

**Peltier, Hannah**

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**From:** Denise Bosnick <dbosnick@ci.west-memphis.ar.us>  
**Sent:** Tuesday, January 15, 2013 10:13 AM  
**To:** Torrence, Rufus  
**Subject:** Narrative  
**Attachments:** Industrial Wastewater Pretreatment.docx

Rufus,

I add additional language to Section 5 of the program. It includes the information that you provided in your letter. Let me know if that is sufficient.

Denise

Industrial Wastewater Pretreatment  
Program For The  
West Memphis Utility Commission

West Memphis, Arkansas

November 2012

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## 1.0 Introduction

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

General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR, Part 403) were promulgated by the U.S. Environmental Protection Agency (EPA) on June 26, 1978 and have been amended. The basic objectives of the Pretreatment Program were defined as follows:

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

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

The Environmental Protection Agency (EPA) has determined that the City of West Memphis must develop a Pretreatment Program under the direction of the governing board of the West Memphis Utility Commission. This document outlines

various Pretreatment Program requirements and serves as an instrument to develop, implement and carry on an Industrial Pretreatment Program for the West Memphis Utility Commission.

## **2.0 POTW Pretreatment Program Requirements**

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

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

The following paragraphs provide a summary of the regulatory requirements of each of the five (5) components.

### **2.1 Technical Information Support**

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

### **2.2 Legal Authority**

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

1. Deny or condition new or increased contributions.
2. Require compliance with applicable Pretreatment Standards.
3. Control industrial discharges to the POTW to insure compliance.
4. Require development of compliance schedules for installation of technology.
5. Require submission of notices and self-monitoring reports.

6. Carry out inspections, surveillance, and monitoring reports.
7. Obtain remedies for noncompliance.
8. Authority to immediately and effectively halt or prevent any discharge.

A required part of any Pretreatment Program is a letter from the Utility's attorney. The attorney's letter should specifically refer to the basic statutory authority for the Pretreatment Program, and summarize a review of the City's existing ordinances and whether the POTW (West Memphis Utility Commission) has the necessary authority to implement a Pretreatment Program.

### **2.3 Program Implementation**

The success of a local Pretreatment Program largely depends upon the existence of procedures which are well thought out and easy to follow. A POTW Pretreatment Program should be flexible enough to allow adjustments to day-to-day operating situations. At a minimum, a Pretreatment Program should provide procedures that will enable the POTW to:

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

### **2.4 Staffing and Organization**

The POTW must have sufficient qualified personnel to carry out the authorities and procedures required by a Pretreatment Program. The Program includes a description of the POTW organization that will administer the Program, including organization charts. See Appendix A and B.

## **2.5 Funding**

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

## **3.0 Existing Wastewater Treatment Facility**

The West Memphis Wastewater Treatment facility has a design flow of 6.3 million gallons per day. The average daily flow is 5.0 million gallons per day of which .5 million gallons is total flow for industrial users. The plant consist of an equalization basin, bar screening, grit removal, flow measurement, oxidation ditches, clarifiers, UV disinfection and sludge belt filter press. The sludge is dewatered then hauled off site to an approved landfill.

Treated effluent is discharge under the authority of NPDES AR0022039 to the Mississippi River in Segment 6C of the Mississippi River Basin at Latitude 35o 07' 13", Longitude 90o 10' 25". The 7Q10 of the receiving stream is 64,700 MGD providing a dilution factor of 10,273:1.

A schematic plan is included Appendix C.

## **4.0 Industrial Users Survey**

Since the program was implemented in 1985, periodic update of the vital information for each user has been received. The format of this update is given in Appendix. The current list of users regulated under West Memphis Industrial Pretreatment Program is given in Appendix B. The list is included in the annual POTW Pretreatment report, as required under 40 CFR 403.12(i).

Since the population of industries is a dynamic, rather than static, factor, a system of periodically updating the industrial user's survey will be necessary. Updating is accomplished by review of utility records showing new accounts and commercial and industrial accounts as well. Also other departments within the City and through the daily newspaper. New industry will be subject to permit application procedures as outline in the Sewer Use Ordinance and existing industries must update its information every two years. The form used is included Appendix D.



## **5.0 Technical Information**

When the Industrial Pretreatment Program was initially conceived, the Utility had to determine the extent to which prohibited pollutants were being discharged to the wastewater treatment plant. Twenty-four hour composite samples were collection in March 1989 at the head of the existing treatment facility. The sample results indicated that the quality of wastewater entering the treatment facility at the time did not contain any grossly excessive concentrations of pollutants. The Utility conducts an annual scan for the priority pollutants in the wastewater treatment plant influent, effluent and sludge. The source(s) of the pollutants will be determined if present in the scans. At the time of the latest scan metals and cyanide entering the POTW were at domestic concentrations. Therefore, local limits for toxic pollutants are unnecessary at his time. Also, the City currently has no significant sources for conventional pollutants and has ample capacity for any further users. Therefore, local limits are unnecessary at this time for conventional pollutants. Nonetheless, in accordance with 40 CFR 403.5(c)(1), the City will continue to monitor SIU's and will develop local limits in the future as necessary. All sludge is analyzed and disposed of in accordance with 40 CFR 503. A copy of the latest priority pollutant scan conducted at West Memphis Wastewater Treatment Plant is included in Appendix E.

## **6.0 Slug Control Evaluation**

All users are required to be evaluated for the need to implement a Slug Control Plan. All existing users were evaluated during the permit process. Any new user will be evaluated when apply for a permit as well. The users are required to notify the Director of Environmental Quality immediately of changes that occur at the facility affecting the potential for a slug discharge, thereby allowing the Director to reevaluate the need for a Slug Control Plan, or other actions to prevent such discharges. Legal authority for these requirements is found in the City of West Memphis Sewer Use Ordinance 2187.

## **7.0 Best Management Practices**

Users that are subject to BMP-based categorical Pretreatment Standards will be required in the Industrial Waste Discharge Permits to maintain and submit to the Director adequate documentation of their compliance with the BMP-based standard. Some users will be required to maintain compliance with a BMP in lieu of numerical limits, or may be required to maintain compliance in addition to having numerical limits. In either case, the user's individual permit will dictate what is

required. Legal authority for these requirements is found in the City of West Memphis Sewer Use Ordinance 2187.

## **8.0 Legal Authority for Implementation of Pretreatment Program**

An evaluation of the legal authority required by the City of West Memphis and the West Memphis Utility Commission to enact, implement, operate and enforce a pretreatment program was conducted by the West Memphis Utility Commission attorney. A letter from the City Attorney addressing these various aspects is contained in Appendix F. City ordinances relating to the City's wastewater treatment and collection system is included in Appendix G.

The opinions drawn from the legal authority review by the West Memphis Utility Commission attorney are summarized as follows:

The West Memphis Utility Commission does have all of the necessary legal authority and powers as set forth in 40 CFR 403.8(f) of the General Pretreatment Regulations for Existing and New Source of Pollution. The Arkansas Legislature has vested the authority in the cities of the State to construct, operate and maintain their sewer systems, delegating the requisite authority to establish a Pretreatment Program as required by the above referenced section of the General Pretreatment Regulations.

The manners in which the West Memphis Utility Commission will implement the Pretreatment Program requirements and enforce them are set forth in the ordinances and their amendments.

## **9.0 Specific Limitations for Discharge of Prohibited Pollutants**

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

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with closed-cup flashpoint of less than 140 degrees F (60 degrees C) using test methods specified in 40 CFR 261.21;

2. Wastewater having a pH less than 5.5 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;
3. Solid or viscous substances in amounts which cause obstruction of the flow in the POTW resulting in Interference.
4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
5. Wastewater which will inhibit biological activity in the POTW resulting in Interference, but in no case wastewater which will cause the temperature at introduction into the POTW to exceed 104 degrees F (40 degrees C);
6. Petroleum oil, non-biodegraded cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
7. Pollutants which results 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 pollutants, except at discharge points designated by the Director in accordance with Section 3.4 of Sewer Use Ordinance 2187.

## **10.0 Organization and Staffing**

The Director of Environmental Quality will have the day to day responsibility of implementation and carrying out the Pretreatment Program.

The Utility operates its pretreatment program by sharing various program tasks among its existing staff (refer to the organizational chart). As stated above, the Director of Environmental Quality is responsible for the day to day operation of the program and is the authorized representative of the West Memphis Utility Commission and the General Manager that administers, implements and enforces the provisions of the Pretreatment Program and the City's Sewer Use Ordinance.

### **West Memphis Utility Commission**

The Governing Board that set overall goals and objectives and provides support both financially and legislatively. The Governing Board may act through the General Manager, his deputy, agent or representatives possessing written evidence of authority to so act.

### **General Manager**

The General Manager of the West Memphis Utility Commission is the person designated by the City to supervise the operation of the Publicly Owned Treatment

Works and who is charged with certain duties and responsibilities by Sewer Use Ordinance 2187 or his duly authorized representative referred to as the Director of Environmental Quality.

#### **Director Environmental Quality**

Authorized representative of the West Memphis Utility Commission and the General Manager of the West Memphis Utility Commission that administers implements and enforces the provisions of the Pretreatment Program and of this Ordinance.

#### **Laboratory Supervisor/Technician**

Laboratory supervisor/technician performs laboratory functions and record keeping.

#### **Field Technician**

Field Technician performs all outside duties and some laboratory functions.

#### **City Attorney**

Provides assistance in the development and adoption of required ordinances and revisions of existing ordinances necessary to implement and maintain the pretreatment program. Provides legal consultation to the Director of Environmental Quality, the General Manager and the West Memphis Utility Commission in administration of the pretreatment program. Represents the Commission at the show cause hearings. Administer enforcement or legal action as directed by the Director of Environmental Quality.

An Organizational Chart is included in the Appendices.

### **11.0 Monitoring and Reporting Requirements**

#### **403.12 REPORTING REQUIREMENTS FOR POTW'S AND INDUSTRIAL USERS**

The initial industrial user survey identified the potential contributors to the West Memphis Sewer System. Now there are nine (9) industries on the City's Industrial Pretreatment Program. Of these industries, four (4) are Categorical Industries, one (1) Significant Non-Categorical and four (4) that are Non-Significant.

Reporting requirements for the POTW's and Industrial Users are described in 40 CFR 403.12 with paragraph (b) of that section discussing reporting requirements for Industrial Users upon effective date of applicable Categorical Pretreatment Standards; paragraph (e) describing periodic reports on continued compliance;

paragraph (g) discussing monitoring and analysis requirements to demonstrate compliance; paragraph (h) describing minimum reporting requirements for Industrial Users not subject to Categorical Pretreatment Standards; and paragraph (p) outlining hazardous waste notification requirements under 40 CFR 261, and RCRA.

After submittal and review of all information from the Industrial User on their wastewater discharges; specific pollutant limits, pretreatment requirements and any required compliance schedule will be proposed. The frequency of monitoring shall be specified by the Director of Environmental Quality, or in the case of Categorical Industries, monitoring must be monthly at a minimum. All other Industrial Users will be determined by the Director, with most being on monthly bases. Necessary requirements will be specified in the Industrial Waste Discharge Permit to be issued to the Industrial User.

Industrial Waste Discharge Permit shall include such conditions as are deemed reasonably necessary by the Director 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. Individual Wastewater Discharge Permits must contain:

1. A statement that indicates the permit issuance date, expiration date and effective date;
2. A statement that the permit is nontransferable without prior notification to the Director in accordance with Section 5.5 of Sewer User Ordinance 2187, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge Permit;
3. Effluent limits, including Best management Practices, based on applicable Pretreatment Standards;
4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
5. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law;

6. Requirements to control slug discharge, if determined by the Director to be necessary.

Individual Wastewater Discharge permits may contain, but need not be limited to, the following;

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
3. Requirements for the developments and implementation of spill control plan or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
7. A statement that compliance with the individual 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 individual Wastewater Discharge Permit; and
8. Other conditions as deemed appropriate by the Director to ensure compliance with the Sewer User Ordinance and State and Federal laws, rule and regulations.

The Director shall submit annually to the Arkansas Department of Environmental Quality a report summarizing the monitoring activity from each Industrial User. The contents of this report are outlined in Section II of the City's NPDES Permit.

Also once a year the Director will publish in the local newspaper (The Evening Times) the names of the Industrial Users which are significantly noncompliant with their established discharge limits, and any other pretreatment standards. The Sewer User Ordinance 2187, Section 9, defines significant noncompliance as established by the latest 40 CFR Part 403. The Pretreatment Annual Report is included in Appendix H.

### **11.1 Industrial User Site Inspections**

The Utility shall retain the right of entry into the Industrial Users premises for the purpose of sampling, inspection, or wastewater records examination. All Categorical and Significant Industrial Users shall be inspected annually.

An Industrial Inspection report form is included in Appendix I.

### **11.2 Procedures for Follow up of Instances on Noncompliance**

#### Noncompliance Detected from Random Sampling

Should a noncompliance instance be detected from a random sampling and should the Utility suspect or have reason to suspect that noncompliance is occurring frequently the Utility shall perform a representative sample collection and analysis of the wastewater discharge from the industrial user in question. Should the analysis verify that the industry is in noncompliance, the Utility shall notify the industrial user in writing of such noncompliance requesting a written response from the industrial user within fifteen (15) days noting the reason for noncompliance and stating a plan of action to get into compliance and to prevent future violations of noncompliance.

#### Noncompliance Detected from Sampling of POTW Influent

Should analysis of the influent to the POTW indicate the specific limits of prohibited pollutants are exceeded the Utility shall perform a follow up investigation to determine cause and probable source of the pollutant. The investigation shall include contacting the suspected industrial user(s), either by telephone or correspondence, inquiring about the release or discharge of non-normal waste loadings. Additional sample collection and analysis of the POTW influent shall take place and the industrial user shall be notified in writing of the results of the investigation requesting written response within a specified time noting reason for noncompliance and stating a plan of action to get into compliance and to prevent future violation of noncompliance.

#### Emergency/Quick Response Sampling

Due to the nature of industrial wastes being discharged and the type of waste treatment employed at the City's POTW, a quick response for sampling and investigation for possible acute treatment plant disturbances is not likely to be required. Should it appear that an emergency situation exists, however, the staff of the Utility will be able to perform sample collection and analysis of discharges

from suspected industrial user(s). Should an industrial user be identified as the cause for the treatment plant disturbance, they shall be notified in writing of any violations requesting written response within a specified time noting reason for the violations and requesting a plan of action to get into compliance and to prevent future violations of noncompliance.

#### Enforcement Procedures

In cases involving emergencies or where the involved industrial user(s) have failed to promptly respond and correct the problem, enforcement procedures and remedies set forth in West Memphis Sewer Use Ordinance 2187, and any new ordinance shall be utilized, as outlined in the Enforcement Response Plan (See Appendices). The options include immediate suspension of discharge, revocation of permit, administrative orders, imposition of fines and surcharges and legal suits by the Utility for injunctive relief and/or damage cause to the wastewater system. All remedies are authorized by ordinances and can be utilized singly or in combination. These remedies, as appropriate, shall be promptly south in cases of improper discharge.

#### Enforcement Hierarchy and Steps

Specific steps to be used in enforcement are listed below. These procedures can be used singly or in conjunction with each other to bring about compliance. The steps are listed in the order of increasing severity. It should be noted that the first step listed may or may not necessarily be the first step due to the severity of the violation. For example, a late report might bring about a step one (1) Notice of Violation (NOV). A chemical spill, on the other hand may force and immediate step ten (10) Termination of Service.

Informal notices (verbal or written)

Notice of Violation (NOV)

Consent Order

Show Cause Order

Compliance Order

Cease and Desist Order

Administrative Fines

Emergency Suspensions

Termination of Discharge

Civil and Criminal Penalties



Although the Utility has had to rectify several violations in the past by escalated enforcement steps, it is the majority that is rectified by issuance of a single Notice of Violation. Refer to the Enforcement Response Plan in the Appendices.

40 CFR 403.8 (f)(5) describes the responsibility of the POTW to develop and set up an Enforcement Response Plan. This plan is included in Appendix J.

### **11.3 Chain of Custody Provisions**

The Utility will perform all permitted sampling with analytical work to be done by Utility Environmental Quality personnel and a contract lab. In the past as well as the present the contract lab in use is Environmental Testing and Consulting, Inc. The Utility lab and field personnel shall be trained in EPA approved methods of sample collection and analysis. The Director of Environmental Quality shall be responsible for developing any required documentation that documents and/or provides a series of signed receipts from the time of sample collection through laboratory analysis. The Chain of Custody documentation is included in Appendix K.

### **11.4 Sampling and Analysis Methods and Procedures**

As noted in the City's Sewer Use Ordinance 2187 Section 6, all analysis shall be performed in accordance with procedures established by the EPA Administrator pursuant to Section 304(g) of the Clean Water Act and contained in 40 CFR Part 136, and amendments thereto or with any other test procedure approved by the Director or the Approval Authority (ADEQ).

Where 40 CFR Part 136, does not include sampling and analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with approved procedures by the EPA or ADEQ.

### **11.5 Safety**

Whether sampling and monitoring activities are conducted by West Memphis Utility personnel or contract personnel, appropriate safety equipment must be provided and maintained by the staff and/or contractor. The implementation of a sampling program involving personnel working in or under hazardous conditions must follow proper safety considerations. The Director of Environmental Quality should fully investigate each monitoring point for safety considerations prior to monitoring and sampling at this location.

## **12.0 Pretreatment Program Development and Operating Cost**

The original pretreatment program for West Memphis Utility Commission was approved in 1985, and has been modified on at least two occasions. The Industrial User survey is an ongoing process. The legal authority review has been completed and updated. Sampling and analysis of the wastewater treatment plant influent is an ongoing process. A method of monitoring and reporting are outlined, and the pretreatment program is properly staffed and organized. All of the above are necessary in order to gain basic information on the extent of industrial pollutants being discharged to the Utility's wastewater system and to maintain an appropriate pretreatment program. Since the program has already been developed, the only costs still being incurred by the Utility are the daily operating costs. The current estimated pretreatment program operating cost is included in Appendix L.

The handling of the permit application from the Industrial Users and program administration will be handled by the Utility's personnel. Legal assistance will be provided by the City Attorney. Sampling is performed by the Utility's personnel and analyses of those samples are through the Utility's personnel and a contract lab. Monitoring equipment has been purchased and is maintained through the Utility's normal purchasing procedures.

The pretreatment program operating cost as noted in the Appendices is estimated at \$198,778.00. The cost associated with the pretreatment program will be funded for the Utility's Department Operating budget. A copy of the Utility's most recent financial statement is included in Appendix M. The Sewer Use Ordinance allows the Utility to adopt permit fees and other fees, if necessary, in order to carry out the requirements of the pretreatment program.

### **13.0 Pretreatment Program Implementation**

As noted, the major elements in implementing the pretreatment program is the development and adoption of a sewer use ordinance that follow the EPA and ADEQ guidelines. An ordinance patterned after the EPA model ordinance has been passed by the West Memphis City Council and approved by ADEQ.

West Memphis Utility recognizes the fact that federal regulations are constantly changing. Since original program approval, new federal pretreatment regulations have been brought to the forefront. An attempt has been made to incorporate the pertinent changes outlined in these regulatory revisions into this document.

As the Director of Environmental Quality continues to attend environmental conferences and review pending regulatory changes, it can be expected that this program will again be revised to meet the changes that come about.

#### **14.0 Confidential Information**

Information and data on an Industrial User obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restrictions unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Utility that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industry.

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

Information accepted by the Utility as confidential, shall not be transmitted to any governmental agency or to the general public by the Utility until and unless a ten (10) day notification is given to the Industrial user.

All public information concerning this program will be available for inspection and review, Monday through Friday during the hours of 7:00 am to 4:00 pm at the office of West Memphis Utility Commission, 604 East Cooper, P.O. Box 1868, West Memphis, Arkansas 72301.

## Peltier, Hannah

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**From:** Denise Bosnick <dbosnick@ci.west-memphis.ar.us>  
**Sent:** Tuesday, January 15, 2013 8:24 AM  
**To:** Torrence, Rufus  
**Subject:** City Attorney Letter  
**Attachments:** Signed City Attorney Letter.pdf

Rufus,

I was suppose to attend a meeting at ADEQ today but due to the weather conditions decided against it. Here is a signed letter from our City Attorney David Peeples. I will send a hardcopy to you as well.

Denise



## WEST MEMPHIS UTILITY COMMISSION

604 East Cooper P O Box 1868

West Memphis, AR 72301

Phone: 870-735-3355 Fax: 870-732-7623

January 3, 2013

As City Attorney for the City of West Memphis, Arkansas, this office serves as legal counsel for the West Memphis Utility Commission. With reference to the revisions of the pretreatment program, I have reviewed the ordinance, the applicable Arkansas statutes and the requirements of 40 CFR Sections 403.8 and 403.9 and it is my opinion that the City of West Memphis and the West Memphis Utility Commission will have authority adequate to carry out the program described in 40 CFR 403.8 under the revisions to the pretreatment program.

As required pursuant to 40 CFR 403.9 (b) (1) (i), the specific provisions of the ordinance which provide the basis for the procedures under Section 403.8 (f) (2) are identified as follows:

Section 4.1 of the ordinance provides the basis for procedures to identify and locate all possible Industrial Users which might be subject to the Pretreatment Program.

Section 4.1 of the ordinance provides the basis for procedures to identify the character and volume of pollutants contributed to the POTW by the Industrial Users subject to the Pretreatment Program.

Section 2 of the ordinance provides the basis for procedures to notify Industrial Users subject to the Pretreatment Program of applicable Pretreatment Standards and any applicable requirements under Section 204 (b) and 405 of the Clean Water Act and subtitles C and D of the Resource Conservation and Recovery Act.

Section 6 of the ordinance provides the basis for procedures to receive and analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with self-monitoring requirements in 40 CFR 403.12.

Section 6.4 of the ordinance provides the basis for procedures to randomly sample and analyze the effluent for Industrial Users and to conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards.

Section 3.3 of the ordinance provides the basis for procedures to evaluate whether each such Industrial User needs a plan or other action to control Slug Discharges.

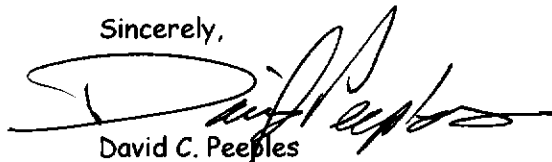
Section 7 of the ordinance provides the basis for procedures to investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and

Section 9 of the ordinance provides the basis for procedures to comply with the public participation requirements of 40 CFR Part 25 in the enforcement of National Pretreatment Standards.

The City of West Memphis and the West Memphis Utility Commission will implement the requirements of the Pretreatment Program and apply Pretreatment Standards to individual Industrial Users through use of an Industrial Waste Discharge Permit system, and by direct enforcement of the City's sewer use ordinance. A description of the exact procedures to be used in implementing the Pretreatment Program is provided in the program procedures portion of the City of West Memphis Pretreatment Program.

As stated above, it is my opinion that the revisions of the Pretreatment Program as set out in the ordinance will provide the City of West Memphis and the West Memphis Utility Commission with authority adequate to carry out the program described in 40 CFR 403.8

Sincerely,



David C. Peebles  
City Attorney