

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.



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,

A handwritten signature in black ink, appearing to read "David C. Peebles", written over a horizontal line.

David C. Peebles
City Attorney

ORDINANCE NO. 2187

AN ORDINANCE TO SET FORTH UNIFORM REQUIREMENTS FOR DIRECT AND INDIRECT CONTRIBUTORS INTO THE WASTEWATER COLLECTION AND TREATMENT SYSTEM FOR THE CITY OF WEST MEMPHIS; AND FOR OTHER PURPOSES.

WHEREAS, The City of West Memphis finds it necessary to regulate the use of public sewers and drains and the discharge of waters and wastes in the public sanitary sewer system;

WHEREAS, the regulations contained in the present ordinances of the City of West Memphis should be brought into compliance with applicable laws and regulations of the Environmental Protection Agency of the United States of America, the Department of Pollution Control and Ecology of the State of Arkansas and the provisions of the "Clean Water Act", being public law 92-500, as amended by public law 95-217, as well as the general pretreatment regulations enacted pursuant thereto (begin 40 CFR, part 403); and

WHEREAS, these proposed regulations have been approved by the appropriate regulatory agencies;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF WEST MEMPHIS, ARKANSAS, THAT:

SECTION 1. GENERAL PROVISIONS

1.1 Purpose and Policy

This Ordinance sets forth uniform requirements for direct and indirect users into the wastewater collection and treatment system for the City of West Memphis, Arkansas, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this Ordinance are:

- (A) To prevent the introduction of Pollutants into the Publicly Owned Treatment Works that will Interfere with its operation;
- (B) To prevent the introduction of Pollutants into the Publicly Owned Treatment Works which will Pass Through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- (C) To protect both Publicly Owned Treatment Works personnel who may be affected by Wastewater and sludge in the course of their employment and

the general public;

- (D) To promote reuse and recycling of industrial Wastewater and sludge from the Publicly Owned Treatment Works;
- (E) To provided for fees for the equitable distribution of the cost of operation, maintenance and improvements of the Publicly Owned Treatment Works; and
- (F) To enable the City to comply with its National Pollutant Discharge Elimination System Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.
- (G) To promote and encourage Pollution prevention and waste minimization and waste reduction at Industrial Users prior to their recycling, treatment, or disposal options.

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

1.2 Administration

Except as otherwise provided herein, the General Manager shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the General Manager may be delegated by the General Manager to a duly authorized employee.

1.3 Abbreviations

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

BMP – Best Management Practice
BMR – Baseline Monitoring Report
BOD – Biochemical Oxygen Demand
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
IU – Industrial User

mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meaning hereinafter designated:

- (1) Act or "The Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*
- (2) Approval Authority. The Arkansas Department of Environmental Quality (ADEQ).
- (3) Authorized or Duly Authorized Representative of the User.
 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, 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 action taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

3. If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 4. The individuals described in paragraphs 1 through 3, above, may designate Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (4) Best Management Practices or BMP's. Schedules of activities, prohibitions or practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5 (a) (1) and (b). BMP's to include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
 - (5) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under the standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g.,mg/l).
 - (6) Categorical Industrial User. An Industrial User subject to Categorical Pretreatment Standards or Categorical Standards.
 - (7) Categorical Pretreatment Standards or Categorical Standards. Any regulation containing Pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
 - (8) Chemical Oxygen Demand (COD). A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
 - (9) City. The City of West Memphis, Arkansas.
 - (10) Composite Sample. A composite sample is made up of more than one individual Grab Samples, which are combined, based on either time or flow. A time composite sample consists of equal volume Grab Samples collected at equal time intervals. A flow composite sample may consist of equal volume Grab Samples taken at varying time intervals; samples of variable volume (in proportion to flow) collected proportional to flow.
 - (11) Control Authority. The City.

- (12) Control Manhole. A manhole giving access to a building Sewer at some point before the building Sewer discharge mixes with other discharge in the public Sewer.
- (13) Daily Maximum Limit or Daily Maximum. The maximum allowable discharge limit of pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (14) Director of Environmental Quality (Director). 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.
- (15) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- (16) Existing Source. Any source of discharge that is not a "New Source".
- (17) Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
- (18) 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 this Ordinance, or his duly authorized representative referred to as the Director of Environmental Quality.
- (19) Governing Board. The West Memphis Utility Commission (the Utility), which may act through the General Manager, his deputy, agent or representatives possessing written evidence of authority to so act.
- (20) Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (21) Indirect Discharge. The introduction of pollutants into the POTW from any non-domestic source.

- (22) Industrial User (IU). A source of Indirect Discharge.
- (23) Industrial Wastes. The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary Sewage.
- (24) Industrial Waste Discharge Permit. A permit for establishments producing Industrial Wastes as more particularly set out in Section (4) of this Ordinance.
- (25) Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- (26) Local Limit. 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).
- (27) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (28) Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during the month.
- (29) Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (30) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of The Act (33 U.S.C. 1342).
- (31) New Source. (1) Any building, structure, facility or installation from which there is, or may be, a discharge of Pollutants, the construction of which

commenced after the publication of proposed pretreatment standards under Section 307(c) of The Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

- (32) Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (33) Normal Domestic Wastewater. Wastewater including that from non-residential sources; but excluding industrial process Wastewater, in which neither the concentrations of five-day Biochemical Oxygen Demand (BOD) or total suspended solids (TSS) do not exceed the level of 250 mg/L or the concentration of oil and grease do not exceed the level of 100 mg/L.
- (34) Oil and Grease. Any material recovered as a substance soluble in the solvent.
- (35) Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).
- (36) Person. 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.
- (37) pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- (38) Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of Wastewater (e.g., pH temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).
- (39) Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the Pollutants unless allowed by an applicable pretreatment standard.
- (40) Pretreatment Program. The Utility's EPA and/or Arkansas Department of Environmental Quality approved program to administer the requirements of 40 CFR 403, the General Pretreatment Regulations.

- (41) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than Pretreatment Standard.
- (42) Pretreatment Standard or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards and Local Limits.
- (43) Publicly Owned Treatment Works (POTW). A treatment works as defined by Section 212 of The Act, (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any devices or systems used in collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastes of liquid nature and any conveyances, which convey Wastewater to a treatment plant. For the purposes of this Ordinance, "POTW" shall also include any Sewers that convey Wastewaters to the POTW from Persons outside the City, who are by contract or agreement with the City, Users of the City's POTW.
- (44) Sanitary Sewer. A Sewer, which carries Sewage and to which storm, surface, and ground waters are not intentionally admitted.
- (45) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (46) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- (47) Sewer. A pipe or conduit for carrying Sewage.
- (48) Shall is mandatory; May is permissive.
- (49) Significant Industrial User.
- (1) An Industrial User subject to Categorical Pretreatment Standards; or
 - (2) An Industrial User that discharges an average of twenty-five thousand (25,000) gallons or more of process wastewater to the POTW (excluding sanitary, non-contract cooling, and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the City on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
 - (3) The City may determine that an Industrial User subject to Categorical

Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than one hundred (100) gallons of total categorical Wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met: (a) the Industrial User, prior to the City's findings, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements; (b) the Industrial User annually submits the certification statement required together with any additional information necessary to support the certification statement; and (c) the Industrial User never discharges any untreated concentrated Wastewater.

- (4) Upon finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW 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 an Industrial User, and in accordance with procedures in 40 CFR 403.8 (f) (6), determine that such User should not be considered a Significant Industrial User.
- (50) Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A slug Discharge is any discharge of a non-routine, episodic nature, including but not limited to accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- (51) Standard Industrial Classification (SIC). A classification pursuant to the standard industrial classification manual issued by the executive office of the president, office of management and budget, 1972.
- (52) State. State of Arkansas.
- (53) Storm Sewer. A Sewer, which carries storm and surface waters and drainage, but excludes Sewage and Industrial Wastes, other than unpolluted cooling water.
- (54) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from precipitation, including snowmelt.
- (55) Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

- (56) Toxic Pollutants. Any Pollutant of combination of Pollutants listed as toxic in regulations promulgated by the administration of the Environment Protection Agency under the provisions of CWA 307(a) or other acts.
- (57) User or Industrial User. Any Person, who contributes, causes or permits the contribution of wastewater into the City's POTW.
- (58) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

SECTION 2. GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- A. **General Prohibitions.** No User shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- B. **Specific Prohibitions.** No User shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or Wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the 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 will cause obstruction of the flow in the POTW resulting in Interference.
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or Pollutant concentration which, either singly or by interaction with other Pollutants, will cause Interference with the POTW;
 - (5) Wastewater 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 F (40 degrees C);

- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled Pollutants, except at discharge points designated by the Director in accordance with Section 3.4 of this Ordinance;
- (9) Storm Water, surface Water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted Wastewater, unless specifically authorized by Director.
- (10) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (11) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L.
- (12) Medical Wastes, except as specifically authorized by the Director in a Wastewater Discharge Permit.
- (13) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (14) Hauled or trucked liquid wastes, except at the specific discharge point(s) designated by the Director.

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

2.2 National Categorical Pretreatment Standards

- A. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.
 - (1) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or concentration of a pollutant in wastewater, the Director 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

Director shall impose an alternate limit using the combined waste stream 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 EPA when developing the Categorical Pretreatment Standard.

(4) A CIU may obtain a net/gross adjustment to a Categorical Standard in accordance with 40 CFR 403.15.

B. If waters or wastes are discharged, or are proposed to be discharged, to the POTW, which contain the substances or possess the characteristics enumerated in Section 2.3 of this Ordinance, and which in the judgment of the Governing Board may have a deleterious effect upon sewage works, sewage treatment processes, plant equipment, or waters of the State of Arkansas, or which otherwise create a hazard to life or constitute a public nuisance, the Governing Board may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the POTW;

(3) Require payment of sewer surcharge to cover the added cost of handling and treating the waste not covered by the sewer service charges for transporting and treating normal Wastewater;

(4) Require control over the quantities and rate of discharge;

(5) If the Governing Board permits the pretreatment or equalization of Wastewater flows, the design and installation of the plants equipment shall be subject to the review and approval of the Governing Board and subject to the requirements of all applicable codes, ordinances, and laws, and the regulations and requirements of the Arkansas Department of Environmental Quality, the Arkansas Department of Health, and the U.S. Environmental Protection Agency;

(5) Commence any action for appropriate legal and/or equitable relief, including but not limited to injunctive relief, in any court of appropriate jurisdiction.

2.3 Specific Pollutant Limitations

A. No person shall discharge specific Pollutant limitation in excess of these concentrations:

	Daily Maximum	Monthly Average
Cadmium	0.69 mg/L	0.26 mg/L
Chromium	2.77 mg/L	1.71 mg/L
Copper	3.38 mg/L	2.07 mg/L
Cyanide	1.20 mg/L	0.65 mg/L
Lead	0.69 mg/L	0.43 mg/L
Nickel	3.98 mg/L	2.38 mg/L
Silver	0.43 mg/L	0.24 mg/L
Zinc	2.61 mg/L	1.48 mg/L

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

The Governing Board and the City reserves the right to establish by ordinance or in Wastewater Discharge Permits, more stringent standards or requirements on discharges to the POTW to comply with the objectives presented in Section 1.1 of this Ordinance.

B. The Director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 2.1.

2.4 Right of Revision

The City reserves the right to establish, by ordinance or in individual Wastewater Discharge Permits more stringent standards or requirements on discharges to the POTW consistent with the purpose of this Ordinance.

2.5 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 Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements or in other case when the imposition of mass limitations is appropriate.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Specific Pollutant Limits, and the prohibitions set out in Section 2.1 of this Ordinance within the time limitations specified by EPA, the State, or the Director whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to Director for review, and shall be acceptable to the Director 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 Governing Board under the provisions of this Ordinance.

3.2 Additional Pretreatment Measures

- A. If any waters or wastes which are discharged or which are to be discharged into the public Sewers contain or possess any of the characteristics enumerated in Section 2.1 (A) or (B) of this Ordinance and in the judgment of the Director, may have a deleterious effect upon the sewerage works, processes, equipment, sludges, or receiving waters or which otherwise create a hazard to life or constitutes a public nuisances, the Director may (a) reject the wastes, (b) require Pretreatment to an acceptable condition for discharge to the public Sewer, and/or (c) require control over the quantities and rate of discharge.

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

- B. Whenever deemed necessary, the Director may require Users to restrict their discharge during peak flow periods, designate that certain Wastewater be discharged only into specific Sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Ordinance.
- C. The Director may require any person discharging into the POTW to install

and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual Wastewater Discharge Permit may be issued solely for flow equalization.

- D. Grease, oil and sand interceptors (traps) shall be provided when, in the opinion of the the Director, they are necessary for the proper handling of liquid wastes containing oil and grease in excessive amounts, or any flammable wastes, sand or other harmful substances; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection. All interceptors shall be maintained by the owner, at his expense, in proper operating condition.
- E. When required by the Director, the owner of any property serviced by a building sewer carrying industrial waste shall provide a secure sample point or control manhole which is constructed in accordance with the latest revision of the Utility's Specification Requirements for sanitary sewers. The secure point or control manhole shall be safely located and accessible to duly authorized employees and/or representatives of the Utility at all times. When deemed necessary by the Director, the secure sample point or control manhole shall be provided with meters or other appurtenances to facilitate the monitoring of the wastewater. The cost of the installation and maintenance of a secure sample point or control manhole shall be borne by the owner. Any construction and/or alteration of a secure sample point or control manhole shall be approved by the Director before any construction has begun.
- F. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

At least once every two (2) years, the Director shall evaluate whether each Significant Industrial User needs an accidental discharge/slug discharge control plan or other action to control Slug Discharge. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/Slug Discharge control plan shall address, at a minimum, the following:

Description of discharge practices, including non-routine batch discharges;

Description of stored chemicals;

Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance and the Industrial Waste Discharge Permit; and

Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Director and at such times as are established by the Director. Such waste shall not violate Section 2 of this Ordinance or any other requirements established by the Governing Board. The Director may require septic tank waste haulers to obtain a Wastewater Discharge Permits.
- B. The Director may require haulers of industrial waste to obtain Wastewater Discharge Permits. The Director may require generators of hauled industrial waste to obtain Wastewater Discharge Permits. The Director also may prohibit the disposal of hauled Industrial Waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.
- C. Industrial Waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names, and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 4 - INDIVIDUAL WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Survey

When requested by the Director, a user must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Individual Wastewater Discharge Permit Requirement

- A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual Wastewater Discharge Permit from the Director, except that a Significant Industrial User that has filed a timely application pursuant to Section 4.3 of this Ordinance may continue to discharge for the time period specified therein.
- B. The Director may require other users to obtain individual Wastewater Discharge Permits as necessary to carry out the purposes of this Ordinance.
- C. Any violation of the terms and conditions of an individual Wastewater Discharge Permit shall be deemed a violation of this Ordinance and subjects the Wastewater Discharge Permittee to the sanctions set out in Sections 10 through 12 of this Ordinance. Obtaining an individual Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.3 Individual Wastewater Discharge Permitting: Existing Connections

Any existing industrial user identified by the Governing Board and required by the Director to obtain an Industrial Wastewater Discharge Permit shall be notified by the Director in writing and shall complete and return an Industrial Wastewater Discharge Permit Application within the time established by the Director. The Director may deny or condition the contribution of pollutants by such user in the Industrial Wastewater Discharge Permit.

4.4 Individual Wastewater Discharge Permitting: New Connections

Any user required by the Director 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 must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. The Director may deny or condition the contribution of pollutants by such user in the Industrial Wastewater Discharge Permit.

4.5 Individual Wastewater Discharge Permit Application Contents

- A. All users required by the Director shall submit an Industrial Wastewater Discharge Permit application to the Governing Board, the form for which shall be provided by the Governing Board. The information required in the permit application shall, where requested or appropriate included but not limited to:
- (1) Identifying Information.
 - a. The name and address of the facility, including the name of the operator and owner.
 - b. Contact information, description of activities, facilities, and plant production processes on the premises;
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations.
 - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - d. Type and amount of raw materials processed (average and maximum per day);
 - e. 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;
 - (4) Time and duration of discharges;
 - (5) The location for monitoring all wastes covered by the permit;
 - (6) 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 Section 2.2 (A) (2) (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

- a. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for existing sources.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this Ordinance. Where the Standard requires compliance with a BMP or Pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.
- e. Sampling must be performed in accordance with procedures set out in Section 6.11 of this Ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B [40 CFR 403.12(e)(2)].

(9) Any other information as may be deemed necessary by the Director to evaluate the permit application.

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

4.6 Application Signatories and Certifications

- A. All Wastewater Discharge Permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14.A.
- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

- C. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to 1.4 must annually submit the signed certification statement in Section 6.14 B.

4.7 Individual Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete permit application, the Director will determine whether to issue an individual wastewater discharge permit. The Director may deny any application for an individual wastewater discharge permit.

SECTION 5 - INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

5.1 Individual Wastewater Discharge Permit Duration

An individual Wastewater Discharge Permit shall be issued for a specified time period, not to exceed three (3) years from the effective date of the permit. Each individual Wastewater Discharge Permit will indicate a specific date upon which it will expire.

5.2 Individual Wastewater Discharge Permit Contents

An individual Wastewater 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.

A. Individual Wastewater Discharge Permits must contain:

- (1) A statement that indicates the Wastewater Discharge Permit issuance date, expiration date and effective date;
- (2) A statement that the Wastewater Discharge Permit is nontransferable without prior notification to the Director in accordance with Section 5.5 of this Ordinance, 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.

B. Individual Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of Pretreatment technology, Pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans 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 this Ordinance, and State and Federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Modification

The Director may modify a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State or local Pretreatment Standards or requirements;
- B. To address significant alterations or additions to the User's operation, processes or Wastewater volume or character since the time Wastewater Discharge Permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the POTW and/or its personnel, or the receiving waters;
- E. Violation of any terms or conditions of the Wastewater Discharge Permit.
- F. Misrepresentations or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application or in any required reporting;
- G. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the Wastewater Discharge Permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.4 Wastewater Discharge Permit Transfer

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

- A. States that the new owner and/or operator has not immediate intent to change the facility's operation and processes;
- B. Identifies the specific dates on which the transfer is to occur; and

- C. Acknowledges full responsibility for complying with the existing Wastewater Discharge Permit.

Failure to provide advance notice of a transfer renders the Wastewater Discharge Permit void as of the date of facility transfer.

5.5 Wastewater Discharge Permit Revocation

The Director may revoke an individual wastewater discharge permit for good cause, including but not limited to, the following reasons:

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

Individual Wastewater Discharge Permits shall be voidable upon cessation of operations or transfer of business ownership. All individual Wastewater

Discharge Permits issued to a User are void upon the issuance of a new individual Wastewater Discharge Permit to that User.

SECTION 6 – REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

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

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

(1) All information required in Section 4.5A (1) (a), Section 4.5A (2), Section 4.5A (3) (a), and Section 4.5A (6).

(2) Measurement of Pollutants.

- a. The User shall provide the information required in Section 4.5 A (7) (a) through (d).
- b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- c. Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- d. Sampling and analysis shall be performed in accordance with Section 6.10;

- e. The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial Pretreatment measures;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 (3) 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.

(4) Compliance Schedule. If additional Pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this Ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this Ordinance and signed by an Authorized Representative as defined in Section 1.4 (3).

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B) (4) of this Ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the

increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

- D. In no event shall more than nine (9) months elapse between such progress reports to the Director.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standard and Requirements shall submit to the Director a report containing the information described in Section 4.5A (6) and (7) and Section 6.1 (B) (2) of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the User's long term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

6.4 Periodic Compliance Reports

- A. Except as specified in Section 6.4 (C), all Significant Industrial Users must, at a frequency determined by the Director submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of Pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or Pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User.
- B. The City may authorize an Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the Pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the Pollutant due to activities of the Industrial User. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

- (1) The waiver may be authorized where a Pollutant is determined to be present solely due to sanitary Wastewater discharged from the facility provided that the sanitary Wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process Wastewater.
- (2) The monitoring waiver is valid only for the duration of the effective period of the individual Wastewater Discharge Permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual Wastewater Discharge Permit. See Section 4.5 (A) (8).
- (3) In making a demonstration that a Pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process Wastewater prior to any treatment present at the facility that is representative of all Wastewater from all processes.
- (4) The request for a monitoring waiver must be signed in accordance with Section 1.4 (3), and include the certification statement in Section 6.14 (A) (40 CFR 403.6(a) (2) (ii)).
- (5) Non-detectable sample results may be used only as a demonstration that a Pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that Pollutant was used in the analysis.
- (6) Any grant of the monitoring waiver by the Director must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Director for 3 years after expiration of the waiver.
- (7) Upon approval of the monitoring waiver and revision of the User's permit by the Director, the Industrial User must certify on each report with the statement in Section 6.14 (C) below, that there has been no increase in the Pollutant in its wastestream due to activities of the Industrial User.
- (8) In the event that a waived Pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 6.4(A), or other more frequent monitoring requirements imposed by the Director and notify the Director.
- (9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

- C. The City may reduce the requirement for periodic compliance reports [see Section 6.4 (A) (40 CFR 403.12(e)(1))] to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the [EPA/State].
- D. All periodic compliance reports must be signed and certified in accordance with Section 6.14 (A) of this Ordinance.
- E. 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.
- F. If a User subject to the reporting requirement in this section monitors any regulated Pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section 6.11 of this Ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each User must notify the Director of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its Wastewater at least fifteen (15) days before the change.

- A. The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under Section 4.5 of this Ordinance.
- B. The Director may issue an individual Wastewater Discharge Permit under Section 5 of this Ordinance or modify an existing Wastewater Discharge Permit under Section 5.3 of this Ordinance in response to changed conditions or anticipated changed conditions.
- C. No User shall implement the planned change condition(s) until and unless the Director has responded to the User's notice.

6.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the

Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

- B. Within five (5) days following such discharge, the User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this Ordinance.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.7 Reports from Unpermitted Users

All Users not required to obtain an individual Wastewater Discharge Permit shall provide appropriate reports to the Director as the Director may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if 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, or if the City has performed the sampling and analysis in lieu of the Industrial User.

If the City performed the sampling and analysis in lieu of the Industrial User, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. See 40 CFR 403.12(g) (2).]

6.9 Notification of the Discharge of Hazardous Waste

- A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this Ordinance. 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 6.1, 6.3, and 6.4 of this Ordinance.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of

hazardous wastes generated to the degree it has determined to be economically practical.

- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued there under, or any applicable Federal or State law.

6.10 Analytical Requirements

All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

6.11 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- A. Except as indicated in Section B and C below, the User must collect Wastewater samples using 24-hour flow proportional composite sampling techniques, unless time proportional Composite Sampling or Grab Sampling is authorized by the Director. Where time proportional Composite Sampling or Grab Sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite Samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.
- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

- C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

6.12 Date of Receipt of Reports

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

6.13 Recordkeeping

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 2.3 (B). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Director.

6.14 Certification Statements

A. Certification of Permit Applications, Users Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by users submitting permit application in accordance with Section 4: Users submitting baseline monitoring reports under Section 6.1; Users submitting reports on compliance with categorical Pretreatment Standard deadlines under Section 6.3; Users submitting periodic compliance reports required by Section 6.4 (A-D), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4 (B). The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 (3).

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.

B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to Section 1.4 (47) and Section 4.6 (C) must annually submit the following certification statement signed in accordance with the signatory requirements in Section 1.4 (3). This certification must accompany an alternative report required by the Director.

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standard under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, ____ to _____, ____ (months, days, year):

(a) The facility described as _____ (facility name) met the definition of a Non-Significant Categorical Industrial User as described in Section 1.4 (47);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this period.

This compliance certification is based on the following information.

C. Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on Section 6.4 (B) must certify on each report with following statement that there has been no increase in the pollutant in its wastestream due to activities of the user,

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ (specify applicable National Pretreatment Standard part(s)), I certify that, to the best of my

knowledge and belief, there has been no increase in the level of _____ (list pollutant(s) in the wastewaters due to activities at the facility since filing of the last periodic report under Section 6.4 (A).

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

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

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- C. The Director 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 weekly to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this Ordinance.

7.2 Search Warrants

If the Director 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 Ordinance, or that there is a need to inspect and/or

sample as part of a routine inspection and sampling program of the Utility designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Director may seek issuance of a search warrant from the District Court Judge of the City of West Memphis, Arkansas, or any other Court of competent jurisdiction.

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, Wastewater Discharge Permit applications, individual Wastewater Discharge Permits, and monitoring programs, and from the Director'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 Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or Pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

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

- A. Chronic violations of Wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same Pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of Wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds

the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH);

- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a Pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual Wastewater Discharge Permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Director finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may serve upon that User a written Notice of Violation. Within fifteen (15) days of the receipt of such 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 Director. Submission of such a 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 Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Director may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this Ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Director may order a User which has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Director 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 (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 (3). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

When the Director finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, Sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of Pollutants discharged to the Sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.5 Cease and Desist Orders

When the Director finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Administrative Fines

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

10.7 Emergency Suspensions

The Director 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 Director may also immediately suspend a User's discharge, after notice and

opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director 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 Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this Ordinance are initiated against the User.
- B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this Ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

10.8 Termination of Discharge

In addition to the provisions in Section 5.5 of this Ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual Wastewater Discharge Permit conditions;
- B. Failure to accurately report the Wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or Wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this Ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Director finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may petition District court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual Wastewater Discharge Permit, order, or other requirement imposed by this Ordinance on activities of the User. The Director 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.

11.2 Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Utility for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation; and, each day of continuing violation may be deemed a separate violation.
- B. The Director 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.

11.3 Criminal Prosecution

- A. A User who willfully or negligently violates any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for such term as allowed by the law or both.
- B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$100.00 but not more than \$500.00 for any one (1) specified offense or violation thereof, and not less than \$100.00 but not more than \$1,000.00 for each repetition of such event or violation, or be subject to imprisonment for such term as allowed by law, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, individual Wastewater Discharge Permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of \$100.00 but not more than \$500.00 for any one (1) specified offense or violation thereof, and not less than \$100.00 but not more than \$1,000.00 for each repetition of such event or violation, or be subject to imprisonment for such term as allowed. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

11.4 Remedies Nonexclusive

The remedies provided for in this Ordinance are not exclusive. The Director 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 Utility's enforcement response plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Performance Bonds

The Director may decline to issue or reissue an individual Wastewater Discharge Permit to any User who has failed to comply with any provision of this Ordinance, a previous individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

12.2 Liability Insurance

The Director may decline to issue or reissue an individual Wastewater Discharge Permit to any User who has failed to comply with any provision of this Ordinance, a previous individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

12.3 Payment of Outstanding Fees and Penalties

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

12.4 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this Ordinance, an individual Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

- A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

- C. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- (1) An upset occurred and the User can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The User has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - a. A description of the Indirect Discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - 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 shall 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.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this Ordinance or the specific prohibitions in Sections 2.1(B)(3) through (14) of this Ordinance if it can prove that it did not know, or have reason to know, that its

discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when 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.

13.3 Bypass

- A. For the purposes of this Section,
 - (1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.
 - (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.
- C. Bypass Notifications
 - (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.
 - (2) A User shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps

taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

- (1) Bypass is prohibited, and the Director may take an enforcement action against a User for a bypass, unless
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The User submitted notices as required under paragraph (C) of this section.

- (6) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

SECTION 14 - MISCELLANEOUS PROVISIONS

14.1 Pretreatment Charges and Fees

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

- A. Fees for Wastewater Discharge Permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;

- E. Fees to recover administrative and legal costs associated with the enforcement activity taken by the Director to address IU noncompliance; and
- F. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

SECTION 15 - SEVERABILITY

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

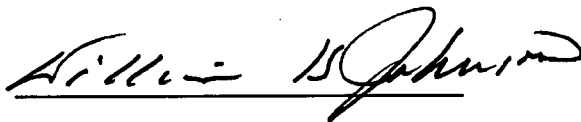
PASSED AND APPROVED this 1ST day of MAY, 2008.


WILLIAM H. JOHNSON, MAYOR

ATTEST:


PHILLIP PARA, CITY CLERK

SPONSORED BY:



RECEIVED
City Clerk's Office
Date/Time 04/10/08 11:00 am
By D Bosnick *cy*

ORDINANCE NO. 2266

AN ORDINANCE TO AMEND ORDINANCE 2187, CODIFIED AS CHAPTER 14.52 OF THE WEST MEMPHIS MUNICIPAL CODE, TO COMPLY WITH CERTAIN SUGGESTED CHANGES BY THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND FOR OTHER PURPOSES.

WHEREAS, the City of West Memphis adopted Ordinance 2187, codified as Chapter 14.52 of the West Memphis Municipal Code, to regulate the use of public sewers and drains and the discharge of waters and wastes in the public sanitary sewer system; and

WHEREAS, the Arkansas Department of Environmental Quality has suggested certain amendments be made to the existing ordinance; and

WHEREAS, the West Memphis Utility Commission and the City Council of the City of West Memphis desire to amend Ordinance 2187, codified as Chapter 14.52 of the West Memphis Municipal Code, to incorporate the suggested changes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST MEMPHIS, ARKANSAS, THAT:

SECTION 1. The second "Whereas" clause set out in Ordinance 2187 is hereby amended to read as follows:

WHEREAS, the regulations contained in the present ordinances of the City of West Memphis should be brought into compliance with applicable laws and regulations of the Environmental Protection Agency of the United States of America, the Department of Environmental Quality of the State of Arkansas and the provisions of the "Clean Water Act", being public law 92-500, as amended by public law 95-217, as well as the general pretreatment regulations enacted pursuant thereto (begin 40 CFR, part 403); and

SECTION 2. Section 1.1 of Ordinance 2187, codified as Section 14.52.010 of the West Memphis Municipal Code, is hereby amended to read as follows:

Purpose and Policy

This Ordinance sets forth uniform requirements for direct and indirect users into the wastewater collection and treatment system for the City of West Memphis, Arkansas, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this Ordinance are:

- (A) To prevent the introduction of Pollutants into the Publicly Owned Treatment Works that will Interfere with its operation;
- (B) To prevent the introduction of Pollutants into the Publicly Owned Treatment Works which will Pass Through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- (C) To protect both Publicly Owned Treatment Works personnel who may be affected by Wastewater and sludge in the course of their employment and the general public;
- (D) To promote reuse and recycling of industrial Wastewater and sludge from the Publicly Owned Treatment Works;
- (E) To provided for fees for the equitable distribution of the cost of operation, maintenance and improvements of the Publicly Owned Treatment Works; and
- (F) To enable the City to comply with its National Pollutant Discharge Elimination System Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.
- (G) To promote and encourage Pollution prevention and waste minimization and waste reduction at Industrial Users prior to their recycling, treatment, or disposal options.

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

SECTION 3. Section 1.3 of Ordinance 2187, codified as Section 14.52.030 of the West

Memphis Municipal Code, is hereby amended to read as follows:

Abbreviations

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

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

SECTION 4. Section 1.4(10) “Composite sample” of Ordinance 2187, codified as Section 14.52.040.10 “Composite sample” of the West Memphis Municipal Code, is hereby amended to read as follows:

Composite Sample. A composite sample is made up of more than one individual Grab Samples, which are combined, based on either time or flow. A time composite sample consists of equal volume Grab Samples collected at equal time intervals. A flow composite sample may consist of equal volume Grab Samples taken at varying time intervals; samples of variable volume collected proportional to flow.

SECTION 5. Section 1.4(49)(3) within the definition of “Significant Industrial User” of Ordinance 2187, codified as Section 14.52.040.49(c) within the definition of “Significant Industrial User” in the West Memphis Municipal Code, is hereby deleted and said section is amended to read as follows:

[Reserved.]

SECTION 6. Section 1.4(57) “User or Industrial User” of Ordinance 2187, codified as Section 14.52.040.57 “User or Industrial User” in the West Memphis Municipal Code, is hereby amended to read as follows:

User or Industrial User. A source of indirect discharge.

SECTION 7. Section 2.2A(1) of Ordinance 2187, codified as Section 14.52.060A.1 of the West Memphis Municipal Code, is hereby deleted and said section is amended to read as follows:

[Reserved.]

SECTION 8. Section 2.2B of Ordinance 2187, codified as Section 14.52.060.B of the West Memphis Municipal Code, is hereby deleted and said section is amended to read as follows:

- (A) If waters or wastes are discharged, or are proposed to be discharged, to the POTW, and which in the judgment of the Governing Board may have a deleterious effect upon sewage works, sewage treatment processes, plant equipment, or waters of the State of Arkansas, or which otherwise create a hazard to life or constitute a public nuisance, the Governing Board may:
- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the POTW;

- (3) Require payment of sewer surcharge to cover the added cost of handling and treating the waste not covered by the sewer service charges for transporting and treating normal Wastewater;
- (4) Require control over the quantities and rate of discharge;
- (5) If the Governing Board permits the pretreatment or equalization of Wastewater flows, the design and installation of the plants equipment shall be subject to the review and approval of the Governing Board and subject to the requirements of all applicable codes, ordinances, and laws, and the regulations and requirements of the Arkansas Department of Environmental Quality, the Arkansas Department of Health, and the U.S. Environmental Protection Agency;
- (6) Commence any action for appropriate legal and/or equitable relief, including but not limited to injunctive relief, in any court of appropriate jurisdiction.

SECTION 9. Section 2.3A of Ordinance 2187, codified as Section 14.52.070.A of the West Memphis Municipal Code, is hereby amended to read as follows:

State Pretreatment Standards State pretreatment standards located in Section 4 of Regulation Number 6: Regulation for State Administration of the National Pollutant Discharge Elimination System for a particular industrial sub-category, if more stringent than the requirements of this Ordinance, shall supersede the requirements of this Ordinance, are hereby incorporated by reference and will be imposed where applicable and shall include, but is not limited to, discharge limitations and reporting requirements. This shall included those regulations currently promulgated or which will be promulgated in the future including any amendments and shall be recognized as part of this Ordinance.

SECTION 10. Section 2.3B of Ordinance 2187, codified as Section 14.52.070.B of the West Memphis Municipal Code, is hereby amended to read as follows:

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

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

The Director may develop Best Management Practices (BMP's), by Ordinance or in individual wastewater discharge permits or general permits, to implement Local Limits and the requirements of Section 2.1.

The Director may also set Local Limits on a case-by-case basis. Case-by-case basic allows the Director to develop performance based local limits and to set local limits based on performance judgment. In other word, if the Director finds that Categorical limits are applicable to a non-categorical industrial user, then the Director may place these limits in the permit.

SECTION 11. Section 4.6A of Ordinance 2187, codified as Section 14.52.190.A of the

West Memphis Municipal Code, is hereby amended to read as follows:

All Wastewater Discharge Permit applications and User reports must be signed by an Authorized Representative (as defined in Section 1.4.3) 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 property 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 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".

SECTION 12. Section 4.6C of Ordinance 2187, codified as Section 14.52.190.C of the West Memphis Municipal Code, is hereby deleted and said section is amended to read as follows:

[Reserved.]

SECTION 13. Section 6.4A of Ordinance 2187, codified as Section 14.52.290.A of the West Memphis Municipal Code, is hereby amended to read as follows:

All Significant Industrial Users shall, at a frequency determined by the Director but in no case less than twice per year (June and December submit a report indicating the nature and concentration of Pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or Pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

SECTION 14. Section 6.4B of Ordinance 2187, codified as Section 14.52.290.B of the West Memphis Municipal Code, is hereby amended to read as follows:

When the City conducts the sampling and flow data collection for the Significant Industrial User, the reporting requirements listed in 6.4A shall be waived.

SECTION 15. Section 6.4C of Ordinance 2187, codified as Section 14.52.290.C of the West Memphis Municipal Code, is hereby deleted and said section is amended to read as follows:

[Reserved.]

SECTION 16. Section 6.4D of Ordinance 2187, codified as Section 14.52.290.D of the West Memphis Municipal Code, is hereby amended to read as follows:

[Reserved.]

SECTION 17. Section 6.4 of Ordinance 2187, codified as Section 14.52.290 of the

West Memphis Municipal Code, is hereby amended to add the following subparagraph:

- G. All Significant Industrial Users required by the Director to submit Periodic Compliance Reports shall use forms supplied by the Director or other approved forms.

SECTION 18. Section 6.10 of Ordinance 2187, codified as Section 14.52.350 of the

West Memphis Municipal Code, is hereby amended to read as follows:

All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by ADEQ.

SECTION 19. Section 6.14 of Ordinance 2187, codified as Section 14.52.390 of the

West Memphis Municipal Code, is hereby deleted in its entirety and said section is amended to read as follows:

[Reserved.]

SECTION 20. Section 7.1AC of Ordinance 2187, codified as Section 14.52.400.C of

the West Memphis Municipal Code, is hereby amended to read as follows:

The Director 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 a rate to ensure their accuracy.

SECTION 21. Severability. The provisions of the Ordinance are severable, and if any provision, paragraph, word, section, or article of this Ordinance is invalidated by any court of competent jurisdiction, it shall not affect the remainder of this Ordinance and the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

SECTION 22. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

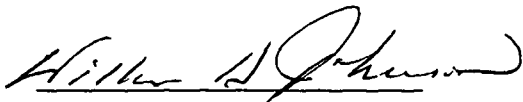
PASSED AND APPROVED this 6th day of January, 2011.


WILLIAM H. JOHNSON, MAYOR

ATTEST:

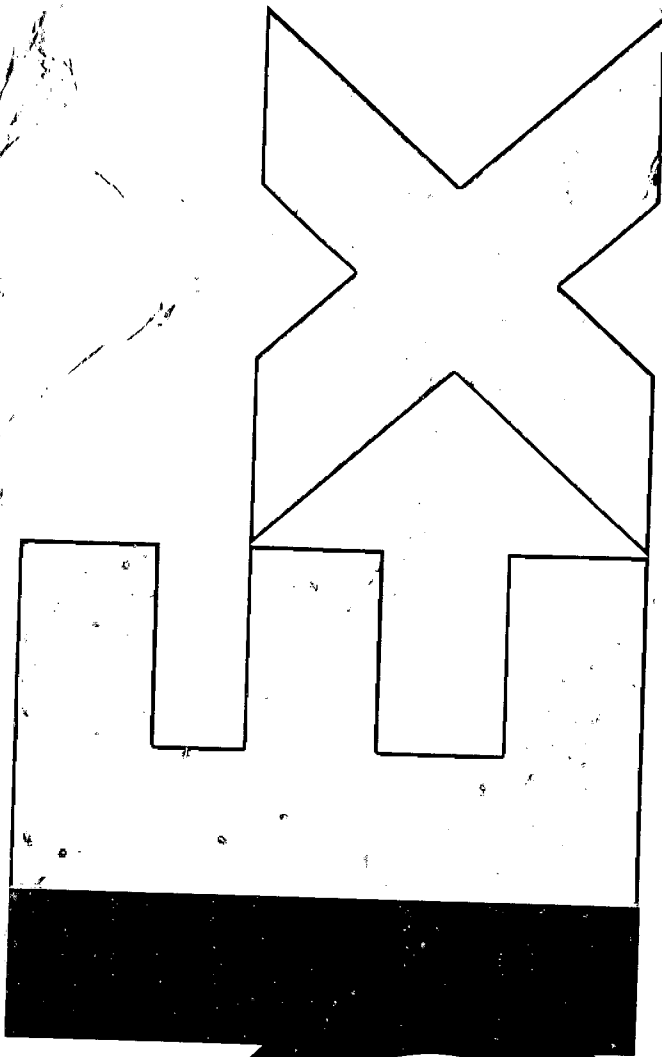

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