. But if BMPs are being applied to other CIUs or noncategorical SUs without categorical BMP requirements, then this provision would be optional and is only required if the POTW has incorporated the use of BMPs (§ 2.4 C).]</i>		403.8(f)(1) (iii) (B)(3)	§ 5.2A(3)		XX		§ 5.2A(3)	<b>Must Change</b>
e. Self-Monitoring Requirements		403.8(f)(1) (iii) (B)(4)	§ 5.2A(4)		X		§ 5.2A(4)	
f. Reporting & Notification Requirements		403.8(f)(1) (iii) (B)(4)	§ 5.2A(4)		X		§ 5.2A(4)	
g. Recordkeeping Requirements		403.8(f)(1) (iii) (B)(4)	§ 5.2A(4)		X		§ 5.2A(4)	
h. Process for Seeking a Waiver for Pollutants Not Present or Expected to be Present <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated § 6.4B of the Model SUO.]</i>		403.8(f)(1) (iii) (B)(4) & 403.12(e)(2)	§ 5.2A(5)			X	Not Applicable	
i. Statement of Applicable Civil and Criminal Penalties		403.8(f)(1) (iii) (B)(5)	§ 5.2A(6)		X		§ 5.2A(5)	
j. Slug Discharge Requirements (if necessary) <i>[NOTE: Required streamlining change. Where the POTW has determined that slug controls are necessary, the ordinance must provide authority for the POTW to include such requirements in IU permits.]</i>		403.8(f)(1) (iii) (B)(6)	§ 5.2A(7)		XX			<b>Must Add</b>

	NONE = No Provision necessary	REQ = Required Provision	REC = Recommended Provision	PROVISIONS			POTW Ordinance Section	Comments / Notes
				NONE	REQ	REC		
k. Specific waived pollutant <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated § 6.4B of the Model SUO.]</i>		403.8(f)(1) (iii) (B)(4)	§ 5.2A(8)			X	Not Applicable	
l. Permit Application/Reapplication Requirements <i>[Note: Optional permit provision]</i>			§§ 5.3 & 5.7			X	§5.6	
m. Permit Modification <i>[Note: Optional permit provision]</i>			§ 5.4			X	§ 5.3	
n. Permit Revocation/Termination <i>[Note: Optional permit provision]</i>			§§ 5.6 & 10.8			X	§§ 5.5 & 11.6	
o. Proper Operation and Maintenance <i>[Note: Optional permit provision]</i>			§ 3.1			X	§ 3.1	
p. Duty of Halt/Reduce <i>[Note: Optional permit provision]</i>			§ 10.7			X	§ 11.5	
q. Requirement to submit Chain-of-Custody forms with monitoring data <i>[Note: Optional permit provision]</i>						X	Not Applicable	
3. General Control Mechanism to ensure compliance <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated the use of General Permits (§ 4.6 of the Model SUO).]</i> - Permit Content		403.8(f)(1)(iii) (A)	§ 4.2 & 4.6			X	Not Applicable	The City elected to omit language for General Permits.
a. Statement of Duration		403.8(f)(1) (iii) (B)(1)	§§ 5.1 & 5.2A(1)			X	Not Applicable	
b. Statement of Nontransferability		403.8(f)(1) (iii) (B)(2)	§ 5.2A(2)			X	Not Applicable	

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			NONE	PROVISIONS REQ	REC		
	Part 403 Citation	Model SUO Section			POTW Ordinance Section	Comments / Notes	
c. Effluent Limits	403.8(f)(1) (iii) (B)(3)	§ 5.2A(3)			X	Not Applicable	
d. Best Management Practices <i>[Note: This is a required streamlining provision for CIUs with BMP requirements as part of its Categorical Standards. But if BMPs are being applied to other CIUs or noncategorical SIUs without categorical BMP requirements, then this provision would be optional and is only required if the POTW has incorporated the use of BMPs (§ 2.4C).]</i>	403.8(f)(1) (iii) (B)(3)	§ 5.2A(3)		XX*	X	Not Applicable	
e. Self-Monitoring Requirements	403.8(f)(1) (iii) (B)(4)	§ 5.2A(4)			X	Not Applicable	
f. Reporting & Notification Requirements	403.8(f)(1) (iii) (B)(4)	§ 5.2A(4)			X	Not Applicable	
g. Recordkeeping Requirements	403.8(f)(1) (iii) (B)(4)	§ 5.2A(4)			X	Not Applicable	
h. Process for Seeking a Waiver for Pollutants Not Present or Expected to be Present <i>[Note: Required only if POTW has incorporated the use of Pollutants Not Present and § 6.4 of the Model SUO.]</i>	403.8(f)(1) (iii) (B)(4) & 403.12(e) (2)	§ 5.2A(5)			X	Not Applicable	
i. Statement of Applicable Civil and Criminal Penalties	403.8(f)(1) (iii) (B)(5)	§ 5.2A(6)			X	Not Applicable	

XX\* Required provision if City elects to issue General permits for CIUs with BMP requirements or for other SIUs where the City has included the BMP provision.



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			NONE	REQ	REC		
	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
j. Slug Discharge Requirements (if necessary) <i>[NOTE: Required streamlining change. The ordinance should indicate that a user is required to develop a slug discharge control plan if determined by the POTW to be necessary.]</i>	403.8(f)(1)(iii)(B)(6)	§ 5.2A(7)			X	Not Applicable	
k. Permit Application/Reapplication Requirements <i>[Note: Optional permit provision]</i>		§§ 5.3 & 5.7			X	Not Applicable	
l. Permit Modification <i>[Note: Optional permit provision]</i>		§ 5.4			X	Not Applicable	
m. Permit Revocation/Termination <i>[Note: Optional permit provision]</i>		§§ 5.6 & 10.8			X	Not Applicable	
n. Proper Operation and Maintenance <i>[Note: Optional permit provision]</i>		§ 3.1			X	Not Applicable	
o. Duty of Halt/Reduce <i>[Note: Optional permit provision]</i>		§ 10.7			X	Not Applicable	
p. Requirement to submit Chain-of-Custody forms with monitoring data <i>[Note: Optional permit provision]</i>					X	Not Applicable	
<b>D. Required Reports</b>							
1. Develop compliance schedule for installation of technology	403.8(f)(1)(iv)	§§ 5.2b(2) & 10.4			X	§§ 5.2b(2) & 11.4	

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2. Reporting Requirements [403.12] <i>Types of Reports</i>	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
a. Baseline monitoring report	403.12(b)	§ 6.1		X		§ 6.1	Must Change
(i) Identifying Information	403.12(b)(1)	§ 6.1B(1) & § 4.5A(1)a		X		§ 6.1B(1) & § 4.5A	
(ii) Other Environmental Permits Held	403.12(b)(2)	§§ 6.1B(1) & 4.5A(2)		X		§§ 6.1B(2) & 4.5A	
(iii) Description of operations	403.12(b)(3)	§§ 6.1B(1) & 4.5A(3)a		X		§§ 6.1B(3) & 4.5A	
(iv) Flow measurements	403.12(b)(4)	§§ 6.1(b)(2) & 4.5A(6)		X		§§ 6.1(B)(4) & 4.5A	
(v) Measurement of pollutants	403.12(b)(5)	§ 6.1B(2)		X		§ 6.1B(5)	
(vi) Certification	403.12(b)(6)	§ 6.1B(3)		X		§ 6.1B(6)	
(vii) Compliance schedule	403.12(b)(7)	§ 6.1B(4)		X		§ 6.1B(7)	
b. Compliance schedule progress report	403.12(c)	§ 6.2		X		§ 6.2	
c. Report on compliance with categorical Pretreatment Standard deadline	403.12(d)	§ 6.3		X		§ 6.3	
d. Periodic reports on continued compliance							
- From categorical users	403.12(e)	§ 6.4A		XX		§ 6.4A	Must Change
- From significant non-categorical users	403.12(h)	§ 6.4A		XX		§ 6.4A	Must Change
e. Notice of potential problems to be reported immediately (including slug loads)	403.12(f)	§ 6.6		X		§ 6.6	Must Change

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			NONE	REQ	REC		
f. Notification of changes affecting potential for a slug discharge <i>[NOTE: Required streamlining revision]</i>	403.8(f)(2)(vi)	§ § 6.5 & 6.6	XX		§ § 6.5 & 6.6	<b>Must Add</b>	
g. Notice of violation/sampling requirement <i>[NOTE: Required streamlining revision.]</i>	403.12(g)(2)	§ 6.8	XX		§ 6.8	<b>Must Add</b>	
h. Requirement to conduct representative sampling	403.12(g)(3)	§ 6.4E	X		§ 6.4b		
i. Notification of changed discharge	403.12(j)	§ 6.5	X		§ 6.5		
j. Notification of discharge of hazardous waste	403.12(p)	§ 6.9	X		§ 6.9		
<b>Other Reporting Requirements</b>							
k. Data accuracy certification & authorized signatory	403.6(a)(2)(ii) & 403.12(l)	§ § 6.4D & 6.14	X		§ § 6.1B8, 6.3 & 6.4A		
l. Recordkeeping Requirement (3 years or longer)	403.12(o)	§ 6.13	X		§ 6.13		
- Including documentation associated with Best Management Practices <i>[NOTE: Required streamlining provision.]</i>	403.12(o)	§ 6.13	XX		§ 6.13	<b>Must Add</b>	
m. Submission of all monitoring data <i>[NOTE: Required streamlining revision]</i>	403.12(g)(6)	§ 6.4F	X		§ 6.4c		
n. Annual certification by Non-significant categorical Industrial Users <i>[Note: Optional provision, required only if the POTW has incorporated §1.4GG(3) of the Model SUO.]</i>	403.3(v)(2)	§ § 4.7C & 6.14B		X	Not Applicable	The City elected to omit the provision for non-significant CIUs.	

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
o. Certification of pollutant not present <i>[NOTE: Optional provision, required only if the POTW has incorporated § 6.4 B of the Model SUO]</i>	403.12(e)(2)(v)	§ 6.14C			X	Not Applicable	The City elected to omit the option for not sampling for pollutants not present.
<b>E. Test Procedures [40 CFR Part 136 &amp; 403.12(g)]</b>							
1. Analytical procedures (40 CFR Part 136) <i>[NOTE: Required streamlining provisions]</i>	403.12(g)	§ 6.10		X		§ 6.10	
2. Sample collection procedures <i>[NOTE: Required streamlining provisions]</i>	403.12(g)(3) & (4)	§ 6.11 A&C		X X		§ 6.11 A&C	Must Add
<b>F. Inspection and Monitoring Procedures [403.8(f)]</b>							
1. Right to enter all parts of the facility at reasonable times	403.8(f)(1)(v)	§ 7.1		X		§ 7.1	
2. Right to inspect generally for compliance	403.8(f)(1)(v)	§ 7.1		X		§ 7.1	
3. Right to take independent samples	403.8(f)(1)(v), 403.8(f)(2)(v) & 403.8(f)(2)(vii)	§ 7.1		X		§ 7.1	
4. Right to require installation of monitoring Equipment	403.8(f)(1)(iv)	§ 7.1		X		§ 7.1	
5. Right to inspect and copy records	403.12(o)(2)	§ 7.1		X		§ 7.1	
<b>G. Remedies for Non-compliance (Enforcement) [403.8(f)(1)(vi)]</b>							
1. Non-emergency response							
a. Injunctive relief	403.8(f)(1)(vi)	§ 11.1		X		§ 12.1	
b. Civil/Criminal penalties	403.8(f)(1)(vi)	§§ 11.2 & 11.3		X		§§ 12.2 & 12.3	

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
2. Emergency response							
a. Immediately halt actual/threatened discharged	403.8(f)(1)(vi)(B)	§ 10.7		X		§ 11.5	
3. Legal authority to enforce Enforcement Response Plan	403.8(f)(1)(vi)	§ 11.4		X		§ 12.4	
<b>H. Public Participation</b>							
1. Publish list of Industrial Users in Significant Noncompliance <i>[NOTE: Required streamlining revision]</i>	403.8(f)(2)(viii)	§ 9		X X		§ 9	Must Change
2. Access to data [403.8(f)(1)(vii) & 403.14]							
a. Government	403.14(a) & (c)	§ 8		X		§ 8	
b. Public	403.14(b)	§ 8		X		§ 8	
<b>I. Optional Provisions</b>							
1. Net/Gross adjustments <i>[streamlining provision]</i>	403.15	§ 2.2 D			X	§ 2.4 D	
2. Equivalent mass limits for concentration Limits <i>[streamlining provision]</i>	403.6(c)	§ 2.2 E			X	§ 2.4A	
3. Equivalent concentration limits for mass limits <i>[streamlining provision]</i>	403.6(c)	§ 2.2 F			X	§ 2.4A	
4. Upset Notification	403.16	§ 13.1			X	§ 13.1	
5. Waive monitoring for pollutant not present or expected to the present <i>[streamlining provision]</i>	403.12(e)(2)	§ 6.4B			X	Not Applicable	
6. Reduce periodic compliance reporting <i>[streamlining provision]</i>	403.12(e)(3)	§ 6.4C			X	Not Applicable	
7. Other special agreement or waivers (excluding waiver of National Categorical Pretreatment Standards and Requirements)			X			Not Applicable	

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				NONE	REQ	REC		
8. Hauled Waste Reporting/Requirements			§ 3.4			X	§ 10	
9. Grease Interceptor Reporting/Requirements			§ 3.2 C			X	Not Applicable	
10. Authority to issue Notice of Violations (NOVs)			§ 10.1			X	§ 11.1	
11. Authority to issue Administrative Orders (AOs)			§ 10.4			X	§ 11.4	
12. Authority to issue Administrative Penalties			§ 10.6			X	§ 11	May Change
13. Authority to enforce again falsification or tampering						X	§ 12.3	
14. Any other supplemental enforcement actions as noted in the POTW's enforcement response plan						X	§ 12.4	
							*****	
							*****	
							*****	
15. Permit Appeals Procedures						X	§ 11.7	
16. Penalty or Enforcement Appeals Procedures						X	§ 11.7	
17. Bypass Notification		403.17	§ 13.3			X	§ 13.3	

Document(s) submitted for review:  
**Proposed Revisions to Article V: Industrial Pretreatment**

Name of Reviewers  
**Rufus Torrence**

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Color Code: **Red** => Required Changes **Green** => Recommended Changes  
**Yellow** => Attention Only

**CITY OF SILOAM SPRINGS**

**PROPOSED REVISIONS TO ARTICLE V. INDUSTRIAL PRETREATMENT**

**DIVISION 1. GENERALLY**

**Sec. 98-476. Purpose and policy.**

(a) This article sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). The objectives of this article are to:

- (1) Prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (2) Prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (3) Protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment, and the general public;
- (4) Promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (5) Provide for fees for the equitable distribution of the costs of operation, maintenance and improvement of the publicly owned treatment works; and
- (6) 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.

(b) This article shall apply to all users of the publicly owned treatment works. This article authorizes the city to operate an industrial pretreatment program, to issue wastewater discharge permits and to issue hauled wastewater discharge authorizations; provides for monitoring, compliance and enforcement activities; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this division. (Ord. No. 00-11, **§ (1.1)**, 4-4-2000)

**Comment:** Ordinance Cites (highlighted in yellow) appear in the ADEQ checklist enclosed with this Article.

**Sec. 98-477. Administration.**

Except as otherwise provided in this article, the **city administrator** shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the city administrator may be delegated by the city administrator to other personnel. (Ord. No. 00-11, **§ (1.2)**, 4-4-2000)

**Comment:** The Reviewer recommends capitalizing "City Administrator" to ascertain that this is the official defined in section 98-479 below.

**Sec. 98-478. Abbreviations.**

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

TABLE INSET:

<b>ADEQ</b>	<b>-</b>	<b>Arkansas Department of Environmental Quality</b>
BMR		Baseline monitoring report
BOD	--	Biochemical oxygen demand
CFR	--	Code of Federal Regulations
<b>CIL</b>		<b>Categorical Industrial User</b>
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
SDWA	--	Safe Drinking Water Act
SIC	--	Standard industrial classification
SNC		Significant Noncompliance
TSS	--	Total suspended solids
TTO	--	Total toxic organics
USC	--	United States Code

(Ord. No. 00-11, § 1(1.3), 4-4-2000)

**Sec. 98-479. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings designated in this section:

*Act* or *the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the ~~state department of pollution control and ecology~~ Kansas Department of Environmental Quality (ADEQ).

*Authorized representative of the user* means:

(1) If the user is a corporation:

a. The president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

b. ~~The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~

The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) A general partner or proprietor, if the user is a partnership or sole proprietorship.

(3) A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee, if the user is a federal, state or local government facility.

(4) The individuals described in subsections (1)--(3) of this definition 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 city.

**Comment:** Update as required by 40 CFR 403.12(i)(1)(ii).



**Best Management Practices** or **BMPs** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 98-503. **BMPs** also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Comment:** Add this definition per City of Siloam Springs, Arkansas Pretreatment Program Review for Streamlining Rule Revision Required Changes dated 9-2-08 ( "Changes to Ordinance 1084 and Form of Wastewater Discharge Permit." ); this document was attached to Trevor Bowman's letter dated 9-26-2008.

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

**Categorical Industrial User** or **CIU** means an Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

**Comment:** The City must include this definition here or strike the term "categorical user" below in section 98-617 and replace the term with this definition.

**Categorical pretreatment standard** or **categorical standard** means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR 405--471, chapter I, subchapter N.

**City** means the City of Siloam Springs, Arkansas, or the board of directors for the City of Siloam Springs, Arkansas, or its authorized representatives.

**City Administrator** means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

**Composite sample** means a sample which is taken proportional to flow in accordance with procedures set forth in 40 CFR 403, appendix E, and by the city.

**Control Authority** means the City.

**Comment:** The City must add this definition. The term "Control Authority" appears throughout this ordinance.

**Environmental Protection Agency** or **EPA** means the U.S. Environmental Protection Agency, or, where appropriate, the regional water management division director, or other duly authorized official of such agency.

**Existing source** means any source of discharge ~~the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act, that is not a "New Source"~~

**Grab sample** means a sample which is taken from a wastestream and over a period of time not to exceed 15 minutes.

**Hauled wastewater** means wastewater that is contributed to the POTW after being transported from its source to the point where it is discharged to the city sewer or POTW.

**Hauled wastewater discharge authorization** means a written authorization that the city may issue to authorize a person to discharge hauled wastewater. Such authorization shall not alleviate the obligation to meet all applicable federal, state and local standards.

**Indirect discharge** or **discharge** means the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the act.

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

**Interference** means a discharge, which alone or in conjunction with a discharge 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 under such acts, or any more stringent state or local regulations:

- (1) Section 405 of the act;
- (2) The Solid Waste Disposal Act, including title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA);
- (3) Any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act;
- (4) The Clean Air Act;
- (5) The Toxic Substances Control Act; and
- (6) The Marine Protection, Research and Sanctuaries Act.

**Local Limit** means specific discharge limits developed and enforced by the City 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** means 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.

**New source** means:

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

- a. Building, structure, facility or installation is constructed at a site at which no other source is located;
- b. Building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- c. Production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b. or c. of this definition, but otherwise alters, replaces or adds to existing process or production equipment.

or operator has:

- a. Begun or caused to begin, as part of a continuous on-site construction program:
  1. Any placement, assembly or installation of facilities or equipment; or
  2. 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.
- b. Entered into a binding contractual obligation for the purpose of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

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

**Pass through** means a discharge which exits the POTW into waters of the **United States State** in quantities or concentrations which, alone or in conjunction with a discharge 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** means any individual, partnership, copartnership, 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** means a measure of the acidity or alkalinity of a solution, expressed in standard units.

**Pollutant** means 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** means 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

**Comment:** See definition of "Waters of the State" below.

means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

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

*Pretreatment standards* or *standards* means prohibited discharge standards, categorical pretreatment standards and local limits.

*Prohibited discharge standards* or *prohibited discharges* means absolute prohibitions against the discharge of certain substances. **These prohibitions appear in section 98-503 of this ordinance.**

*Publicly owned treatment works* or *POTW* means a treatment works as defined by Section 212 of the act (33 USC 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* means any sewage from septic tanks and holding tanks such as those found in vessels, chemical toilets, campers, and trailers.

*Sewage* means human excrement and gray water (household showers, dishwashing operations, etc.).

*Significant industrial user* means:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
  - a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;
  - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city 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* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 98-503.

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

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

*Suspended solids* means 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, usually expressed as a concentration (e.g., mg/l).

*User* or *industrial user* means a source of indirect discharge.

*Wastewater* means 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* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

*Waters of the State* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Arkansas or any portion thereof.

**Comment:** See Arkansas Code §8-4-102 (8)

(Ord. No. 00-11, § (1.4), 4-4-2000)

**Cross references:** Definitions generally, § 1-2.

## **DIVISION 2. SEWER USE REQUIREMENTS**

### **Sec. 98-501. Identification of industrial users.**

The city may use appropriate mechanisms and procedures to identify and locate all industrial users that may be subject to the requirements of this article, and to maintain an accurate inventory of significant industrial users, and to notify significant industrial users of their status as such, and notify users subject to this article of categorical pretreatment standards, pretreatment standards and pretreatment requirements.

(Ord. No. 00-11, § (2.1), 4-4-2000)

### **Sec. 98-502. Denial of or conditions on contributions.**

The city may deny or condition all contributions of pollutants to the POTW in order that all contributions meet applicable categorical pretreatment standards, pretreatment standards, pretreatment requirements, local limits and prohibitions in this article.

(Ord. No. 00-11, § (2.2), 4-4-2000)

### **Sec. 98-503. Prohibited discharge standards.**

(a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. 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 pretreatment 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 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 or more than ten, or otherwise causing corrosive structural damage to the POTW or equipment, except that the city may authorize the discharge of wastewater having a pH that is greater than ten but lower than 12.5 if such discharge will not damage the POTW or equipment and will not cause pass through or interference;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch;

(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 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 degrees Fahrenheit (40 degrees Celsius);

(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;

(8) Trucked or hauled wastewater, except as authorized pursuant to section 98-736;

(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 POTW's effluent;

(11) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable state or federal regulations;

(12) Sludges, screenings or other residues from the pretreatment of wastewater;

(13) Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;

- (14) Wastewater causing, alone or in conjunction with other sources, the POTW effluent to fail a toxicity test;
  - (15) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW;
  - (16) Fats, oils or greases of animal or vegetable origin in concentrations greater than 100 mg/l; or
  - (17) Any pollutant which may cause the POTW to be in noncompliance with any sludge use or disposal criteria or standards.
- 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.  
(Ord. No. 00-11, § (2.3), 4-4-2000)

**Sec. 98-504. National Categorical Pretreatment Standards.**

The categorical pretreatment standards found in 40 CFR 405--471, chapter I, subchapter N are incorporated by reference into this division as if written word for word in this division.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (3) 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 the EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a ~~net/gross~~ adjustment to a categorical standard in accordance with 40 CFR 403.15.  
(Ord. No. 00-11, § (2.4), 4-4-2000)

**Comment:** Add "r"

**Sec. 98-505. State pretreatment standards. ~~Reserved~~**

~~Pretreatment standards promulgated by the state department of pollution control and ecology are incorporated by reference into this division as if written word for word in this division.~~

(Ord. No. 00-11, § (2.5), 4-4-2000)

**Comment:** The State of Arkansas has adopted 40 CFR 405-471 and has no plans to develop "state pretreatment standards". The City has incorporated these federal standards in Sec 98-504 above. Sec 98-505 is redundant and should be "Reserved".

**Sec. 98-506. Local limits.**

~~(a) In order to protect against pass-through and to protect against interference, no user may discharge any wastewater having pollutant concentrations exceeding local limits, which shall be adopted and amended by separate city ordinance whenever it reasonably appears that such wastewater could cause or contribute to pass-through or interference, cause or contribute to a violation of any requirement of the city's NPDES permit, harm or have an adverse effect on the sewers, any wastewater treatment process or equipment, or the receiving stream, or that such wastewater could endanger life, limb or property, or constitute a nuisance. In evaluating the need for and in developing local limits, the city will consider the quantities and sources of wastewater discharged to the city sewer collection system and POTW, the flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment processes, the treatment capacity of the POTW, the requirements of federal, state and local authorities, and any other pertinent factors, in the city's discretion.~~

~~(b) Local limits shall be applied at the monitoring facilities required by section 98-507 unless otherwise provided. Local limits for metals will be expressed as "total metals," unless otherwise indicated. At the discretion of the water/wastewater director, mass-based local limits may be imposed in lieu of or in addition to any concentration-based local limits.~~

**Comment:** The City should use a procedure to update local limits which does not require adopting a "separate city ordinance". The Reviewer recommends striking this language and replacing it with the language below.

~~To protect against pass through and interference, no Industrial User may discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLs) developed from time to time by the City Administrator as required by the POTW NPDES permit, as authorized by 40 CFR 403.5 (c), and approved by the Approval~~

**Comment:** The Reviewer recommends that the City replace the language above with this language.

Authority. Technically Based Local Limits (TBLLs) based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Section \_\_\_\_\_. At the discretion of the City Administrator, 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 Administrator, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The City Administrator may also develop 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 or revised, the City Administrator 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.

**Comment:** The "case-by-case" basis allows the City to develop performance based local limits and set local limits based on best professional judgment (BPJ).

(Ord. No. 00-11, § (2.6), 4-4-2000)

#### **Sec. 98-507. Monitoring facilities.**

(a) The city shall require to be provided and operated at a significant industrial user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the significant industrial user's premises, but the city may, when such a location would be impractical or cause undue hardship on the significant industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) The monitoring facility shall be a separate, secured building built for such purpose. It shall house the required equipment and be properly powered, ventilated and heated to prevent freezing of samples during cold weather conditions. The facility shall be located so that city representatives will have free access at any time without notifying the industry. In addition to a secured locking device, the door shall be equipped with a hasp to allow placement of a city seal to verify that no entry has occurred during the sampling period.

(c) There shall be ample room in or near such facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. The flow measuring device shall be capable of pacing a 24-hour flow proportioned composite sampler of the type used by the sampling personnel.

(d) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(Ord. No. 00-11, § (2.7), 4-4-2000)

#### **Sec. 98-508. Right of revision. Reserved.**

~~The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW for good cause, including, but not limited to, the reasons listed in section 98-508.~~

**Comment:** "Right of Revision" in this ordinance is applicable only when the City has adopted numerical limits in Sec 98-506. The recommended language above reserves the City right to revise local limits at any time and this section is redundant.

(Ord. No. 00-11, § (2.8), 4-4-2000)

#### **Sec. 98-509. 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 city 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.

(Ord. No. 00-11, § (2.9), 4-4-2000)

Secs. 98-510-98-530. Reserved.

### **DIVISION 3. WASTEWATER PRETREATMENT**

**Sec. 98-531. Pretreatment facilities.**

Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, pretreatment standards and requirements, local limits and the prohibitions set out in section 98-503, within the time limitations specified by the EPA, the state or the city, whichever is more stringent. Any facilities necessary for compliance with this division shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Administrator for review, and shall be acceptable to the city 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 article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the city prior to the user's initiation of the changes.

(Ord. No. 00-11, § (3.1), 4-4-2000)

**Sec. 98-532. Accidental discharge/slug control plans.**

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article as generally described in section 98-503. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's cost. Detailed plans showing such facilities and operating procedures to prevent accidental discharge shall be maintained on the premises of the user and produced to the city upon request. Users shall report all accidental discharges as required by section 98-622.

(b) At least once every two years, the city shall evaluate whether each significant industrial user needs a slug control plan. The city may require any user to develop, submit for approval and implement such a plan. Alternatively, the city may develop such a plan for any user. A slug control plan shall address, at a minimum, the following:

- (1) A description of discharge practices, including nonroutine batch discharges.
- (2) A description of stored chemicals.
- (3) The procedures used 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 or containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

(Ord. No. 00-11, § (3.2), 4-4-2000)

Secs. 98-533–98-555. Reserved.

**DIVISION 4. PERMIT APPLICATION**

**Sec. 98-556. Wastewater analysis.**

When requested by the City Administrator, a user must submit information on the nature and characteristics of its wastewater within the number of days specified in the request. The City Administrator is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. No. 00-11, § (4.1), 4-4-2000)

**Sec. 98-557. Required.**

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city, except that a significant industrial user that has filed a timely application pursuant to section 98-558 may continue to discharge for the time period specified in this division.

(b) The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article, and subjects the wastewater discharge permittee to the sanctions set out in divisions 11 and 12 of this article. 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.  
(Ord. No. 00-11, § (4.2), 4-4-2000)

**Sec. 98-558. Existing connections.**

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of the ordinance from which this division is derived, and who wishes to continue such discharges in the future, shall, within 30 days after the effective date of the ordinance from which this division is derived, apply to the city for a wastewater discharge permit in accordance with section 98-560, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of the ordinance from which this division is derived, except in accordance with a wastewater discharge permit issued by the city.

(Ord. No. 00-11, § (4.3), 4-4-2000)

**Sec. 98-559. 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 98-560, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

(Ord. No. 00-11, § (4.4), 4-4-2000)

**Sec. 98-560. Application.**

All users required to obtain a wastewater discharge permit must submit a permit application together with the fees specified in the schedule of fees authorized by section 98-841. The City Administrator may require all users to submit as part of an application the following information:

- (1) All information required by section 98-617(b).
- (2) A description of the activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (3) Number and type of employees, hours of operation and proposed or actual hours of operation.
- (4) Each product produced by type, amount, process and rate of production.
- (5) Type and amount of raw materials processed (average and maximum per day).
- (6) 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.
- (7) All plans and operating procedures required by section 98-507.
- (8) Time and duration of discharges.
- (9) The facility's standard industrial classification code.
- (10) A statement by the permit applicant that it will allow the city timely access to its facility to enforce the provisions of this article.
- (11) A statement that the applicant will reimburse the city for all costs incurred by the city in enforcing the provisions of this article against such applicant.
- (12) Any other information as may be deemed necessary by the city to evaluate the wastewater discharge permit application.

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

(Ord. No. 00-11, § (4.5), 4-4-2000)

**Sec. 98-561. 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." (Ord. No. 00-11, § (4.6), 4-4-2000)

**Sec. 98-562. Issuance decisions.**

The city will evaluate the data furnished by the user and may require additional information to determine whether the proposed user will comply with this article. Within 90 days of receipt of a complete wastewater discharge permit application, the City Administrator will determine whether or not to issue a wastewater discharge permit. The City Administrator may deny any application for a wastewater discharge permit if he deems that the proposed user has not demonstrated adequate proof that it can comply with this article. Such decision to deny an application for a wastewater discharge permit shall be appealable through the procedures provided in section 98-767.

(Ord. No. 00-11, § (4.7), 4-4-2000)  
Secs. 98-563--98-585. Reserved.

**DIVISION 5. PERMIT ISSUANCE**

**Sec. 98-586. Permit duration.**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. At the discretion of the City Administrator, a wastewater discharge permit may be issued for a period less than five years. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. No. 00-11, § (5.1), 4-4-2000)

**Sec. 98-587. Permit contents.**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Administrator 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.

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permit duration, which shall not exceed five years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with section 98-589, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits, including Best Management Practices, based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification and recordkeeping 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
- 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. Requirement to control Slug Discharge, if determined by the City Administrator to be necessary.

(2) Wastewater discharge permits may contain, but need 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 treatment works;

**Comment:** Required Streamlining update

**Comment:** Required Streamlining update

- c. 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;
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
  - 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 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
  - h. Other conditions as deemed appropriate by the City Administrator to ensure compliance with this article, and state and federal laws, rules and regulations.
- (Ord. No. 00-11, § (5.2), 4-4-2000)

**Sec. 98-588. Modification.**

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

- (1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, city personnel or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To reflect changes in the city's form of wastewater discharge permit or to correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord. No. 00-11, § (5.3), 4-4-2000)

**Sec. 98-589. Transferability.**

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days' advance notice to the City Administrator and the City administrator approves the wastewater discharge permit transfer. The notice to the City Administrator must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) 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.

(Ord. No. 00-11, § (5.4), 4-4-2000)

**Sec. 98-590. Revocation.**

(a) The City Administrator may propose revocation of a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the City Administrator of significant changes to the wastewater prior to the changed discharge;

- (2) Failure to provide prior notification to the city administrator of changed conditions pursuant to section 98-621;
  - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - (4) Falsifying self-monitoring reports;
  - (5) Tampering with monitoring equipment;
  - (6) Refusing to allow the city timely access to the facility premises and records;
  - (7) Failure to meet effluent limitations;
  - (8) Failure to pay fines;
  - (9) Failure to pay sewer charges;
  - (10) Failure to meet compliance schedules;
  - (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
  - (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
  - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.
- (b) The procedures for termination of discharge, as provided in section 98-766, shall be followed in revocation of a permit.
- (c) 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.
- (Ord. No. 00-11, § (5.5), 4-4-2000)

**Sec. 98-591. 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 98-560, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. No. 00-11, § (5.6), 4-4-2000)

**Sec. 98-592. Regulation of waste received from outside the city limits and from other jurisdictions.**

(a) *Regulation of individual users outside city limits.* If a person outside the city limits wishes to contribute wastewater to the city's POTW, such person may submit a request to the city administrator for a determination of availability of wastewater treatment service. The city, in its sole discretion, may offer wastewater treatment service to such person provided that such person agrees by signature of the authorized representative of the user to:

- (1) Be bound by all provisions of this article and all documents and provisions constituting part of the city's industrial pretreatment program;
- (2) Submit to the jurisdiction of the city with respect to all wastewater treatment matters; and
- (3) Submit to the jurisdiction of the city for any and all enforcement of this article and any permit issued under this article.

(b) *Regulation of wastewater received from other jurisdictions.*

(1) If another municipality or user located within another municipality contributes wastewater to the POTW, the city shall enter into an intermunicipal agreement with the contributing municipality.

(2) Prior to entering into an agreement required by subsection (a) of this section, the city shall request the following information from the contributing municipality:

- a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- c. Such other information as the city may deem necessary.

(3) An intermunicipal agreement, as required by subsection (a) of this section, shall contain the following conditions:

- a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article, and local limits which are at least as stringent as those set out

in section 98-506. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this article or local limits;

b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

c. 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 City Administrator; and which of these activities will be conducted jointly by the contributing municipality and the City Administrator;

d. A requirement for the contributing municipality to provide the City Administrator with access to all information that the contributing municipality obtains as part of its pretreatment activities;

e. Limits on the nature, quality and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

f. Requirements for monitoring the contributing municipality's discharge;

g. A provision ensuring the City Administrator 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 city; and

h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. No. 00-11, § (5.7), 4-4-2000)

Secs. 98-593--98-615. Reserved.

## DIVISION 6. REPORTING REQUIREMENTS

### Sec. 98-616. City to receive and analyze reports and notices.

The city is authorized to receive and analyze all reports and other notices submitted by users under this division.

(Ord. No. 00-11, § (6), 4-4-2000)

### Sec. 98-617. Baseline monitoring reports.

(a) Within either 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**, **Categorical Industrial Users** currently discharging to or scheduled to discharge to the POTW shall submit to the City Administrator a report which contains the information listed in subsection (b) of this section. At least 90 days prior to commencement of their discharge, new sources and sources that become **categorical users**, **Categorical Industrial Users** subsequent to the promulgation of an applicable categorical standard, shall submit to the City Administrator a report which contains the information listed in subsection (b) of this section. 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 in subsection (a) of this section shall submit the following information:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner of such facility.

(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 operations 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 city, of regulated pollutants in the discharge from each

**Comment:** The term "categorical user" is nebulous and the City must use the "defined" term (Categorical Industrial User).

regulated process. Instantaneous, daily maximum and longterm 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 98-626.

c. Sampling must be performed in accordance with procedures set out in section 98-627.

(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 subsection must meet the requirements set out in section 98-618.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 98-561.

(Ord. No. 00-11, § (6.1), 4-4-2000)

### Sec. 98-618. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by subsection 98-617(b)(7):

(1) 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;

(2) No increment referred to in subsection (1) of this section shall exceed nine months;

(3) The user shall submit a progress report, signed and certified in accordance with section 98-561, to the City Administrator no later than 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

(4) In no event shall more than nine months elapse between such progress reports to the City Administrator.

(Ord. No. 00-11, § (6.2), 4-4-2000)

### Sec. 98-619. Reports on compliance with categorical pretreatment standard deadline.

Within 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 City Administrator a report containing the information set forth in subsection 98-617(b)(4)--(6). 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 longterm 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 98-561.

(Ord. No. 00-11, § (6.3), 4-4-2000)

### Sec. 98-620. Periodic compliance reports.

(a) All permitted industrial users shall, at a frequency determined by the city, but in no case less than once each calendar quarter, analyze their discharge to the POTW and submit a report to the City Administrator indicating the nature and concentration of pollutants in the discharge which are limited by any pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard

**Comment:** The Reviewer recommends twice per year. In the opinion of the Reviewer, BMRs and periodic reports are meant primarily for large Control Authorities with thousands of SIUs. Cities and states with large industrial bases are likely to miss some CIUs and 40CFR403.12 reporting places the burden on the "missed" CIUs to report and be "discovered". According to 40CFR403.12(g)(1), the CIUs do not have to submit these reports if the Control Authority (POTW) is familiar with their processes.

requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the City Administrator or the applicable Pretreatment Standard to determine compliance with the Pretreatment Standard. All periodic

compliance reports must be signed and certified in accordance with section 98-561.

(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 city using the procedures prescribed in section 98-627, the results of this monitoring shall be included in the report.

(Ord. No. 00-11, § (6.4), 4-4-2000)

**Comment:** City of Siloam Springs 9-2-08 Revision. The City attempted to add this language twice in the referenced document. The first attempt referred section 6.3 A in paragraph 6.a in the document under "Changes to Ordinance 1084 and Form of Wastewater Discharge Permit." There is no section 6.3A in the ordinance and the reviewer ignored this attempt. The second attempt (shown in paragraph 6.b) referred to section 6.4A.

#### Sec. 98-621. Reports of changed conditions.

Each user must notify the City Administrator of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 60 days before the change.

(1) The City Administrator 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 as set forth in section 98-560.

(2) The City Administrator may issue a wastewater discharge permit under division 5 of this article or modify an existing wastewater discharge permit as set forth in section 98-588 in response to changed conditions or anticipated changed conditions.

(3) For purposes of this section, significant changes include, but are not limited to, flow increases of 25 percent or greater, increases in the mass or concentration of any pollutant, and the discharge of any previously unreported pollutants.

(Ord. No. 00-11, § (6.5), 4-4-2000)

#### Sec. 98-622. Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, additional 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 City Administrator 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) The city may require that the user submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to persons or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this article.

(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 subsection (a) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(d) SIUs are required to notify the City Administrator immediately of any changes at its facility affecting potential for a slug discharge. If the City Administrator decides that a slug control plan is needed, the plan shall contain the elements in section 98-532.

(Ord. No. 00-11, § (6.6), 4-4-2000)

**Comment:** City of Siloam Springs 9-2-08 Revision ("Changes to Ordinance 1084 and Form of Wastewater Discharge Permit.")

#### Sec. 98-623. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the City Administrator may require.

(Ord. No. 00-11, § (6.7), 4-4-2000)

#### Sec. 98-624. Notice of violation; repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the City Administrator within 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 city within 30 days after becoming aware of the violation. Where the City has performed the sampling and analysis in lieu of the Industrial User, the City must perform the repeat sampling and analysis unless the City notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

**Comment:** City of Siloam Springs 9-2-08 Revision ("Changes to Ordinance 1084 and Form of Wastewater Discharge Permit.")

i. The City performs sampling at the Industrial User at a frequency of at least once per month; or

ii. The City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling.

(Ord. No. 00-11, § (6.8), 4-4-2000)

#### **Sec. 98-625. Notification of the discharge of hazardous waste.**

(a) Any user who commences the discharge of hazardous waste shall notify the City Administrator, 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 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than 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 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection shall be submitted only once for each hazardous waste discharged; however, notifications of changed conditions must be submitted as set forth in section 98-621. 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 98-617, 98-619 and 98-620.

(b) Users are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 40 CFR 261.33(e). Discharge of more than 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 40 CFR 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 City Administrator, the EPA regional waste management division director and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, an authorized representative of 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 section does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued under this article or any applicable federal or state law.

(Ord. No. 00-11, § (6.9), 4-4-2000)

#### **Sec. 98-626. 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 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 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 the EPA ADEQ (Ord. No. 00-11, § (6.10), 4-4-2000)

**Comment:** Allow ADEQ to assist the City.

#### Sec. 98-627. Sample collection.

(a) Except as indicated in subsection (b) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. If flow proportional sampling is infeasible, the city may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

**Comment:** Strike per City of Siloam Springs 9-2-08 Revision ("Changes to Ordinance 1084 and Form of Wastewater Discharge Permit.")

For reports required pursuant to sections 98-619 and 98-620 the City shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the City Administrator, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. 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 City Administrator, as appropriate.

**Comment:** Add per City of Siloam Springs 9-2-08 Revision ("Changes to Ordinance 1084 and Form of Wastewater Discharge Permit.")

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

(c) For reports required pursuant to sections 98-617 and 98-619 a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. (Ord. No. 00-11, § (6.11), 4-4-2000)

**Comment:** Add per City of Siloam Springs 9-2-08 Revision ("Changes to Ordinance 1084 and Form of Wastewater Discharge Permit.")

#### Sec. 98-628. 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 reports shall govern. (Ord. No. 00-11, § (6.12), 4-4-2000)

#### Sec. 98-629. Recordkeeping.

Users subject to the reporting requirements of this division shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this article, 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 98-506. Records shall include the date, exact place, method and time of sampling and the name of the person 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

**Comment:** Required Streamlining Update.



shall remain available for a period of at least three 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 city.  
(Ord. No. 00-11, § (6.13), 4-4-2000)  
Secs. 98-630--98-650. Reserved.

## DIVISION 7. COMPLIANCE MONITORING

### Sec. 98-651. Right of entry; inspection and sampling.

The City Administrator or an authorized representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued under this article. Users shall allow the City Administrator 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.

(1) 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 City Administrator will be permitted to enter without delay for the purpose of performing specific responsibilities.

(2) The City Administrator 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.

(3) The City Administrator may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at the manufacturer's recommended frequency to ensure their accuracy.

(4) 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 City Administrator and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the City Administrator access to the user's premises shall be a violation of this division.

(6) The city shall inspect all permitted industrial users and sample the effluent from the user at a minimum frequency of once every 12 months.

(Ord. No. 00-11, § (7.1), 4-4-2000)

### Sec. 98-652. Search warrants.

If the City Administrator 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 article, 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 division or any permit or order issued under this article, or to protect the overall public health, safety and welfare of the community, then the City Administrator may seek issuance of a search warrant from a court of competent jurisdiction.

(Ord. No. 00-11, § (7.2), 4-4-2000)

Secs. 98-653--98-675. Reserved.

## DIVISION 8. CONFIDENTIAL INFORMATION

### Sec. 98-676. Availability.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the city'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 city, 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

**Comment:** The City Administrator is responsible for the day to day operation of the pretreatment program. Delegating this authority to the City Administrator in this ordinance ensures that the City Administrator has the authority to oversee the day to day operation of the pretreatment program.

**Comment:** The City should adopt laws aimed at controlling its Users and may strike this paragraph. ADEQ has adopted this requirement [40CFR403.8(f)(2)(v)] and will enforce the once per year frequency against the City. The City may be reluctant to fine itself and send the proceeds to ADEQ.

**Comment:** "City" is OK here.

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.

(Ord. No. 00-11, § (8), 4-4-2000)

Secs. 98-677--98-700. Reserved.

## DIVISION 9. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

### Sec. 98-701. Generally; defined.

The city 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 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

(1) Chronic violations of wastewater discharge limits, which is defined as those in which 66 percent or more of ~~wastewater~~ ~~all the~~ ~~measurements taken for the same pollutant parameter taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount~~ (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Division 2 of this article.

Comment: Required Streamlining Update

(2) Technical review criteria (TRC) violations, which is defined as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the ~~daily maximum limit or the average limit~~ ~~numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Division 2~~ multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants, except pH);

Comment: Required Streamlining Update

(3) Any other ~~discharge violation of a Pretreatment Standard or Requirement as defined by Division 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard)~~ that the ~~city~~ ~~Administrator~~ ~~believes~~ ~~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;

Comment: Required Streamlining Update

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet within 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;

(6) Failure to provide within ~~30~~ ~~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;

Comment: EPA increased the Federal limit to 45 days. See 40 CFR 403.8(1)(2)(viii)(F).

(7) Failure to accurately report noncompliance; or

(8) Any other violation which the city determines will adversely affect the operation or implementation of the local pretreatment program, ~~including a violation of Best Management Practices~~.

Comment: City of Siloam Springs 9-2-08 Revision ("Changes to Ordinance 1084 and Form of Wastewater Discharge Permit.")

(Ord. No. 00-11, § (9), 4-4-2000)

**Cross references:** Definitions generally, § 1-2.

Secs. 98-702--98-735. Reserved.

## DIVISION 10. DISCHARGE OF HAULED WASTEWATER

### Sec. 98-736. Septic tank wastewater.

Septic tank wastewater may be introduced into the POTW only at locations designated by the ~~city~~ ~~Administrator~~, and at such times as are established by the ~~city~~ ~~Administrator~~. Such

waste shall not violate the requirements of division 2 of this article, or any other requirements established by the city, and must meet all applicable federal, state and local standards. Haulers of septic tank wastes must obtain a written authorization from the City Administrator prior to introducing wastes to the POTW. The City Administrator may require that the applicant for an authorization provide all information reasonably necessary as determined by the City Administrator.

(Ord. No. 00-11, § (10.1), 4-4-2000)

#### **Sec. 98-737. Industrial wastewater.**

(a) The City Administrator shall require haulers of industrial wastewater to obtain a written authorization from the City Administrator prior to introducing wastes to the POTW. The discharge of hauled industrial wastewater is subject to all requirements of this article and must meet all applicable federal, state and local standards, including, but not limited to, categorical pretreatment standards and technically-based local limits.

(b) Industrial wastewater haulers may discharge loads only at locations designated by the City Administrator, and at such times as are established by the City Administrator. The City Administrator may collect samples of each hauled load to ensure compliance with all applicable federal, state and local standards, including, but not limited to, categorical pretreatment standards and technically-based local limits. The City Administrator may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(c) Industrial wastewater haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, authorization number, truck identification, names and addresses of sources of wastewater and volume and characteristics of wastewater. The waste-tracking form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.

(Ord. No. 00-11, § (10.2), 4-4-2000)

Secs. 98-738–98-760. Reserved.

### **DIVISION 11. ADMINISTRATIVE ENFORCEMENT REMEDIES**

#### **Sec. 98-761. Notification of violation.**

When the City Administrator or his or her authorized representative finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement, the City Administrator or its agent may serve upon that user a written notice of violation. Within 30 days of the date of the 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 City Administrator. 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 City Administrator or his or her authorized representative to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(Ord. No. 00-11, § (11.1), 4-4-2000)

#### **Sec. 98-762. Show cause order and hearing.**

The City Administrator or his or her authorized representative may order a user that has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, to appear before the City Administrator or other representative of the city and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user. Neither a show cause order nor a show cause hearing shall be a bar against, or prerequisite for, taking any other action against the user. At any hearing held pursuant to this section, testimony taken must be under oath and recorded by

a licensed certified court reporter. A hearing transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges ~~thereof~~ ~~thereon~~ (Ord. No. 00-11, § (11.2), 4-4-2000)

### Sec. 98-763. Administrative fines.

(a) When the ~~city Administrator or its authorized representative~~ finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the ~~city Administrator or its authorized representative~~ may fine such user in an amount not to exceed \$1,000.00 per violation per day. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. Such fines may be assessed on a per violation, per day, basis. In the case of monthly or other longterm average discharge limits, fines may be assessed for each day during the period of violation. Such fines may be issued prior to or subsequent to a hearing.

(b) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of three percent per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.

(c) Users may appeal administrative fines as provided in section 98-767.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. No. 00-11, § (11.3), 4-4-2000)

### Sec. 98-764. Administrative orders.

When the ~~city Administrator or its authorized representative~~ finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the ~~city Administrator~~ may issue an administrative order as follows:

(1) *Compliance order.* A compliance order may be issued to direct the user to come into compliance within a specified time. Such order may establish compliance schedules setting forth increments of progress in the form of dates for activities necessary to achieve and maintain compliance. 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.

(2) *Cease and desist order.* A cease and desist order may be issued to require the user to cease and desist all violations immediately. A cease and desist order may also direct the user to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continued or threatened violation, including halting operations and/or terminating the discharge of wastewater.

(3) *Consent order.* A consent order may also be entered by the city after a user has agreed to a compliance schedule and any stipulated fines imposed by the city. A consent order will include specific action to be taken by the user to remedy the noncompliance within the time specified. Such consent order shall not be effective unless and until signed by the mayor.

Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. No. 00-11, § (11.4), 4-4-2000)

### Sec. 98-765. Emergency suspensions.

The ~~city Administrator or its authorized 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 city ~~Administrator or its authorized representative~~ may also immediately suspend a user's

**Comment:** The City should give this authority to the "City Administrator". If the City retains this authority, the "Administrative Fines" process becomes very similar to the "Civil Penalty" process. The cost (court, attorney fees, etc.) to impose Civil/Criminal penalties may be prohibitive and the City may be reluctant to impose them. The City Administrator can issue a fine for \$250 to an SIU that costs the SIU only \$250.

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.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the city 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 city may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in section 98-766 are initiated against the user.

(2) 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 city prior to the date of any show cause or termination hearing under section 98-762 or section 98-766.

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

(Ord. No. 00-11, § (11.5), 4-4-2000)

#### **Sec. 98-766. Termination of discharge.**

In addition to the provisions of section 98-590 for wastewater discharge permit revocation, any user who violates the following conditions is subject to termination of discharge:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring and sampling; or
- (5) Violation of the pretreatment standards set forth in division 2 of this article.

Such user shall be notified of the proposed termination of its discharge and be offered an opportunity to appear before the board of directors to show cause under section 98-762 why the proposed action should not be taken. Exercise of this option by the City Administrator shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 00-11, § (11.6), 4-4-2000)

#### **Sec. 98-767. Appeal to board of directors.**

Any enforcement action taken by the city by its authorized representative, but not having been decided upon by the board of directors, or any decision by the City Administrator to deny permit issuance, shall be appealable to the board of directors by filing a written notice of appeal stating the basis for the appeal within 30 days of being notified of the enforcement action or decision to deny permit issuance. The board of directors may dismiss groundless or frivolous appeals summarily. The board of directors may convene a hearing on the appeal. At any hearing held pursuant to this section, testimony taken must be under oath and recorded by a licensed certified court reporter. A hearing transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor. The board of directors may stay implementation of an enforcement action pending the appeal. Users desiring to appeal administrative fines must also make full payment of the fine amount within 30 days of being notified of the fine. If the user's appeal of a fine is successful, the amount paid, together with any interest accruing thereto, shall be returned to the user.

(Ord. No. 00-11, § (11.7), 4-4-2000)

Secs. 98-768--98-790. Reserved.

### **DIVISION 12. JUDICIAL ENFORCEMENT REMEDIES**

#### **Sec. 98-791. Injunctive relief.**

When the City Administrator finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued under this article, or any other pretreatment standard or requirement, the City Administrator may petition a court of competent jurisdiction 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 article on activities of the user. The city 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.

(Ord. No. 00-11, § (12.1), 4-4-2000)

**Sec. 98-792. Civil penalties.**

(a) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued under this article, 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 longterm average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The city 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.

(Ord. No. 00-11, § (12.2), 4-4-2000)

**Sec. 98-793. Criminal prosecution.**

(a) A user who negligently violates any provision of this article, a wastewater discharge permit, or order issued under this article, 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, or imprisonment for not more than three months, or both.

(b) A user who 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 not more than \$1,000.00 per violation, per day, or be subject to imprisonment for not more than six months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who intentionally and 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 article, wastewater discharge permit or order issued under this article, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than one year, or both.

(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, or imprisonment for not more than one year, or both.

(Ord. No. 00-11, § (12.3), 4-4-2000)

**Sec. 98-794. Remedies nonexclusive.**

The remedies provided for in this division are not exclusive. The city 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 city may take other action against any user when the circumstances warrant. The city is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 00-11, § (12.4), 4-4-2000)

Secs. 98-795--98-815. Reserved.

**DIVISION 13. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

### **Sec. 98-816. Upset.**

(a) For the purposes 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 subsection (c) of this section are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(1) An upset occurred and the user can identify the cause of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the City Administrator within 24 hours of becoming aware of the upset if this information is provided orally, and a written submission must be provided within five 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

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.

(Ord. No. 00-11, § (13.1), 4-4-2000)

### **Sec. 98-817. Prohibited discharge standards.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions set forth in section 98-503(a) or the specific prohibitions set forth in subsection 98-503(b)(3)--(7) 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:

(1) 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

(2) 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.

(Ord. No. 00-11, § (13.2), 4-4-2000)

### **Sec. 98-818. Bypass.**

(a) For the purposes of this section:

(1) *Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (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 City Administrator, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the City Administrator of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five 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 City Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) (1) Bypass is prohibited, and the city may take an enforcement action against a user for a bypass, unless:

a. The 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 operation of equipment downtime. This condition is not satisfied if adequate backup 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 subsection (c) of this section.

(2) The City Administrator may approve an anticipated bypass, after considering its adverse effects, if the City Administrator determines that it will meet the three conditions listed in subsection (d)(1)a.-c. of this section.

(Ord. No. 00-11, § (13.3), 4-4-2000)

Secs. 98-819--98-840. Reserved.

## **DIVISION 14. WASTEWATER TREATMENT RATES**

### **Sec. 98-841. Adoption.**

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

(1) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(2) Fees for monitoring, inspection and surveillance procedures, including the cost of collection and analyzing a user's discharge and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the city may deem necessary to carry out the requirements contained in this section. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the city.

(Ord. No. 00-11, § (14.1), 4-4-2000)