

ADEQ

ARKANSAS
Department of Environmental Quality

March 13, 2009

Jake Rice, III, General Operating Director
City Water & Light
400 East Monroe
P O Box 1289
Jonesboro, Arkansas 72403-1289

Re: Jonesboro CWL (AFIN 16-00152 AR0043401) Draft Ordinance

Dear Mr. Rice:

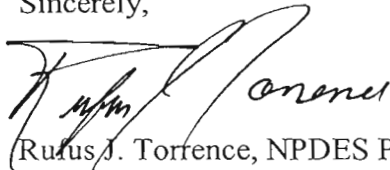
In reference to McGoodwin Williams & Yates letter dated December 10, 2007, the enclosed draft ordinance has been reviewed. Some changes have been indicated. The required changes are shown in red, and the recommended changes are shown in green. In either case, any concerns which you or members of CWL staff may have are welcome. CWL is encouraged to make suggestions on improving the changes.

The checklist used to ensure that all the required "Streamlining" updates were included in the draft ordinance has been enclosed. The checklist also indicates other required and recommended language.

The department looks forward to working with you and your staff on these "Streamlining" changes.

If you have any questions, please feel free to contact me at 501-682-0626 or torrence@adeq.state.ar.us.

Sincerely,



(Rufus J. Torrence, NPDES Pretreatment Engineer

Encl: Draft Ordinance
Checklist

Cc: Jessica Keahey /McGoodwin Williams & Yates/909 E Rolling Hills Drive/ Fayetteville, AR 72703

ADEQ CHECKLIST – PRETREATMENT PROGRAM LEGAL AUTHORITY REVIEWS

NAME OF POTW: JONESBORO CITY WATER & LIGHT
 DATE OF REVIEW: February 20, 2009

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

	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
A. Definitions [403.3 & 403.8(f)(2)]							
1. Act, Clean Water Act	403.3(b)	§ 1.4 A		X		§10.04.03(2)	
2. Authorized or Duly Authorized Representative of the User	403.12(l)	§ 1.4 C		X		§10.04.03(4)	
3. Best Management Practices or BMPs	403.3(e)	§ 1.4 E		X*	X	§10.04.03(5)	May Change
4. Categorical Pretreatment Standard or Categorical Standard		§ 1.4 F		X		§10.04.03(10)	
5. Indirect Discharge or Discharge	403.3(i)	§ 1.4 M		X		§10.04.03(32)	Must Change
6. Industrial User (or equivalent)	403.3(j)	§ 1.4 LL		X		§10.04.03(33)	May Add "User"
7. Interference	403.3(k)	§ 1.4 O		X		§10.04.03(37)	
8. National Pretreatment Standard, Pretreatment Standard or Standard	403.3(l)	§ 1.4 BB		X		§10.04.03(32)	Must Change
9. New Source	403.3(m)	§ 1.4 T		X		§10.04.03(48)	May Change
10. Pass Through	403.3(p)	§ 1.4 V		X		§10.04.03(52)	
11. Pretreatment Requirement	403.3(t)	§ 1.4 AA		X		§10.04.03(58)	
12. Publicly Owned Treatment Works or POTW	403.3(q)	§ 1.4 DD		X		§10.04.03(62)	Must Change
13. Significant Industrial User <i>[NOTE: §1.4 GG(3) is an optional streamlining provision for Non-Significant Categorical Industrial User classification.]</i>	403.3(v)	§ 1.4 GG		X			
14. Significant Noncompliance	403.8(f)(2)(vii)	§ 9 (A-C)		X X		§10.04.13	Must Change
14. Significant Noncompliance	403.8(f)(2)(vii)	§ 9 (D-H)			X	§10.04.13	

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

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

	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
15. Slug Load or Slug Discharge	403.8(f)(2)(vi)	§ 1.4 HH		X		\$10.04.03(68)	
16. Other definitions based on terms used in the POTW Ordinance						\$10.04.03	
17. Control Authority	403.3(f)					\$10.04.03(19)	Must Change
18. Approval Authority	403.3(c)					\$10.04.03(3)	May Change
*****						*****	
*****						*****	
*****						*****	
B. National Pretreatment Standards – Prohibited Discharges							
1. General Prohibitions							
a. Interference	403.5(a)	§ 2.1A		X		\$10.04.06(A)	
b. Pass Through	403.5(a)	§ 2.1A		X		\$10.04.06(A)	
2. Specific Prohibitions [403.5(b)]							
a. Fire/Explosion Hazard (60° C or 140° F flashpoint)	403.5(b)(1)	§ 2.1B(1)		X		\$10.04.06(1)(B)(i)	
b. pH/Corrosion	403.5(b)(2)	§ 2.1B(2)		X		\$10.04.06(1)(B)(ii)	
c. Solid or Viscous/Obstruction	403.5(b)(3)	§ 2.1B(3)		X		\$10.04.06(1)(B)(iii)	
d. Flow Rate/Concentration (BOD, etc.)	403.5(b)(4)	§ 2.1B(4)		X		\$10.04.06(1)(B)(iv)	
e. Heat; exceeds 40° C (104°F)	403.5(b)(5)	§ 2.1B(5)		X		\$10.04.06(1)(B)(v)	
f. Petroleum/Nonbiodegradable Cutting/Mineral Oils	403.5(b)(6)	§ 2.1B(6)		X		\$10.04.06(1)(B)(vi)	
g. Toxic Gases/Vapor/Fumes	403.5(b)(7)	§ 2.1B(7)		X		\$10.04.06(1)(B)(vii)	
h. Trucked/Hauled Waste	403.5(b)(8)	§ 2.1B(8)		X		\$10.04.06(1)(B)(viii)	

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
3. National Categorical Standards	403.8(f)(1)(ii)	§ 2.2		X		§10.04.06(2)	
4. Local Limits Development <i>[NOTE: POTW's may develop Best Management Practices (BMPs) to implement the prohibitions listed in 40 CFR 403.5(a)(1). Such BMPs shall be considered local limits and Pretreatment Standards.]</i>	403.5(c) & (d)	§ 2.4		X			
5. Prohibition Against Dilution as Treatment	403.6(d)	§ 2.6		X		§10.04.06(8)	
6. Best Management Practices Development <i>[NOTE: Optional streamlining provision.]</i>	403.5(c)(4)	§ 2.4C			X	§10.04.06(4)	
C. Control Discharges to POTW System							
1. Deny/Condition New or Increased Contributions	403.8(f)(1)(i)	§§ 4.8 & 5.2		X		§10.04.09(2)	
2. Individual Control Mechanism (e.g., permit) to ensure compliance - <i>Permit Content</i>	403.8(f)(1)(iii)	§ 4.2		X			
a. Statement of Duration	403.8(f)(1)(B)(1)	§§ 5.1 & 5.2A(1)		X		§10.04.08(2) §10.04.09(1) & (2) (A)(i)	
b. Statement of Nontransferability	403.8(f)(1)(B)(2)	§5.2A(2)		X		§10.04.09(2) (A)(ii)	
c. Effluent Limits	403.8(f)(1)(B)(3)	§ 5.2A(3)		X		§10.04.09(2) (A)(iii)	

Must Change

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
d. Best Management Practices <i>[Note: This is a required streamlining provision for CIUs with BMP requirements as part of its Categorical Standards. But if BMPs are being applied to other CIUs or noncategorical SIUs without categorical BMP requirements, then this provision would be optional and is only required if the POTW has incorporated the use of BMPs (§ 2.4 C).]</i>	403.8(f)(1)(B) (3)	§ 5.2A(3)		X X		§10.04.09(2)(A)(iii) & (B)(ix)	
e. Self-Monitoring Requirements	403.8(f)(1)(B) (4)	§ 5.2A(4)		X		§10.04.09(2)(A)(ix)	
f. Reporting & Notification Requirements	403.8(f)(1)(B) (4)	§ 5.2A(4)		X		§10.04.09(2)(A)(iv)	
g. Recordkeeping Requirements	403.8(f)(1)(B) (4)	§ 5.2A(4)		X		§10.04.09(2)(A)(iv)	
h. Process for Seeking a Waiver for Pollutants Not Present or Expected to be Present <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated § 6.4B o the Model SUO.]</i>	403.8(f)(1)(B) (4) & 403.12(e) (2)	§ 5.2A(5)			X	Not Applicable	
i. Statement of Applicable Civil and Criminal Penalties	403.8(f)(1)(B) (5)	§ 5.2A(6)		X		§10.04.09(2)(A)(v)	
j. Slug Discharge Requirements (if necessary) <i>[NOTE: Required streamlining change. Where the POTW has determined that slug controls are necessary, the ordinance must provide authority for the POTW to include such requirements in IU permits.]</i>	403.8(f)(1)(B) (6)	§ 5.2A(7)		XX		§10.04.09(2)(A)(vi)	

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
k. Specific waived pollutant [NOTE: <i>Optional streamlining provision. Required only if the POTW has incorporated § 6.4B of the Model SUO.</i>]	403.8(f)(1)(B)(4)	§ 5.2A(9) 6.4B			X	Not Applicable	
l. Permit Application/Reapplication Requirements [Note: <i>Optional permit provision</i>]		§§ 5.3 & 5.7			X	§10.04.08(5) & 10.04.09(8)	
m. Permit Modification [Note: <i>Optional permit provision</i>]		§ 5.4			X	§10.04.09(4)	
n. Permit Revocation/Termination [Note: <i>Optional permit provision</i>]		§§ 5.6 & 10.8			X	§10.04.09(6) & §10.04.14(7)	
o. Proper Operation and Maintenance [Note: <i>Optional permit provision</i>]		§ 3.1			X	§10.04.11(3)	May Add
p. Duty of Halt/Reduce [Note: <i>Optional permit provision</i>]		§ 10.7			X	§10.04.14(6)	
q. Requirement to submit Chain-of-Custody forms with monitoring data [Note: <i>Optional permit provision</i>]					X	§10.04.10(14)	
3. General Control Mechanism to ensure compliance [NOTE: <i>Optional streamlining provision. Required only if the POTW has incorporated the use of General Permits (§ 4.6 of the Model SUO).</i>] - Permit Content	403.8(f)(1)(iii)(A)	§ 4.2 & 4.6			X	Not Applicable	
a. Statement of Duration	403.8(f)(1)(B)(1)	§§ 5.1 & 5.2A(1)			X	Not Applicable	
b. Statement of Nontransferability	403.8(f)(1)(B)(2)	§ 5.2A(2)			X	Not Applicable	

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

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

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
j. Slug Discharge Requirements (if necessary) <i>[NOTE: Required streamlining change. The ordinance should indicate that a user is required to develop a slug discharge control plan if determined by the POTW to be necessary.]</i>	403.8(f)(1)(B)(6)	§ 5.2A(7)			X	Not Applicable	
k. Permit Application/Reapplication Requirements <i>[Note: Optional permit provision]</i>		§§ 5.3 & 5.7			X	Not Applicable	
l. Permit Modification <i>[Note: Optional permit provision]</i>		§ 5.4			X	Not Applicable	
m. Permit Revocation/Termination <i>[Note: Optional permit provision]</i>		§§ 5.6 & 10.8			X	Not Applicable	
n. Proper Operation and Maintenance <i>[Note: Optional permit provision]</i>		§ 3.1			X	Not Applicable	
o. Duty of Halt/Reduce <i>[Note: Optional permit provision]</i>		§ 10.7			X	Not Applicable	
p. Requirement to submit Chain-of-Custody forms with monitoring data <i>[Note: Optional permit provision]</i>					X	Not Applicable	
D. Required Reports							
1. Develop compliance schedule for installation of technology	403.8(f)(1)(iv)	§§ 5.2b(2) & 10.4			X	§10.04.10(1)(B)(vii)	

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
2. Reporting Requirements [403.12] Types of Reports							
a. Baseline monitoring report	403.12(b)	§ 6.1		X		§10.04.10(1)	
(i) Identifying Information	403.12(b)(1)	§ 6.1B(1) & § 4.5A(1)a		X		§10.04.10(1)(B)(i)	
(ii) Other Environmental Permits Held	403.12(b)(2)	§§ 6.1B(1) & 4.5A(2)		X		§10.04.10(1)(B)(ii)	
(iii) Description of operations	403.12(b)(3)	§§ 6.1B(1) & 4.5A(3)a		X		§10.04.10(1)(B)(iii)	
(iv) Flow measurements	403.12(b)(4)	§§ 6.1(b)(2) & 4.5A(6)		X		§10.04.10(1)(B)(iv)	
(v) Measurement of pollutants	403.12(b)(5)	§ 6.1B(2)		X		§10.04.10(1)(B)(v)	
(vi) Certification	403.12(b)(6)	§ 6.1B(3)		X		§10.04.10(1)(B)(viii)	
(vii) Compliance schedule	403.12(b)(7)	§ 6.1B(4)		X		§10.04.10(1)(B)(vii)	
b. Compliance schedule progress report	403.12(c)	§ 6.2		X		§10.04.10(2)	
c. Report on compliance with categorical Pretreatment Standard deadline	403.12(d)	§ 6.3		X		§10.04.10(3)	
d. Periodic reports on continued compliance							
- From categorical users	403.12(e)	§ 6.4A		XX		§10.04.10(4)	
- From significant non-categorical users	403.12(h)	§ 6.4A		XX		Not Applicable	
e. Notice of potential problems to be reported immediately (including slug loads)	403.12(f)	§ 6.6		X		§10.04.10(6)	

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
f. Notification of changes affecting potential for a slug discharge <i>[NOTE: Required streamlining revision]</i>	403.8(f)(2)(vi)	§ § 6.5 & 6.6		XX		§10.04.10(6)(D)	
g. Notice of violation/sampling requirement <i>[NOTE: Required streamlining revision.]</i>	403.12(g)(2)	§ 6.8		XX		§10.04.10(8)	
h. Requirement to conduct representative sampling	403.12(g)(3)	§ 6.4E		X		§10.04.10(4)(C)	
i. Notification of changed discharge	403.12(j)	§ 6.5		X		§10.04.10(5)	
j. Notification of discharge of hazardous waste	403.12(p)	§ 6.9		X		§10.04.10(9)	
Other Reporting Requirements							
k. Data accuracy certification & authorized signatory	403.6(a)(2)(ii) & 403.12(l)	§§ 6.4D & 6.14		X		§10.04.10(4)(B)	
l. Recordkeeping Requirement (3 years or longer)	403.12(o)	§ 6.13		X		§10.04.10(14)	
- Including documentation associated with Best Management Practices <i>[NOTE: Required streamlining provision.]</i>	403.12(o)	§ 6.13		XX		§10.04.10(14)	
m. Submission of all monitoring data <i>[NOTE: Required streamlining revision]</i>	403.12(g)(6)	§ 6.4F		X		§10.04.10(4)(D)	
n. Annual certification by Non-significant categorical Industrial Users <i>[Note: Optional provision, required only if the POTW has incorporated §1.4GG(3) of the Model SUO.]</i>	403.3(v)(2)	§§ 4.7C & 6.14B			X	Not Applicable	

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

	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
o. Certification of pollutant not present <i>[NOTE: Optional provision, required only if the POTW has incorporated § 6.4 B of the Model SUO]</i>	403.12(e)(2)(v)	§ 6.14C			X	Not Applicable	
E. Test Procedures [40 CFR Part 136 & 403.12(g)]							
1. Analytical procedures (40 CFR Part 136) <i>[NOTE: Required streamlining provisions]</i>	403.12(g)	§ 6.10		X		§10.04.10(10)	
2. Sample collection procedures <i>[NOTE: Required streamlining provisions]</i>	403.12(g)(3) & (4)	§ 6.11 A&C		XX		§10.04.11(1)(A) thru (E)	
F. Inspection and Monitoring Procedures [403.8(f)]							
1. Right to enter all parts of the facility at reasonable times	403.8(f)(1)(v)	§ 7.1		X		§10.04.11(1)	
2. Right to inspect generally for compliance	403.8(f)(1)(v)	§ 7.1		X		§10.04.11(1)	
3. Right to take independent samples	403.8(f)(1)(v), 403.8(f)(2)(v) & 403.8(f)(2)(vii)	§ 7.1		X		§10.04.11(1)	
4. Right to require installation of monitoring Equipment	403.8(f)(1)(iv)	§ 7.1		X		§10.04.11(1)(C)	
5. Right to inspect and copy records	403.12(o)(2)	§ 7.1		X		§10.04.11(1)	
G. Remedies for Non-compliance (Enforcement) [403.8(f)(1)(vi)]							
1. Non-emergency response							
a. Injunctive relief	403.8(f)(1)(vi)	§ 11.1		X		§10.04.15(1)	
b. Civil/Criminal penalties	403.8(f)(1)(vi)	§§ 11.2 & 11.3		X		§10.04.15(2) & (3)	

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
2. Emergency response							
a. Immediately halt actual/threatened discharged	403.8(f)(1)(vi)(B)	§ 10.7		X		§10.04.14(6)	
3. Legal authority to enforce Enforcement Response Plan	403.8(f)(1)(vi)	§ 11.4		X		§10.04.15(4)	
H. Public Participation							
1. Publish list of Industrial Users in Significant Noncompliance [NOTE: Required streamlining revision]	403.8(f)(2)(viii)	§ 9		XX		§10.04.13	
2. Access to data [403.8(f)(1)(vii) & 403.14]							
a. Government	403.14(a) & (c)	§ 8		X		§10.04.12	
b. Public	403.14(b)	§ 8		X		§10.04.12	
I. Optional Provisions							
1. Net/Gross adjustments [streamlining provision]							
2. Equivalent mass limits for concentration Limits [streamlining provision]	403.15 403.6(c)	§ 2.2 D § 2.2 E			X	§10.04.06(2)(D)	
3. Equivalent concentration limits for mass limits [streamlining provision]	403.6(c)	§ 2.2 F			X	§10.04.06(2)(A)	
4. Upset Notification	403.16	§ 13.1			X	§10.04.17(1)	
5. Waive monitoring for pollutant not present or expected to the present [streamlining provision]	403.12(e)(2)	§ 6.4B			X	Not Applicable	
6. Reduce periodic compliance reporting [streamlining provision]	403.12(e)(3)	§ 6.4C			X	Not Applicable	
7. Other special agreement or waivers (excluding wavier of National Categorical Pretreatment Standards and Requirements)			X			§10.04.06(7)	

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	Part 403 Citation	Model SUO Section	PROVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
8. Hauled Waste Reporting/Requirements		§ 3.4			X	§10.04.07(7)	
9. Grease Interceptor Reporting/Requirements		§ 3.2 C			X	§10.04.07(2)(C)	
10. Authority to issue Notice of Violations (NOVs)		§ 10.1			X	§10.04.14(1)	
11. Authority to issue Administrative Orders (AOs)		§ 10.4			X	§10.04.14(4)	
12. Authority to issue Administrative Penalties		§ 10.6			X	§10.04.14(8)	Should Add
13. Authority to enforce again falsification or tempering					X	Not Applicable	
14. Any other supplemental enforcement actions as noted in the POTW's enforcement response plan					X	§10.04.16	
Performance Bonds, Liability Assurances						(1) & (2)	
Water Supply Severance, Public Nuisances						(3) & (4)	
Penalties & Fees						(5) & (6)	
15. Permit Appeals Procedures					X	§10.04.09(3)	May Change
16. Penalty or Enforcement Appeals Procedures					X	Not Applicable	
17. Bypass Notification	403.17	§ 13.3			X	§10.04.17(3)	

Document(s) submitted for review:
 Sewer Use—Pretreatment Ordinance Document

Name of Reviewers
 Rufus Torrence, ADEQ Engineer

SEWER USE--PRETREATMENT ORDINANCE DOCUMENT

AN ORDINANCE AMENDING CHAPTER 10.04 OF THE JONESBORO MUNICIPAL CODE CONCERNING THE USE OF PUBLIC AND PRIVATE SEWERS; PRIVATE SEWAGE DISPOSAL; THE INSTALLATION, CONSTRUCTION, MAINTENANCE, AND CONNECTION OF BUILDING SEWERS; THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING THE PROVISION OF PENALTIES FOR THE VIOLATION THEREOF; REPEALING THE REPEALMENT OF ALL ORDINANCES IN CONFLICT THEREWITH; AND FOR ALL OTHER PURPOSES ALL PERTAINING TO THE SEWER SYSTEM WITHIN THE JURISDICTION OF THE CITY OF JONESBORO, ARKANSAS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS:

SECTION 1.

That Title 10, Chapter 10.04 – Sewer Use – Pretreatment Ordinance of the Jonesboro Municipal Code is hereby amended to read as follows:

10.04.00 – TABLE OF CONTENTS

This Ordinance shall be known as the "Sewer Use—Pretreatment Ordinance."

Comment: CWL should elect to use the phrase "this ordinance" in lieu of "Jonesboro Municipal Code" for consistency and clarity. The reader may not realize that "Jonesboro Municipal Code" refers to "this ordinance".

Sections:

- 10.04.01 Purpose and Policy
- 10.04.02 Administration
- 10.04.03 Definitions
- 10.04.04 Abbreviations
- 10.04.05 General Sewer Use Requirements
- 10.04.06 Regulation of Discharges
- 10.04.07 Pretreatment of Wastewater
- 10.04.08 Wastewater Discharge Permit Eligibility
- 10.04.09 Wastewater Discharge Permit Issuance
- 10.04.10 Process Reporting Requirements
- 10.04.11 Compliance Monitoring
- 10.04.12 Confidential Information
- 10.04.13 Publication of Industrial Users in Significant Noncompliance
- 10.04.14 Administrative Enforcement Remedies
- 10.04.15 Judicial Enforcement Remedies
- 10.04.16 Supplemental Enforcement Action
- 10.04.17 Affirmative Defenses to Discharge Violations
- 10.04.18 Excessive Pollutant Rates

10.04.01 - PURPOSE AND POLICY

This ordinance sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (POTW) for the City Water and Light Plant of the City of Jonesboro (CWL), herein also known as the POTW, and enables City Water and Light Plant (CWL) to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code (U.S.C.) 1251 *et seq.*) and General Pretreatment Regulations set forth in 40 CFR 403. The objectives of **this ordinance** are:

- (1) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- (2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- (7) To enable City Water and Light Plant (CWL) to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject; and
- (8) To encourage waste minimization, recycling, reuse, and Best Management Practices (BMPs) through pollution prevention activities.

This ordinance shall apply to all ~~Industrial~~ Users of the POTW. The ordinance authorizes the issuance of individual discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires ~~industrial~~ User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Comment: For CWL convenience the phrases "this ordinance" and "Jonesboro Municipal Code" are highlighted throughout this document. Where applicable CWL should use only one phrase. The ADEQ reviewer recommends using "this ordinance".

10.04.02 – ADMINISTRATION

- (1) The City Water and Light Plant Board of Directors (Board) shall establish such fees for sewer service, connections, monitoring, inspections, permits, and surveillance as are necessary to properly administer the Industrial Pretreatment Program for Jonesboro, Arkansas, and to maintain and operate the POTW. The City Water and Light Plant Board of Directors (Board) may, in compliance with Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.*, authorize any judicial enforcement remedy taken by City Water and Light Plant against any Industrial User in violation of ~~the Jonesboro Municipal Code this ordinance.~~
- (2) Except as otherwise provided herein, the City Water and Light Plant Board of Directors (Board), through its designated Manager, shall administer, implement, and enforce the provisions of Title 10, Chapter 10.04 (Sewer Use-Pretreatment Ordinance) of the Jonesboro Municipal Code. Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other City Water and Light Plant (CWL) personnel.

Comment: To avoid confusing the reader CWL should delete "Jonesboro Municipal Code". The reader may not realize that the CWL is referring to a section in "This ordinance" as CWL quoted above in the opening statement in 10.04.01 Purpose and Policy.

Comment: This phrase is highlighted in Yellow throughout this document to flag its location should CWL wish to replace the phrase with "in this ordinance".

10.04.03 - DEFINITIONS

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

- (1) Accessible Public Sewer. ~~Shall mean~~ An existing public sewer located so that it may be reached either by a building sewer constructed at the minimum grade recommended by the Arkansas Department of Health or by a combination of the extension of the existing public sewer and the construction of a building sewer, both of which are constructed at the minimum grade recommended by the Arkansas Department of Health.
- (2) 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.*
- (3) Approval Authority. Currently The ~~Director of the~~ Arkansas Department of Environmental Quality (ADEQ).
- (4) Authorized or Duly Approved Representative of the Industrial User
 - (A) If the Industrial User is a corporation, the Authorized Representative shall ~~mean~~ be as follows:
 - i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - ii) ~~The manager of one or more manufacturing, production, or operating facilities, employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capitol investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~
 - (B) If the Industrial User is a partnership or sole proprietorship, an Authorized Representative shall ~~mean~~ be a general partner or proprietor, respectively.
 - (C) If the Industrial User is a Federal, State, or local governmental facility, an Authorized Representative shall ~~mean~~ be a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or ~~his/her~~ the Authorized Representative's designee.
 - (D) The Authorized Representatives described above may designate a 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 Manager of CWL.
- (5) Best Management Practices (BMPs). ~~Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions set forth in 40 CFR 403.5 (a) (1) and listed in Section 10.04.06 (1-4) of the Jonesboro Municipal Code.~~ **BMPs may include** treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw materials storage.

Comment: To avoid confusing the reader delete "Jonesboro Municipal Code". The reader may not realize that the City is referring to a section in "This ordinance" as CWL quoted in the opening statement in 10.04.01 Purpose and Policy.

- (6) Biochemical Oxygen Demand (BOD₅). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20° centigrade, typically expressed in terms of ~~mass and~~ concentration [milligrams per liter (mg/L)] or an equivalent mass loading based on flow [pounds per day (lb/day)].
- (7) Board of Directors (Board). ~~Shall mean~~ The duly elected or appointed Board of Directors (Board) of City Water and Light Plant (CWL) of Jonesboro, Arkansas.
- (8) Building Drain. ~~Shall mean~~ That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it these wastes to the building sewer, beginning five (5) feet outside the inner face of the building wall.
- (9) Building Sewer. ~~Shall mean~~ The extension from the building drain to the public sewer or other places of disposal.
- (10) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U. S. Environmental Protection Agency (EPA) in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Industrial Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (11) Categorical Industrial User (CIU). An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.
- (12) City. The City of Jonesboro, in the County of Craighead, within the State of Arkansas; or the City Council of the City of Jonesboro.
- (13) City Water and Light Plant of the City of Jonesboro, Arkansas (CWL). ~~Shall mean~~ The Municipal Improvement District (District), a Publicly Owned Entity, organized and existing under the provisions of Arkansas Code Annotated (A.C.A.) 14-218-101 *et. seq.*, as a consolidated Municipal Improvement District to own and operate the electric power, water, and wastewater utilities in the City of Jonesboro, Arkansas.
- (14) Chemical Oxygen Demand (COD). ~~shall mean~~ The measure of the oxygen-consuming capacity of inorganic and organic matter present in a water or wastewater, typically expressed in terms of concentration (mg/L) or an equivalent mass loading (lb/day). The amount of oxygen consumed from a chemical oxidant in a specific test is not differentiated between stable and unstable organic matter and thus does not necessarily directly correlate with biochemical oxygen demand (BOD₅).
- (15) Collector Building Sewer. ~~Shall mean~~ A sewer on private property which is privately maintained and serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment, and at termini, with pipe having a diameter of at least six (6) inches. Such sewers shall be located outside building walls and footings.
- (16) Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- (17) Combined Sewer. ~~Shall mean~~ A sewer receiving both surface runoff and sewage.
- (18) Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

- (19) Control Authority. ~~Under the provisions of 40 CFR 403.12 (a), the term "Control Authority" shall mean the Board of Directors of City Water and Light Plant of Jonesboro, Arkansas, acting through its designated Manager, who is charged with certain duties and responsibilities by this ordinance, or his a duly appointed or Authorized Representative. The Control Authority shall have jurisdiction over the POTW's Industrial Users.~~
- (20) Control Manhole or Control Point. ~~Shall mean~~ A point of access to a building sewer at a point before the wastewater that is conveyed by the building sewer mixes with other wastewater conveyed by the public sewer.
- (21) Council or City Council. ~~Shall mean~~ The duly elected or appointed governing body of the City of Jonesboro.
- (22) Daily Maximum. ~~The arithmetic average of all effluent samples for a pollutant collected during a calendar day.~~
- (23) Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurement taken that day.
- (24) District. ~~Shall mean~~ City Water and Light Plant of Jonesboro, Arkansas (CWL).
- (25) Environmental Protection Agency or EPA. The U. S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director, the Regional Administration, or other duly authorized official of said agency.
- (26) Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act; any source of discharge that is not a "New Source."
- (27) Excessive Biochemical Oxygen Demand (BOD₅). ~~Is defined as~~ A BOD₅ concentration in excess of 250 mg/L.
- (28) Excessive fats, oils, and grease (FOG). A FOG concentration in excess of 100 mg/L.
- (29) Excessive Total Suspended Solids. ~~Is defined as~~ A total suspended solids in excess of 250 mg/L.
- (30) Garbage. ~~Shall mean~~ Domestic and commercial solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
- (31) Grab Sample. A sample that is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and ~~without consideration of time over a period of time not to exceed fifteen (15) minutes.~~
- (32) Indirect Discharge or Discharge. The introduction of non-domestic pollutants into the POTW from any non-domestic source ~~regulated under Section 307 (b), (c), or (d) of the Act.~~
- (33) Industrial User (IU) or User. A non-domestic source of indirect discharge to the waters of the State defined by ADEQ as a discharge to through a POTW.
- (34) Industrial Wastes. ~~Shall mean~~ The liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.

Comment: The recent streamlining revisions to 403 voided the language in 403.12(a); this section is presently deemed [Reserved].

Comment: This language originally appeared in the definition of POTW below.

Comment: EPA inadvertently listed "Daily Maximum" in the Model Pretreatment Ordinance when EPA obviously intended to define "daily discharge". Since "daily discharge" is defined below under "Daily Maximum Limit", strike this paragraph.

Comment: The majority of "Indirect Dischargers" are NOT regulated! Section 307(b),(c) & (d) refer to categorical pretreatment standards and, hence, categorical industrial users. Most indirect discharge comes from commercial establishment which are NOT regulated by these categorical pretreatment standards.

Comment: "Non-domestic" is redundant here since "indirect discharge" is defined above as "non-domestic".

- (35) Instantaneous Maximum Allowable Discharge Limit. The maximum concentration or equivalent loading of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (36) Interceptor. Means A device designed to skim, settle, or otherwise remove fats, oils, grease, sand, flammable wastes, or other harmful substances.
- (37) Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources:
- (A) Inhibits or disrupts the POTW; its treatment processes or operations; or its sludge processes, use or disposal; and
 - (B) Therefore is a cause of a violation of Jonesboro's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory and/or regulatory provisions or permits issued thereunder or more stringent State or local regulations:
 - i) Section 405 of the Clean Water Act;
 - ii) The Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA);
 - iii) Any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA;
 - iv) The Clean Air Act;
 - v) The Toxic Substances Control Act; and
 - vi) The Marine Protection, Research, and Sanctuaries Act.
- (38) Lower Explosive Limit The minimum concentration in air at which a gas or vapor will flame with an ignition source.
- (39) Local Limit or Technically Based Local Limit (TBLL). Specific discharge limits developed and enforced by CWL upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5 (a) (1) and (b).
- (40) Manager. The person appointed by the Board of Directors of City Water and Light Plant of the City of Jonesboro, Arkansas, to manage and supervise the electric, water, and wastewater utilities of the District and ~~who is~~ charged with certain duties and responsibilities by this ordinance, or the duly appointed or Authorized Representative of such person the Manager.
- (41) Mayor. ~~Shall mean~~ The Mayor of the City of Jonesboro, Arkansas.
- (42) Medical Waste. Wastes generated by the medical industry, including but not limited to isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, any object or substance that is capable of transmitting infectious organisms ~~fomites~~, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (43) Milligrams per Liter (mg/L). The equivalent amount as same parts per million (ppm) and is a weight-to-volume ratio. A milligram per liter value multiplied by a factor of 8.34 ~~shall be~~ is equivalent to pounds per million gallons of water.

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

Comment: This is the definition of "Monthly Average" that appears in CWL NPDES permit.

(45) ~~Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month calculated as the sum of all "daily discharges" measured during the calendar month divided by the number of "daily discharges" measured during that month. The permit monthly limitation based on the most stringent of an applicable categorical pretreatment standard, a local limit or other local requirements.~~

Comment: The reviewer is not sure of the city's intent here. "Limit" denotes restriction on discharge but the city is showing a "calculated" measurement of discharge. The city may wish to use the reviewer's suggested language or omit this definition.

(46) National Pollutant Discharge Elimination System or (NPDES) Permit. ~~Shall mean~~ A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(47) Natural Outlet. ~~Shall mean~~ Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

(48) New Source

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

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

(B) Construction on a site at which an Existing Source is located results in a modification of the Existing Source rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section 10.04.03 (45) (A) (ii) or (iii) above but otherwise alters, replaces, or adds to the existing process or production equipment.

(C) Construction of a New Source as defined under this paragraph has shall be considered to have commenced if the owner or operator has:

- i) Begun or caused to begin as part of a continuous on-site construction program:
 - a) Any placement, assembly, or installation of facilities or equipment; or
 - b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities ~~which is~~ necessary for the placement, assembly, or installation of New Source facilities or equipment; or
- ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in ~~it's the~~ the New Source's operation within a reasonable time. Options to purchase or contracts which ~~can~~ may be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies ~~do~~ shall not constitute a contractual obligation under this paragraph.

- (49) 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.
- (50) Normal Domestic Wastewater. ~~Means Wastewater excluding that from non-generated from residential uses or discharged by a person into the POTW, in which the Such wastewater shall be defined as to contain an average concentration of BOD₅ is not more than 250 mg/L; TSS is not more than 250 mg/L; and fats, oils, and grease not more than 100 mg/L.~~
- (51) Owner. ~~Shall mean~~ The person or persons who possess any interest in the structure or property to which such ownership relates.
- (52) Pass Through. A discharge which exits the POTW into waters of the United States state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other Sources, is a cause of a violation of any requirement of Jonesboro's CWL's NPDES permit, including an increase in the magnitude or duration of a violation.
- (53) Penalty. ~~A sewer service charge above the normal monthly sewer rate which may be assessed to those non-residential sewer Users who discharge wastewater with excessive FOG, defined herein, into the POTW.~~
A monetary fine for violations of this ordinance as set forth in Section 10.04.15.
- (54) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (55) pH. A measure of the acidity or alkalinity of a substance, expressed in standard units (S.U.).
- (56) Pollutant. Including but not limited to any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, agricultural industrial wastes, and the certain characteristics and constituents of wastewater including but not limited to pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor.
- (57) 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~~ may be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless specifically allowed by an applicable Pretreatment Standard.
- (58) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an Industrial User, other than a Pretreatment Standard.
- (59) Pretreatment Standards and Requirements or Standards and Requirements. ~~Pretreatment Standards shall mean~~ The ~~prohibitive prohibited~~ discharge standards, Categorical Pretreatment Standards, and Technically Based Local Limits (TBLLs).
- (60) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances, ~~these prohibitions appear as set forth~~ in Section 10.04.06 (1) of the Jonesboro Municipal Code.

Comment: The "red" language is the definition of "Surcharge" which is defined below; "surcharges" are for sewer use. I recommend that you use the "green" language or something similar for pretreatment.

Comment: "Prohibitive" means even though the standards are discouraging they are allowed. THIS NOT TRUE. See the definition of "Prohibited" below.

- (61) Properly Shredded Garbage. ~~Shall mean~~ The wastes from preparing, cooking, and dispensing of food ~~that have been~~ shredded to such a degree that all particles ~~will~~ shall be carried freely under the flow conditions which normally prevail in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (62) Publicly Owned Treatment Works (POTW). A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the ~~State of~~ municipality (CWL). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. ~~The term shall also mean the public entity having jurisdiction over the POTW Industrial Users discharging to the POTW and responsibility for the operation and maintenance of the treatment works.~~
- (63) Public Sewer. ~~Shall mean~~ A sewer in which all owners of abutting properties have equal rights, ~~and is~~ controlled by ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL.
- (64) Sanitary Sewer. ~~Shall mean~~ A sewer which carries sewage and to which stormwater, surface water, and groundwater is not intentionally admitted.
- (65) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (66) Sewage. Human excrement and gray water (household showers, dish washing operations, etc.).
- (67) Significant Industrial User (SIU).
- (A) A User subject to Categorical Pretreatment Standards; ~~and or~~
- (B) A User that:
- i) Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact, cooling, and boiler blowdown wastewater; or
- ii) Contributes a process waste stream which contributes five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant, or
- iii) Is designated as a Significant Industrial User by ~~City Water and Light Plant~~ CWL of Jonesboro, Arkansas, 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.
- (68) Slug Load or Slug. Any discharge at a flow rate or concentration which may cause a violation of the prohibited discharge standards set forth in Section 10.04.06 of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill/slug or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or may in any other way violate CWL's Pretreatment Regulations, Local Limits, or NPDES permit conditions.
- (69) Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U. S. Office of Management and Budget.
- (70) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

Comment: No City or Municipality can pass a law which gives its jurisdictional over State property. POTW in this ordinance should refer only to treatment works owned by CWL.

Comment: This probably should be included in the definition of Control Authority.

- (71) Standard Methods. ~~Shall mean~~ The examination and analytical procedures set forth in the latest edition at the time of analysis of Standard Methods for the Examination of Water and Wastewater as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- (72) Storm Drain or Storm Sewer. ~~(Sometimes termed "storm sewer") shall mean~~ A sewer that carries stormwater, surface water, and drainage, but excludes sewage and industrial waste other than unpolluted cooling water.
- (73) Surcharge. ~~Shall~~ A sewer service charge above the normal monthly sewer rate which may be assessed to those non-residential sewer Users who discharge wastewater exceeding the BOD or TSS concentrations typical of normal domestic wastewater, defined herein, into the POTW ~~having BOD₅ in excess of 250 mg/L; suspended solids content in excess of 250 mg/L.~~
- (74) Surface Water. ~~Shall mean~~ Any watercourse, pond, stream, ditch, lake, or other body of water occurring on the earth's surface.
- (75) Suspended Solids or Total Suspended Solids (TSS). The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids, and is removable by laboratory filtering.
- (76) To Discharge. ~~includes~~ To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of wastewater; or to allow, permit, or suffer any of these acts or omissions.
- (77) Toxic Pollutant. Any one of ~~126~~ the pollutants or combination of ~~those pollutants thereof~~, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- (78) Treatment Plant Effluent or Effluent. Any discharge of wastewater pollutants from the POTW into the waters of the State.
- (79) User or Industrial User (IU). A non-domestic source of indirect discharge to the waters of the State through a POTW.
- (80) 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; the wastewater is treated and discharged as effluent.
- (81) Wastewater Treatment Plant (WWTP) or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.
- (82) Watercourse. ~~Shall mean~~ A channel in which a flow of water occurs, either continuously or intermittently.

Comment: Even if CWL manages to treat the wastewater such that no pollutants are detected, the "wastewater" would still be regulated by ADEQ.

Comment: Repeat the definition of "User" here for convenience of the reader since the City uses this word in lieu of "Industrial User" throughout the ordinance.

The word "shall" is construed as mandatory.

The word "may" is permissive or discretionary.

The use of the singular shall be construed to include the plural and the plural shall include the singular, as indicated by the usage context of its use.

10.04.04 - ABBREVIATIONS

The following abbreviations shall have the designated meanings:

- ADEQ - Arkansas Department of Environmental Quality
- ADH - Arkansas Department of Health
- ASTM - Association for the Standard Testing of Materials
- BMP - Best Management Practice
- BOD₅ - Biochemical Oxygen Demand
- CFR - *Code of Federal Regulations*
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- CWL - City Water and Light Plant of the City of Jonesboro
- EPA - U. S. Environmental Protection Agency
- FOG - Fats, oils, and grease
- gpd - Gallons per Day
- IU - Industrial User
- L - Liter
- lb/day - Pounds a Day
- mg - Milligrams
- mg/L - Milligrams per Liter
- NOV - Notice of Violation
- NPDES - National Pollutant Discharge Elimination System
- OSHA - Occupational Safety and Health Administration (~~Title 29, Chapter XVII CFR~~)
- O&M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classifications
- SIU - Significant Industrial User
- S.U. - Standard Units
- SWDA - Solid Waste Disposal Act (42 U.S.C. 6901, *et seq.*)
- TBLL - Technically Based Local Limits
- TSS - Total Suspended Solids
- USC - United States Code
- WPCF - Water Pollution Control Federation
- WWTP - Wastewater Treatment Plant

10.04.05 - GENERAL SEWER USE REQUIREMENTS

- (1) Use of Public Sewers
- (A) It shall be unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable wastes in any unsanitary manner upon public or private property within the City of Jonesboro, Arkansas, or in any area under the jurisdiction of said City.
 - (B) It shall be unlawful to discharge to any natural outlet within the City of Jonesboro, Arkansas, or in any area served by ~~City Water and Light Plant~~ CWL any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance. The issuance of a valid NPDES National Pollutant Discharge Elimination System permit authorizing such discharges into a natural outlet shall be considered as meeting all the requirements of this section.
 - (C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.
 - (D) Owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Jonesboro and abutting any street, alley, or right-of-way in which there is ~~now~~ located or may in the future be located an accessible public sanitary sewer of CWL ~~the City Water and Light Plant of Jonesboro, Arkansas~~, is hereby required at ~~his~~ the owner's expense to install suitable toilet facilities therein and to connect such facilities directly to the public sewer. Connection to the ~~proper accessible~~ public sewer shall be made in accordance with the provisions of the Jonesboro Municipal Code within sixty (60) days after date of official notice to do so, provided that said accessible public sewer is within three hundred (300) feet of the property line. The requirements of this section shall not apply to owners discharging ~~such sewage~~ under the provisions of a valid NPDES National Pollutant Discharge Elimination System permit.
 - (E) Other than building sewers and collector building sewers, all sewers constructed by owners connecting building drains of structures to the existing public sewer shall be located within public easements or rights-of-way, ~~and shall be constructed by such owner~~ Construction shall be to the standards required by ~~City Water and Light Plant~~ CWL for public sewers. No sewer shall be constructed within any public easement or right-of-way or connected to an existing public sewer without approval by the Manager of ~~City Water and Light Plant~~ CWL.
 - (F) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, or subsurface drainage to the POTW.
 - (G) Stormwater and all other surface runoff shall be discharged to ~~such~~ sewers specifically designated as storm sewers or to a natural outlet.
- (2) Private Sewage Disposal
- (A) Where a public sanitary sewer is not available under the provisions of Section 10.04.05 (1) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
 - (B) Before construction of a private wastewater disposal system shall commence within the City of Jonesboro, Arkansas, or any area under the jurisdiction of ~~said City Water and Light Plant~~ CWL, all persons shall first obtain a permit for ~~such~~ construction from the City Inspector. The application form for the permit shall be ~~made on a form~~ furnished to the applicant by the City Inspector. ~~which~~ The applicant shall ~~submit~~ submit the application and supplemental plans, specifications, and construction permits approved by the ~~ADH Arkansas Department of Health and/or the Arkansas Department of Environmental Quality ADEQ~~. The ~~then~~ current permit and inspection fee prescribed by the City Inspector shall be paid to the City of Jonesboro at the time the application is filed.

- (C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Inspector. The Inspector shall be allowed to inspect the work at any stage of construction. ~~and, in any event,~~ The applicant for the permit shall notify the Inspector when the work is ready for final inspection and before any underground portions are covered. The Inspector shall make the inspection within forty-eight (48) hours of the receipt of notice.
- (D) The type, capacity, location, and layout of private sewage disposal systems shall comply with all applicable requirements of the ~~Arkansas Department of Health ADH and/or the Arkansas Department of Environmental Quality ADEQ.~~ No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (E) At such time as an accessible public sewer becomes available to a property that is served by a private sewage disposal system, as provided in Section 10.04.05 (1) of the Jonesboro Municipal Code, the building sewer shall be connected to said available sewer within sixty (60) days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable materials. The requirements of this section shall not apply to persons discharging ~~such~~ sewage under the provisions of a valid National Pollution Discharge Elimination System NPDES permit.
- (F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City of Jonesboro or to ~~City Water and Light CWL.~~
- (G) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Craighead County Health Department Environmental Engineer Sanitarian.

(3) Building Sewers and Connections

- (A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit ~~for such connection~~ from the Manager of ~~City Water and Light Plant CWL.~~ No permit shall be issued for a sewer connection until ~~the then current~~ all associated connection tie-on fees prescribed by the Board of ~~Directors (Board) of City Water and Light Plant (CWL)~~ have been paid.
- (B) There shall be two (2) classes of building sewer permits:
 - i) For service to residential and commercial establishments; and
 - ii) For service to establishments producing industrial wastes.

In either case, the person shall make application on special forms furnished by the Manager of ~~City Water and Light Plant CWL.~~ The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent by the Manager.

- (C) Prior to the initiation of sewer service to potential new customers who will discharge industrial process wastes to the POTW, the potential customer shall complete an Industrial User Survey, a form furnished by the Manager of ~~City Water and Light Plant CWL.~~ The Industrial User Survey shall be returned to CWL within thirty (30) days of receipt, but no less than ninety (90) days before the User plans to discharge wastewater to the POTW. no less than one hundred and twenty (120) days prior to the date on which they. If the potential customer will be required to obtain a permit, a Significant Industrial User an SIU, the potential customer shall, pursuant to Section 10.04.08 ~~(4)-(6)~~ (4)-(6) of the Jonesboro Municipal Code, complete an application for an individual industrial wastewater discharge permit in lieu of completing the Industrial User Survey form, also on a form furnished by the Manager of City Water and Light Plant, no less than ninety (90) days prior to the date on which they plan to discharge wastewater.

Comment: Since the survey form and application contain similar information, most cities do not require both documents from new Users.

- (D) The Manager will evaluate applications for individual industrial wastewater discharge permits and determine, pursuant to Section 10.04.08 (7) of the Jonesboro Municipal Code, whether or not to issue the applicant an individual industrial wastewater discharge permit.
- (E) A separate and independent building sewer shall be provided for each individual building except:
- i) Where multiple buildings are constructed in an apartment complex or condominium on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels. The individual buildings may be connected to a common building sewer provided that only one person is responsible for the maintenance of the building sewer; or
 - ii) Temporary buildings, mobile homes, or similar portable structures which may be connected to a building sewer installed to serve a previously constructed permanent building, provided that both the permanent and temporary buildings are located on a lot or tract of, and maintained in, common ownership.
- (F) Pipe ~~for used in~~ building sewers for service to the ~~City Water and Light Plant~~ CWL public sewer may be of any approved material listed in the City of Jonesboro Plumbing Code. The Manager shall approve:
- i) Type of material and size of pipe to be used in the construction of building sewers; and
 - ii) Methods of installation of building sewer pipe prior to and/or during construction of the building sewers.
- (G) Old building sewers may be used in connection with new buildings only when they are found through examination and testing by the Manager of ~~City Water and Light Plant~~ CWL to meet all requirements of the Jonesboro Municipal Code.
- (H) The size, slope, and alignment of building sewers and the methods to be used in excavating and backfilling the trench and placing, jointing, and testing the pipe shall conform to the requirements of ~~the all applicable~~ building and plumbing codes ~~or and~~ other applicable rules and regulations of ~~City Water and Light Plant~~ CWL. In the absence of code provisions ~~or in amplification thereof~~, the materials and procedures set forth in the appropriate sections of ASTM and AWWA specifications and the WPCF Manual of Practice No. 9 shall apply.
- (I) Where possible, the building sewer shall be ~~brought~~ connected to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by ~~such~~ the connected building drain shall be lifted by an approved means and discharged to the building sewer.
- (J) No person shall ~~make~~ connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which ~~in turn~~ is connected directly or indirectly to a public sanitary sewer.
- (K) The connection of the building sewer ~~into~~ the public sewer shall conform to the requirements of ~~the all applicable~~ building and plumbing codes ~~or and~~ other applicable rules and regulations of ~~City Water and Light Plant~~ CWL. ~~In the absence of code provisions, or the~~ procedures set forth in appropriate sections of ASTM and AWWA specifications and the WPCF Manual of Practice No. 9, shall apply. All such connections shall be made gastight and watertight. The Manager of ~~City Water and Light Plant~~ CWL must approve any deviation from the prescribed procedures and materials before installation.

- (L) All excavations for building sewer installations shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Jonesboro.
- (M) Persons possessing building sewer permits shall notify the Manager when the building sewer is ready for inspection and connection to the POTW. The connection shall be ~~accomplished~~ made only under the supervision of ~~City Water and Light Plant~~ CWL Water and Sewer Department personnel.
- (N) Persons possessing building sewer permits shall indemnify the City of Jonesboro and ~~City Water and Light Plant~~ CWL from any loss or damage that may directly be occasioned by the installation and/or operation of the building sewer.
- (O) Persons possessing building sewer permits shall hold the City of Jonesboro and ~~City Water and Light Plant~~ CWL harmless from any loss or damage that may directly or indirectly be ~~occasional~~ caused by or arising from the installation and/or operation of the building sewer.

10.04.06 - REGULATION OF DISCHARGES

(1) Prohibited Discharge Standards

(A) General Prohibitions

No Industrial 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 Industrial 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

~~Furthermore~~; No Industrial User may contribute or cause to be introduced the following pollutants, substances, or wastewater to the POTW:

- i) Pollutants which create a fire or explosive hazard in the municipal wastewater collection system or POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- ii) Any wastewater having a pH less than 6.0 S.U. or more than 11.5 S.U., or otherwise causing corrosive structural damage to the POTW or equipment or endangering ~~City Water and Light Plant CWL~~ personnel;
- iii) Solid or viscous substances in amounts which will cause obstruction of the flow to and within the POTW or result in interference, and but in no case shall-solids greater than one half (1/2) inch (1.27 centimeters) in any dimension;
- iv) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD₅, 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 or any wastewater treatment or sludge process, or which will constitute a hazard to humans ~~or animals~~;
- v) Any wastewater having a temperature greater than 150°F (65°C) or that which will inhibit biological activity in the treatment plant and result in interference, but in no case wastewater which causes the influent temperature of the WWTP at the introduction into the treatment plant to exceed 104°F (40°C);
- vi) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- vii) Any 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.
- viii) Any trucked or hauled pollutants, except at discharge points designated by the Manager of ~~City Water and Light Plant CWL~~ in accordance with Section 10.04.07 (5) of the Jonesboro Municipal Code;
- ix) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent human entry into the sewers for maintenance and repair;
- x) Any wastewater which imparts color that cannot be removed by the treatment process such as but not limited to dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating ~~CWL's City Water and Light Plant's~~ NPDES permit;

- xi) Any Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Manager in an individual industrial wastewater discharge permit and in compliance with applicable State or Federal regulations;
- xii) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Manager in an individual industrial wastewater discharge permit;
- xiii) Any sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv) Any medical wastes, except as specifically authorized by the Manager in an individual industrial wastewater discharge permit;
- xv) Any wastewater causing the treatment plant's effluent to fail a toxicity test;
- xvi) Any wastes containing detergents, surface-active agents, surfactants, or other substances that may cause excessive foaming or scum in the POTW;
- xvii) Any wastes containing fats, oils, or grease (FOG) of animal, vegetable, or mineral origin exceeding one hundred (100) mg/L, except that which may be permitted by the Manager of City Water and Light Plant CWL as provided for by Section 10.04.18 of the Jonesboro Municipal Code; and
- xviii) Any liquids, solids, or gases which by reason of nature or quantity are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Wastewater causing two (2) readings on an explosions hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5% or any single reading over 10% of the Lower Explosive Limit of the meter.

Pollutants, substances, or wastewater ~~Wastes~~ prohibited by this section shall not be processed or stored in such a manner that ~~they could be~~ could facilitate discharge to the POTW. All floor drains located in process or material storage areas must discharge to the Industrial User's pretreatment facility before connecting with the POTW if (1) the User has a pretreatment facility, (2) the User's wastewater has the potential to cause pass through or interference and (3) the User is not exempted by the Manager.

Comment: Since the general and specific prohibitions apply to all Users, CWL should either (1) strike this sentence or (2) add this language or something similar to exempt those Users with no potential to cause harm and not require ALL users to install treatment systems.

(2) Federal Categorical Pretreatment Standards

The National Categorical Pretreatment Standards ~~found at~~ set forth in 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(A) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6 (c).

(B) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

Comment: To be consistent CWL should either provide procedures for production-based CIUs or omit these procedures entirely. Paragraph H below requires the additional of Paragraph B here and section 10.04.10(3) below requires production-based CIUs to submit production rates to CWL.

(C) When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Manager may impose an alternate limit based on the combined waste stream formula in 40 CFR 403.6 (e).

- (D) An Industrial 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 the User's discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.
- (E) When a Categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an IU may request that CWL convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Manager. To be eligible for equivalent mass limits established by CWL, the IU must meet all of the requirements set forth in 40 CFR 403.6 (c) (5) (i) and below.
- i) To be eligible for equivalent mass limits, the IU must:
- a) Employ or demonstrate that it will employ water conservation methods and technologies that substantially reduce water use during the term of the User's control mechanism;
 - b) Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c) Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - e) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior the IU's request for equivalent mass limits.
- ii) An IU subject to equivalent mass limits must:
- a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c) Continue to record the facility's production rates and notify the Manager whenever production rates are expected to vary by more than 20% from baseline production rates determined by 40 CFR 403.6 (c) (5) (i) (C) and as described in 10.04.06 (2) (D) (i) (c) in this section. Upon notification of a revised production rate, the Manager must reassess the equivalent mass limits and revise the limit as necessary to reflect changed conditions at the facility; and
 - d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to 10.04.06 (2) (D) (i) (a) of this section.

- iii) When developing equivalent mass limits, the Manager:
 - a) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the IU by the concentration-based daily maximum and monthly average standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;
 - b) Will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility, upon notification of a revised production rate;
 - c) May retain the same equivalent mass limit in subsequent control mechanism terms if the IU's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 10.04.06 (8). The IU must also be in compliance with Section 10.04.17 (3) regarding the prohibition of bypass.

- (F) Once incorporated into a User's permit, the IU must comply with the equivalent limitations developed in this Section in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived.
- (G) Many Categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(H) Any IU operating under a control mechanism incorporating equivalent mass limitations calculated from a production based standard shall notify the Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Manager of such anticipated change will be required to meet the mass limits in its control mechanism that were based on the original estimate of the long-term average production rate.

Comment: See comment on Paragraph B above.

(3) **State Requirements**
~~The Arkansas Department of Environmental Quality ADEQ may, from time to time, promulgate new Pretreatment Requirements. In the event that a particular Pretreatment Requirement may be more stringent than that imposed by Federal Law or by the Jonesboro Municipal Code, the State Requirement shall immediately supersede the others and shall then become govern as the applicable Pretreatment Standard or Requirement.~~

Comment: ADEQ has never promulgated Pretreatment Requirements. ADEQ always incorporates promulgated Federal Categorical Pretreatment Standards. CWL incorporated Federal standards above in section 2.

(4) Specific Pollutant Limitations Local Limits

To protect against pass through and interference, no Significant Industrial User may discharge or cause to be discharged into the POTW any wastewater having concentrations of pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Manager of City Water and Light CWL as required by Part III of CWL's NPDES permits No. AR0037907 and AR0043401, authorized by 40 CFR 403.5 (c), and adopted by Resolution by the Board of Directors of City Water and Light Plant. Adopted Technically Based Local Limits also are as, and approved by the Arkansas Department of Environmental Quality ADEQ the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Appendix O. Technically Based Local Concentration Limits TBLLs shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals pollutants shall be for in terms of "total" metals unless otherwise indicated. At his the discretion of the Manager, mass limitations may be imposed in addition to or in place of concentration based Technically Based Local Limits TBLLs. The Manager's of CWL may also develop BMPs, by ordinance or in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented or revised, CWL will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3). This requirement of notice also applies whether when Local Limits are set by ordinance or on a case-by-case basis.

Comment: Developing local limits is an ongoing process and CWL should look at its limits at least annually; see 40CFR403.5(c)(1). Nonetheless, CWL will be required to update (or certify) local limits every five years as a condition in the NPDES permit.

Comment: Our goal is to be able to update the local limits without involving the Board. We want to limit the process to just the Manager and ADEQ.

(5) City Water and Light Plant's Right of Revision

The City Water and Light Plant CWL may establish, by Resolution by the Board of Directors of City Water and Light Plant (Board) or in individual wastewater discharge permits, more stringent Standards or Requirements for discharges to the POTW if deemed necessary to comply with the objectives presented in Section 10.04.01 of the Jonesboro Municipal Code or the general or specific prohibitions Local Limits set forth in Section 10.04.06 (4) of the Jonesboro Municipal Code.

Comment: Again our goal is to avoid including the Board or changing the ordinance when new Local Limits are implemented.

(6) Most Stringent Requirement or Standard to Apply

The most stringent of Federal, State of Arkansas, or Jonesboro Municipal Code Requirements or Standards shall supersede the others and shall then become govern as the applicable Pretreatment Requirement or Standard.

Comment: CWL has elected NOT to show NUMBERS for local limits in this ordinance but has elected instead to reference a "TBLL" document. Once again our goal is to avoid involving the Board. CWL has already provided for the "Right of Revision" in the above paragraph; this paragraph allows CWL to establish "more stringent" standards by the only the Manager with ADEQ approval.

(7) Special Agreement

The Board of Directors of City Water and Light Plant (Board) may enter into special agreements with Industrial Users, setting out special terms under which they the Users may discharge to the POTW. In no case will shall a special agreement waive compliance with a Pretreatment Standard or Requirement.

(8) Dilution

No Industrial User shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation, unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Manager of City Water and Light Plant CWL may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases when the imposition of mass limitations is appropriate.

10.04.07 - PRETREATMENT OF WASTEWATER

(1) Pretreatment Facilities

Industrial Users shall provide necessary wastewater pretreatment as required to comply with **this ordinance** and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 10.04.06 above, within the time limitations specified by the EPA, the State, or ~~the Manager CWL~~, whichever is more stringent. ~~Any~~ Facilities required to pretreat wastewater to a level acceptable to ~~City Water and Light Plant CWL~~ shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Manager for review and shall be ~~acceptable to approved by~~ the Manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an acceptable discharge to ~~City Water and Light Plant CWL~~ under the provisions of **this ordinance**.

Comment: GOOD! For consistency please consider replacing the phrase "Jonesboro Municipal Code" with the phrase "this ordinance" in all sections of "this ordinance".

(2) Additional Pretreatment Measures

- (A) Whenever deemed reasonably necessary for proper operation of the POTW, the Manager of City Water and Light Plant CWL may require Industrial Users to restrict their discharge of wastewater during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate non-industrial sewage waste streams from industrial waste streams, and other conditions measures as may be necessary to protect the POTW and determine the Industrial User's compliance with the requirements of this ordinance.
- (B) Whenever deemed reasonably necessary for proper operation of the POTW, the Manager of City Water and Light Plant CWL may require Industrial Users to install and maintain, on his the User's property and at his the User's expense, a suitable storage and flow control facility to ensure equalization of flow over a twenty-four (24) hour period. The Manager may require that such flow equalization control facilities be equipped with alarms and controls for metering and regulating the rate of discharge ~~control~~, the regulation of which may be directed only by the Manager. An individual wastewater discharge permit may be issued solely for flow equalization.
- (C) FOG Grease, oil, and sand interceptors shall be provided when, in the opinion of the Manager of City Water and Light Plant CWL, they are necessary for the proper handling of wastewater containing excessive amounts of fats, oils, grease, flammable wastes, sand, and/or other objectionable wastes, except such interceptors shall not be required for private living quarters or dwelling units.
- All interceptors shall be of the type and capacity approved by the Manager, shall comply with the Fats, Oils, and Grease (FOG) Management Ordinance of the Jonesboro Municipal Code, provide a minimum detention time of 12 minutes and a minimum capacity of 500 gallons, and shall be located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with the FOG Management Ordinance of the Jonesboro Municipal Code by the User at own expense, as well as Users shall continuously maintain all interceptors in a satisfactory and effective operation. Storage, handling, transportation, and disposal of all wastes generated from interceptors shall be performed in accordance with all applicable Federal, State, and local regulations that pertain to that type and/or class of waste.
- (D) Industrial Users with the potential to discharge flammable substances may be required by the Manager of City Water and Light Plant CWL to install and maintain an approved combustible gas detection meter.

Comment: Correct Here! CWL is NOT referring to "this ordinance".

Comment: Correct Again!

(3) Accidental Discharge/ Slug Control Plans

The Manager of CWL shall evaluate whether each SIU needs an accidental or slug discharge control plan or other action to control slug discharges. At least once every two years the Manager shall evaluate whether each significant industrial user needs such a plan. The Manager of City Water and Light Plant CWL may require any Industrial User to develop, submit for approval, and implement an accidental discharge/slug control such a plan or take such other action that may be necessary to control slug discharges. ~~Any Industrial User required to develop and implement~~ An accidental discharge or slug discharge control plan shall submit a plan that address, at a minimum, the following:

- (A) Description of discharge practices, including non-routine batch discharges;
- (B) Description of stored chemicals;
- (C) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 10.04.06 of the Jonesboro Municipal Code; and
- (D) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

All SIUs shall notify CWL immediately of any changes at its facility affecting potential for a slug discharge.

(4) Tenant Responsibility

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement and if either the owner or the tenant is an Industrial User, either or both parties may be held responsible for compliance with the provisions of this ordinance.

(5) Hauled Wastewater

- (A) Septic tank waste may be accepted into the POTW, at the discretion of CWL, at a receiving structure designated by the Manager of City Water and Light Plant CWL and at such times established by the Manager, provided such wastes do not violate Section 10.04.06 of the Jonesboro Municipal Code or any other requirements established or adopted by the Board of Directors of City Water and Light Plant. The Manager may issue-require septic tank waste haulers to obtain an individual wastewater discharge permit from CWL for individual vehicles to use such facilities. The Manager shall have authority to prohibit the disposal of such wastes if its disposal would interfere with the treatment plant operation. Septic waste haulers shall also be subject to all other applicable sections of the Jonesboro Municipal Code.
- (B) The discharge of hauled industrial wastes as "industrial septage" into the POTW requires prior approval by CWL. Industrial septage may be accepted into the POTW, at the discretion of CWL, at a receiving structure designated by the Manager of CWL and at such times established by the Manager, provided such wastes do not violate Section 10.04.06 of the Jonesboro Municipal Code or any other requirements established or adopted by the Board.. The Manager may require industrial waste haulers to obtain an individual wastewater discharge permit from City Water and Light Plant CWL for individual vehicles to use such facilities. The Manager shall have authority to prohibit the disposal of such wastes if its disposal would interfere with the treatment plant operation. Industrial waste haulers are shall also be subject to all other applicable sections of the Jonesboro Municipal Code.
- (C) Industrial and septic waste haulers may discharge loads only at locations designated by the Manager. No load may be discharged without prior consent of the Manager. The Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The Manager may require waste haulers to provide a waste analysis of any load prior to discharge.
- (D) Industrial and septic waste haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler; permit number, if applicable; truck identification; names and addresses of sources of waste; and volume and characteristics of waste. For hauled industrial wastes, the form shall also identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (E) Fees for dumping septage and industrial waste will shall be established by the Board of Directors of City Water and Light Plant as part of the Industrial User fee system, as authorized in Section 10.04.19 (1).

(6) Vandalism

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sections 10.04.14 through 10.04.16 of the Jonesboro Municipal Code.

Comment: "Vandalism" appears more appropriate in the penal codes rather than the pretreatment codes. Section 10.04.14 through 10.04.16 apply exclusively to violations of a SIU permit or pretreatment "requirements and standards". CWL authority in the pretreatment language in this ordinance is limited exclusively to Industrial Users and CWL has no authority in this "pretreatment" ordinance for "Vandalism".

10.04.08 - WASTEWATER DISCHARGE PERMIT ELIGIBILITY

(1) Wastewater Survey

When requested by the Manager of ~~City Water and Light Plant CWL~~, all Industrial Users must submit information on the nature and characteristics of its wastewater by completing a wastewater survey prior to commencing their discharge. The Manager is authorized to prepare a special form for this purpose and may periodically require Industrial Users to update this information the survey. Failure to complete this survey shall be considered a violation of the **Jonesboro Municipal Code** and reasonable grounds for terminating water and wastewater service to the Industrial User.

(2) Wastewater Discharge Permit Requirements

- (A) It shall be unlawful for any SIU to discharge wastewater into the Jonesboro POTW without first obtaining an individual industrial wastewater discharge permit from the Manager of ~~City Water and Light Plant CWL~~ with the exception that an SIU that has filed a timely application pursuant to ~~Section 10.04.08 (2) of this ordinance may continue to discharge for the time period specified therein~~. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of the **Jonesboro Municipal Code** and subjects the individual wastewater discharge permittee to the sanctions set out in Sections ~~10.04.13~~ **10.04.14** through 10.04.16 of the **Code**. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable Federal and State Pretreatment Standards or Requirements, ~~and with any other requirements of Federal, State, and local law~~.
- (B) The Manager of ~~City Water and Light Plant CWL~~ may require other Industrial Users, including liquid waste haulers, to obtain individual industrial wastewater discharge permits as necessary to carry out the purposes of **this ordinance**.

Comment: See comment below beside paragraph 3.

Comment: On the contrary, the purpose of issuing a permit is to preempt certain Federal and State requirements which may be less stringent than local requirements. CWL has the authority to promulgate pretreatment requirements which are more stringent than Federal and State requirements; see 40 CFR 403.4. In some cases EPA provides specific language for this purpose; see 40CFR403.6(c)(7). EPA has a similar paragraph in the MPO but adding the word "applicable" provides for these contingencies (see section 10.04.09(2)(B)(viii) below).

(3) Individual Wastewater Discharge Permitting: Existing Connections

~~The Manager of City Water & Light Plant CWL may, within 30 days of determining that an existing Industrial User is a Significant Industrial User as defined by Section 10.04.03 (64) of the Jonesboro Municipal Code, notify the Significant Industrial User of its status as a Significant Industrial User and of the requirement to obtain a wastewater discharge permit. After notification of the requirement to obtain a wastewater discharge permit, Within ninety (90) days after notification, any Industrial User required to obtain an individual wastewater discharge permit who that is discharging wastewater into the POTW prior to the effective date of this ordinance and wishes to continue such discharges in the future shall apply to the Manager of City Water and Light Plant CWL for an individual wastewater discharge permit in accordance with Section 10.04.08 (5) below. The Manager will furnish the existing Significant Industrial User an appropriate permit application package. Existing Significant Industrial Users shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days after notification of the requirement to obtain an individual wastewater discharge permit, except in accordance with an individual wastewater discharge permit issued by the Manager.~~

Comment: CWL may delete this paragraph. This paragraph is intended for cities which are starting a new program. CWL already has a pretreatment program with an approved ordinance; hence, all existing SIUs must have permits in place now.

(4) Individual Wastewater Discharge Permitting: New Connections

Any Significant Industrial User required to obtain an individual wastewater discharge permit proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence, unless the ninety (90) day period is otherwise waived by the Manager.

(5) Individual Wastewater Discharge Permit Application Contents

~~All Users required to obtain an individual wastewater discharge permit must submit a permit application. In order to be considered for a wastewater discharge permit, all Industrial Users required to have a wastewater discharge permit must submit the information required by Section 10.04.10 (1) (B) of the Jonesboro Municipal Code below on an Industrial Wastewater Discharge Permit Application form provided by the Manager of City Water and Light Plant CWL. In addition, All or some of the following information may be requested by the Manager as part of a permit application:~~

(A) Identifying Information.

- i) The name and address of the facility, including the name of the operator and owners;
- ii) Contact information, description of activities, facilities, and plant production processes on the premises;

(B) Environmental Permits.

A list of any environmental control permits held by or for the facility;

(C) Description of Operations.

- i) A brief description of the nature and average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) of the operation(s) carried out by the Industrial User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- ii) 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;
- iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;

- iv) Type and amount of raw materials processed (average and maximum per day);
 - v) 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;
- (D) Time and duration of discharges;
- (E) The location for monitoring all wastes covered by the permit;
- (F) 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 waste stream formula, as set out in 40 CFR 403.6 (e).
- (G) Measurement of Pollutants.
- i) Identify—The Categorical Pretreatment Standards applicable to each regulated process and any new Categorically regulated processes for Existing Sources.
 - ii) Submit—The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the Manager of ~~City Water and Light Plant~~ CWL, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations or mass shall be reported where required. The sample shall be representative of daily operations.
 - iii) In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Manager of CWL or the applicable Standards to determine compliance with the Standard;
 - iv) Sampling and analysis shall be pursuant which Sections 10.04.10 (10) and (11) of ~~this ordinance.~~
- (H) Any other information as may be deemed necessary by the Manager to evaluate the individual wastewater discharge permit application.

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

(6) Application Signatories and Certification

- (A) All individual wastewater discharge permit applications, Industrial User reports, and certification statements must contain the following certification statement in Section 10.04.10 (15) (A) and be signed by an Authorized Representative of the Industrial User.
- (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 Manager prior to or together with any reports to be signed by an Authorized Representative.

(7) Individual Wastewater Discharge Permit Decisions

The Manager of ~~City Water and Light Plant~~ CWL will evaluate the data furnished by the Industrial User and may reserves the right to require additional information. Within ninety (90) days of receipt of a complete individual wastewater discharge permit application, the Manager will determine whether or not to issue an individual wastewater discharge permit to the applicant. ~~If no determination is made within this time period, the application will be deemed denied.~~ The Manager may deny any application for an individual wastewater discharge permit where it reasonably appears that the applicant's proposed wastewater, if discharged into the POTW, would interfere with the operation of the POTW or otherwise be incompatible with the POTW; interfere with reuse of sludge from the POTW; or pass through the POTW, inadequately treated, into the

receiving waters of the State.

10.04.09 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

(1) Individual Wastewater Discharge Permit Duration

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Manager of ~~City Water and Light Plant CWL~~. Each individual wastewater discharge permit will indicate a specific expiration date upon which it will expire.

(2) Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed to be reasonably necessary by the Manager of ~~City Water and Light Plant CWL~~ 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, protect ambient air quality, and ~~protect against prevent~~ damage to the POTW.

(A) Individual wastewater discharge permits shall contain the following conditions:

- i) A statement that indicates the individual wastewater discharge permit issuance date, expiration date, and effective date ~~and duration, which in no event shall exceed five (5) years;~~
- ii) A statement that the individual wastewater discharge permit is non-transferable without prior notification to and approval from the Manager of ~~City Water and Light Plant CWL~~ in accordance with Section 10.04.09 (5), and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- iii) Effluent limits, including BMPs, which are applicable to the User and based on applicable Standards in Federal, State, and local law;
- iv) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants ~~or BMPs~~ to be monitored; sampling location; sampling frequency; and sample type based on Federal, State, and local law;
- v) Statement of applicable civil, criminal, and administrative penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such a

schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and

vi) Requirements to control slug discharges, if determined by the POTW to be necessary.

(B) Individual wastewater discharge permits may contain, but need not be limited to, the following:

- i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- ii) Limits on the instantaneous, daily, and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- iii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
- iv) Development and implementation of spill/slug control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- vi) The unit charge or schedule of Industrial User charges and fees for the management of the wastewater discharged to the POTW;
- vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- viii) 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;
- ix) Development and implementation of Best Management Practices and
- x) Any other conditions as deemed appropriate by the Manager of City Water and Light Plant CWL to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Comment: BMPs MUST be included when applicable while "development and implementation" MAY be included.

(3) Wastewater Discharge Permit Process and Appeals

(A) Permit Appeals

Any person, including the Industrial User, may petition the Manager Board of Directors of City Water and Light Plant of Jonesboro, Arkansas to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of its issuance.

- i) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- ii) In its petition, the appealing party must indicate the individual wastewater discharge permit provision(s) objected to, the reasons for this objection, and the alternative condition to the objection, if any, sought to place in the individual wastewater discharge permit.
- iii) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.
- iv) If the Manager Board of Directors of City Water and Light Plant of Jonesboro, Arkansas fails to act within sixty (60) days, a request for reconsideration shall be deemed to be considered denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered the final administrative action for purposes

Comment: The Manager with the assistance of the Gen Opr Director, WWTP and Pretreatment would be a "better panel" to hear appeals.

Comment: The Manager with the assistance of the Gen Opr Director, WWTP and Pretreatment would be a "better panel" to hear appeals.

of judicial review.

- v) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decisions must do so by filing a complaint within a court of competent jurisdiction.

(4) Wastewater Discharge Permit Modification

- (A) The Manager of ~~City Water and Light Plant~~ CWL may modify an individual wastewater discharge permit for good cause including, but not limited to, the following reasons:
 - i) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
 - ii) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
 - iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - iv) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, beneficial sludge use, or the receiving waters;
 - v) Violation of any terms or conditions of the individual wastewater discharge permit;
 - vi) Misrepresentations or failure to fully disclose all relevant facts in the individual wastewater discharge permit application or in any required reporting;
 - vii) Revision of Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
 - viii) To correct typographical or other errors in the individual wastewater discharge permit; or
 - ix) To reflect a transfer of the facility ownership and/or operation to a new owner/operator, where requested in accordance with Section 10.04.09 (5).

The filing of a request by the permittee for an individual wastewater discharge permit modification does not stay any existing individual wastewater discharge permit condition.

(5) Individual Wastewater Discharge Permit Transfer

Individual wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Manager of ~~City Water and Light Plant~~ CWL, unless the thirty (30) day period is otherwise waived by the Manager, and the Manager approves the individual wastewater discharge permit transfer. The notice to the Manager must include a written certification from the new owner and/or operator which:

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

Failure to provide advance notice of a transfer renders the existing individual wastewater discharge permit voidable on the date of facility transfer.

(6) Individual Wastewater Discharge Permit Revocation

Individual wastewater discharge permits may be revoked by the Manager for the following reasons:

- (A) Failure to notify the Manager of City Water and Light Plant CWL of significant changes to the wastewater prior to the changed discharge;
- (B) Failure to provide prior notification to the Manager of City Water and Light Plant CWL of changed conditions pursuant to Section 10.04.10 (5) of the Jonesboro Municipal Code;
- (C) Misrepresentation or failures to fully disclose all relevant facts in the individual wastewater discharge permit application;
- (D) Falsification of self-monitoring reports;
- (E) Tampering with monitoring equipment
- (F) Refusal to allow the Manager of City Water and Light Plant CWL 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 individual wastewater discharge permit application;
- (L) Failure to provide advance notice of the transfer of a permitted facility; or
- (M) Violation of any Pretreatment Standard or Requirement, any terms of the individual wastewater discharge permit, or the Jonesboro Municipal Ordinance.

Individual wastewater discharge permits shall be voidable upon transfer of business ownership or a period of ninety (90) days of disuse or cessation of operations. All existing individual wastewater discharge permits issued by City Water and Light Plant CWL are void upon the issuance of a new individual wastewater discharge permit to that User.

(7) Facility Closure Notification

A minimum of ninety (90) days before the closure of a facility or a period of facility disuse of ninety (90) days or more, the IU shall notify CWL in writing of the anticipated date of closure, as well as the anticipated date of resumption of facility use, if any.

(8) Wastewater Discharge Permit Reissuance

A Significant Industrial User with an expiring individual wastewater discharge permit shall apply for the reissuance of an individual wastewater discharge permit by submitting a complete individual wastewater discharge permit application, acceptable by the Manager of City Water and Light Plant CWL, in accordance

with Section 10.04.08 (5) of the Jonesboro Municipal Code, a minimum of sixty (60) days prior to the expiration of the Industrial User's existing individual wastewater discharge permit.

10.04.10 - REPORTING REQUIREMENTS

(1) Baseline Monitoring Reports

- (A) Within either 180 days after the effective date of a Categorical Pretreatment Standard or 180 days after the final administrative decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing ~~significant~~ Industrial Users subject to such Categorical Pretreatment Standards currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Manager of ~~City Water and Light Plant CWL~~ a report which contains all of the information listed in paragraph B, below. At least ninety (90) days prior to commencement of discharge, New Sources and Sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard shall be required to submit to the Manager of ~~City Water and Light Plant CWL~~ a report which contains the information listed in Section 10.04.10 (1) (B) below. A New Source shall also be required to report the intended method of pretreatment to meet applicable Pretreatment Standards and give estimates of anticipated flow and quantity of discharged pollutants.
- (B) The Industrial User shall submit the information required by this section including:
- i) Identifying Information.
The name and address of the facility, including the name of the operator and owners;
 - ii) Environmental Permits.
A list of any environmental control permits held by or for the facility;
 - iii) Description of Operations.
A brief description of the nature and average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) of the operation(s) carried out by the Industrial User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - iv) 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 waste stream formula, as set out in 40 CFR 403.6 (e).
 - v) Measurement of Pollutants.
 - a) ~~Identify~~ The Categorical Pretreatment Standards applicable to each regulated process and any new Categorically regulated processes for Existing Sources.
 - b) ~~Submit~~—The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the Manager of ~~City Water and Light Plant CWL~~, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations or mass shall be reported where required. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 10.04.10 (10) below.

- c) In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Manager of CWL or the applicable Standard to determine compliance with the Standard;
 - d) Sampling shall be pursuant which Section 10.04.10 (11) of this document;
 - e) The User shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirement of this paragraph.
 - f) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the appropriate flows and concentrations necessary to allow use of the combined waste stream formula set forth in 40 CFR 403.6 (e) to evaluate compliance with the Pretreatment Standards. When an alternative concentration or mass limit has been calculated in accordance with 40 CFR 403.6 (e), this adjusted limit, along with supporting data, shall be submitted to the Control Authority;
 - g) The Manager may allow the submission of a baseline report which utilizes only historical data, so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and
 - h) The baseline report shall indicate the time, date, and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- vi) Compliance Certification.
A statement reviewed by the Industrial User's Authorized Representative, as defined in Section 10.04.03 (4), 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.
 - vii) Compliance Schedule.
If additional O&M and/or pretreatment will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial 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 10.04.10 (2) of the Jonesboro Municipal Code.
 - viii) Signature and Report User Certification.
All baseline-monitoring reports must be certified in accordance with Section 10.04.10 (15) (A) of this ordinance and signed by an Authorized Representative as defined in Section 10.04.03 (4).

(2) Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by Section 10.04.10 (1) (B) (vii) above:

- (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 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 Industrial User shall submit a progress report to the Manager of ~~City Water and Light Plant CWL~~ no later than 14 days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and the steps being taken by the ~~significant~~ Industrial User to return to the established schedule.
- (D) In no event shall more than nine (9) months elapse between such progress reports to the Manager of ~~City Water and Light Plant CWL~~.

(3) Report 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 Industrial User subject to such Pretreatment Standards and Requirements shall submit to the Manager of ~~City Water and Light Plant CWL~~ a report containing the information described in Section 10.04.10 (1) (B) (iv-v) above. For Industrial Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 10.04.06 (2) of this ordinance and 40 CFR 403.6 (c), this report shall contain a reasonable measure of the Industrial User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or another measure of operation), this report shall include the Industrial User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section ~~10.04.08 (7)~~ 10.04.10 (15) (A). All sampling shall be done in conformance with Section 10.04.10 (11).

Comment: See comment above attached to 10.04.06(2)(B).

(4) Periodic Compliance Reports

- (A) All any SIUs subject to a Pretreatment Standard must, at a frequency determined by the Manager of ~~City Water and Light Plant CWL~~ but in no case less than twice per year [in June and December at a minimum (or on dates specified), as required by 40 CFR 403.12 (e) (1)], submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 10.04.08 (7) above.—In cases where the Pretreatment Standard requires compliance with a BMP (or pollution prevention alternative) the User shall submit documentation required by CWL or the Pretreatment Standard necessary to determine the User's compliance status. At the discretion of CWL and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., CWL may modify the months during which the above reports are to be submitted.
- (B) All periodic compliance reports must be signed and certified in accordance with Section 10.04.10 (15) (A).
- (C) All wastewater samples must be representative of the Industrial 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 an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that sample results are unrepresentative of its discharge.
- (D) If an Industrial User subject to the reporting requirement ~~in and of~~ set forth in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the POTW by the procedures prescribed in Section 10.04.10 (10) and (11) below, the results of this additional monitoring shall be included in the report.

(5) Report of Changed Conditions

Each Industrial User is required to notify the Manager of ~~City Water and Light Plant CWL~~ of any planned significant changes, as defined below, to the Industrial User's operations or system which might alter the nature,

quality, or volume of its wastewater at least sixty (60) days before the change.

- (A) The Manager of ~~City Water and Light CWL~~ may require the Industrial User to submit such information as ~~may be~~ deemed necessary to evaluate the changed condition, including the submission of an individual wastewater discharge permit application under Section 10.04.08 (5) above.
- (B) The Manager of ~~City Water and Light Plant CWL~~ may issue an individual wastewater discharge permit under Section 10.04.08 (5), 10.04.09(8) above or modify an existing individual wastewater discharge permit under Section 10.04.09 (4) above.
- (C) No Industrial User shall implement the planned changed conditions(s) until and unless the Manager of ~~City Water and Light Plant CWL~~ has responded to the Industrial User's notice.
- (D) For purposes of this requirement, flows in excess of the limitations set forth in the Significant User's individual industrial wastewater discharge permit and/or the discharge of any previously unreported pollutants shall be deemed significant changes.

(6) Reports of Potential Problems

- (A) In the case of any discharge including but not limited to accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or a slug load which may cause potential problems for the POTW [including a violation of the prohibited discharge standards in Sections 10.04.07 (1), (2), and (4), 10.04.06(1)(A) & (B) of the Jonesboro Municipal Code], it is the responsibility of the Industrial User to immediately telephone and notify the Manager of ~~City Water and Light Plant CWL~~ of the incident. This notification shall include the location of discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the Industrial User.
- (B) Within five (5) days following such discharge, the Industrial User shall, unless waived by the Manager of ~~City Water and Light Plant CWL~~, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- (C) Failure to notify the Manager of ~~City Water and Light CWL~~ of potential problem discharges shall be deemed a separate violation of this ordinance.
- (D) SIUs are required to notify the Manager immediately of any changes at its facility affecting potential for a slug discharge.
- (E) A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place, advising employees whom to call in the event of a discharge described in Section 10.04.10 (6) (A) above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

Comment: This paragraph appears to be redundant to para A above. According to para A the User must "notify the Manager of CWL" and failure to notify is a violation of this ordinance per para A.

(7) Reports from Non-Significant Unpermitted Industrial Users

All Industrial Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Manager of ~~City Water and Light Plant CWL~~ as the Manager may be required.

(8) Notice of Violation/ Repeat Sampling and Reporting

If sampling performed by an Industrial User indicates a violation, the Industrial User must notify ~~the Control Authority (the Manager of City Water and Light Plant)~~ the Manager within 24 hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to ~~the Control Authority (the Manager)~~ CWL within 30 days after becoming aware of the violation. ~~The industrial user is not required to re-sample if the POTW~~ Where CWL performs compliance monitoring in lieu of the IU, CWL must perform the repeat sampling and analysis unless CWL notifies the User of the

violation and requires the User to perform the repeat analysis. Resampling shall not be required if:

- i) CWL performs sampling of the Industrial User's wastewater discharge at least once a month; or
- ii) ~~the POTW~~ CWL performs compliance monitoring, which indicates compliance, between the time that the ~~Industrial User's initial sampling was conducted~~ and when the Industrial User or CWL receives the results of the initial sampling which indicates a permit violation.

(9) Notification of the Discharge of Hazardous Waste

(A) Any Industrial User who commences the discharge of hazardous waste shall notify the Manager of ~~City Water and Light Plant CWL~~, 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 classified as 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 Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent ~~such information is~~ known and readily available to the Industrial User:

- i) An identification of the hazardous constituents contained in the wastes;
- ii) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and
- iii) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 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 discharges must be submitted under pursuant to Section 10.04.10 (5) above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections 10.04.10 (1), (3), and (4) above.

(B) Dischargers are exempt from the requirements of paragraph (A) of this section 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 non-acute 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 Industrial 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 Industrial User must notify the Manager of ~~City Water and Light Plant CWL~~, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this section, the Industrial 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.

(10) Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of an individual 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 EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses must shall be performed by using validated analytical methods or

any other applicable sampling and analytical procedures, including procedures suggested by the Manager or other parties approved by the EPA the Approval Authority.

Comment: ADEQ will be glad to assist CWL.

(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 paragraphs (B) and (C) below, the Industrial User must collect wastewater samples using 24-hour flow-proportional composite collection techniques. In the event flow-proportional sampling is infeasible, Where time-proportional or grab sampling is authorized by the Manager of City Water and Light Plant CWL, may authorize the use of time-proportional sampling or through a minimum of four (4) grab samples where the use demonstrates that this will provide the samples must be representative sample of the effluent being discharged 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: cyanide, total phenol, and sulfide samples may be composited in the laboratory or in the field; volatile organics and FOG 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 CWL, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (B) Samples for oils and grease FOG; temperature; pH; cyanide; total phenols; toxicity; sulfides; and volatile organic chemicals must be obtained using grab collection techniques.
- (C) For sampling required in support of baseline monitoring and 90-day compliance reports required by Sections 10.04.10 (1) and 10.04.10 (3) [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH; cyanide; total phenols; FOG; sulfides; and volatile organic compounds for facilities for which historical sampling data does not exist. For facilities for which historical sampling data is available, the Manager may authorize a lower minimum of grab samples. For sampling required in support of periodic or continued compliance reports and reports from IUs not subject to Categorical Pretreatment Standards, as required by Sections 10.04.10 (4) and 10.04.10 (7) [40 CFR 403.12 (e) and (h)], the IU shall be required by the Manager to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

Comment: For facilities with a number of process tanks with batch discharges at different intervals, we are still debating if grabbing a sample of the effluent while all tanks are discharging is truly "representative of the discharge".

(12) Determination of Noncompliance

The Manager of City Water and Light Plant CWL may use a grab sample(s) as a compliance-screening tool. Where grab sample(s) suggest noncompliance, the Manager and/or the Industrial User should shall resample the User's effluent using composite techniques until consistent compliance is again demonstrated.

Comment: The ADEQ reviewer is not sure of CWL's intent here. CWL (or the User) must sample all SIUs regularly to ensure compliance. Other Users will not have any permits or limits; hence, would not have any "noncompliance" for screening.

(13) Timing Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date post-marked of receipt by CWL. For reports that are not mailed, postage prepaid, into a mail facility serviced by the U. S. Postal Service, the date of receipt of the report shall govern.

(14) Recordkeeping

Industrial Users subject to the reporting requirements of this ordinance shall retain and make available for inspection and copying, all records and information required to be retained under this ordinance, including that

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 BMPs established under Section 10.04.06 (4). Records shall include the date, exact place, method, and time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; the names of the person(s) performing 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 compliance with this ordinance or where the Industrial User has been specifically notified of a longer retention period by the Manager of City Water and Light Plant CWL.

(15) Certification Statements

(A) Certification of Permit Applications, and User Reports

The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 10.04.08 (6); Users submitting baseline monitoring reports under Section 10.04.10 (1) (B) (viii); Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 10.04.10 (3); and Users submitting periodic compliance reports required by Section 10.04.10 (4) (A-D). The following certification statement must be signed by an Authorized Representative as defined in Section 10.04.03 (4):

"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 gathered and evaluated 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."

10.04.11 - COMPLIANCE MONITORING

(1) Right of Entry: Inspection and Sampling

The Manager of ~~City Water and Light Plant~~ CWL shall have the right to enter the facilities of any Industrial User to ascertain whether the purpose of this ordinance and any individual permit or order issued hereunder is being met and whether the Industrial User is complying with all requirements thereof. Industrial Users shall allow the Manager or ~~his~~ the Manager's designated representatives 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 an Industrial User has security measures in force which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from ~~City Water and Light Plant of Jonesboro, Arkansas, State, CWL and EPA~~ CWL and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- (B) The Manager of ~~City Water and Light Plant, State, CWL and EPA~~ CWL and EPA shall have the right to set up on the Industrial 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 Manager of ~~City Water and Light Plant~~ CWL, may require the Industrial User to install monitoring equipment as necessary in accordance with section 3 below. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Industrial User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated regularly and periodically to ensure their accuracy.
- (D) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the Manager of ~~City Water and Light Plant~~ CWL and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.
- (E) Unreasonable delays in allowing authorized ~~City Water and Light Plant~~ CWL personnel access to the Industrial User's premises shall be a violation of the City of Jonesboro Municipal Code.

(2) Search Warrants

If the Manager of ~~City Water and Light Plant~~ CWL has been refused access to a building, structure, property, or any part thereof, and ~~if the Manager is able to demonstrate probable cause to believe that there may be a violation of Chapter 10.04 of the City of Jonesboro Municipal Code; or that there is the need to inspect and/or sample as part of a routine inspection and sampling program of City Water and Light Plant CWL designed to verify compliance with this ordinance or any permit or order issued hereunder; or to protect the overall public health, safety, and welfare of the community; then upon application by the Manager of City Water and Light Plant CWL through the City Water and Light Plant CWL Attorney, the Municipal Court of the City of Jonesboro shall issue a search and/or seizure warrant, describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Manager in the company of a uniformed police officer of the City of Jonesboro. In the event of an emergency effecting public health and safety, the Manager may authorize inspections may be made~~ without the issuance of a warrant.

(3) Pretreatment

Industrial Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with any applicable Federal Categorical Pretreatment Standard(s) within the time limitations as

specified by the Federal Pretreatment Regulations. Any facilities (required to pretreat wastewater to a level acceptable to the Manager) shall be provided, operated, and maintained at the User's expense. Detailed plans showing pretreatment facilities and operating procedures shall be submitted to Manager for review and approval before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from responsibility of modifying or replacing facility as necessary to produce an effluent acceptable to Manager in compliance with this ordinance. Any subsequent changes in pretreatment facilities or method of operation shall be reported to and accepted by Manager prior to the User's initiation of said changes. For information concerning the CWL's ADEQ-approved Pretreatment program, a copy is available for review at the Wastewater utility office.

Comment: Although this language is not a requirement, CWL should have the authority to have oversight over construction of Users' pretreatment facilities.

(4) Location of Monitoring Facility

The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and, whether constructed on public or private property, should be provided in accordance with the Manager's requirements and all applicable local construction standards and specification. Such facilities shall be constructed and maintained in such a manner as to enable the Manager to perform independent monitoring activities.

10.04.12 - CONFIDENTIAL INFORMATION

Information and data ~~on~~ pertaining to an Industrial User obtained from reports, surveys, individual wastewater discharge permit applications, individual wastewater discharge permits, monitoring programs, and from ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL's inspection and sampling activities shall be available to the public without restriction, unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Manager of ~~City Water and Light Plant~~ CWL that the release of such information documents or data would divulge information, processes, and/or methods of production entitled to protection as trade secrets under applicable law. When requested and demonstrated by the Industrial User ~~furnishing a report~~ that such information should be held confidential, ~~the portions of a report that information or data~~ which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

10.04.13 - PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

The Manager of ~~City Water and Light Plant~~ CWL shall publish annually, in ~~the largest daily a newspaper published in the municipality where the POTW is located~~ of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the Industrial Users which, during the previous 12 months, were in Significant Noncompliance with

applicable Pretreatment Standards and Requirements. ~~The term significant noncompliance shall mean:~~ An SIU (or any IU in violation of paragraphs (3), (4), or (8) below) is in Significant Noncompliance if the violation meets or exceeds one or more of the following:

- (1) Chronic violations of wastewater discharge limits, defined ~~here~~ as those in which sixty-six percent (66%) or more of wastewater pollutant measurements taken ~~for the same pollutant~~ during a six-month period ~~as determined by EPA Region 6 criteria~~, exceed ~~(by any magnitude)~~ their Industrial User Permit daily maximum limit or average limit for the same pollutant parameter by any amount a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by ~~40 CFR 403.3 (4); 10.04.06~~
- (2) 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-month period equals or exceeds the product of the Industrial User Permit daily maximum limit or the average limit numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by ~~40 CFR 403.3 (4); 10.04.06~~, multiplied by the applicable criteria [1.4 for BOD; TSS; fats, oils, and grease FOG; 1.2 for all other pollutants except pH];
- (3) Any other discharge violation of a Pretreatment Standard or Requirement as defined by ~~40 CFR 403.3 (4); 10.04.06~~ (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Manager believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City Water and Light Plant CWL personnel and/or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment or has resulted in City Water and Light Plant CWL exercising its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), which may include a violation of Best Management Practices, which the Manager of City Water and Light Plant CWL determines will adversely affect the operation or implementation of the local pretreatment program.

Comment: I have removed the strikethrough to include "here" to be consistent with TRC language below.

Comment: EPA is recommending 45 days here but CWL most certainly can require only 30 days.

10.04.14 - ADMINISTRATIVE ENFORCEMENT REMEDIES

(1) Notification of Violation

Whenever the Manager of ~~City Water and Light Plant CWL~~ finds that any User has violated or is violating this ordinance, an individual wastewater discharge permit, orders issued hereunder, or any other Pretreatment Requirement, the Manager or his the Manager's approved agent may serve upon said User a written Notice of Violation (NOV). Within ~~twenty (20)~~ ten (10) calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the Industrial User to the Manager of ~~City Water and Light Plant CWL~~. Submission of this plan in no way relieves the Industrial User of liability for any violations occurring before or after receipt of the ~~Notice of Violation NOV~~. Nothing in this section shall limit the authority of the Manager of ~~City Water and Light Plant CWL~~ to take any action, including emergency actions or any other enforcement actions, without first issuing a ~~Notice of Violation NOV~~.

(2) Consent Orders

The Manager of ~~City Water and Light Plant CWL~~ is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such orders may include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to Sections 10.04.14 (4) and (5) below and shall be judicially enforceable.

(3) Show Cause Hearing

The Manager of ~~City Water and Light Plant CWL~~ may order any User which causes or contributes to violation(s) of this ordinance, individual wastewater discharge permits, orders issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Manager (or his designee) Board of Directors of City Water and Light Plant or a hearing panel designated by the Board and show cause why a proposed enforcement action should not be taken. Notice shall be served on the Industrial User specifying the time and place for the show cause hearing, the proposed enforcement action, the reasons for such action, and a request that the User show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) working days prior to the hearing. Such notice may be served in any method or manner permitted under Arkansas Law or Arkansas Rules of Civil Procedure. Service of notice shall be sufficient when served by certified mail, return receipt requested, and delivered to the addressee only, at the address of the User indicated on shown on any its most recent wastewater discharge permit issued to it by the Manager of City Water and Light Plant CWL. Such notice may be served on any Authorized Representative of the User as defined in Section 10.04.03 (4) and as required by Section 10.04.08 (6). Whether or not the User appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the User.

Comment: The ADEQ reviewer recommends that the Manager oversee Show Cause Hearings. Such hearings are preliminary and not as serious as Cease and Desist, Suspension and Termination (all at the Manager's discretion). Furthermore, the Board would probably have a difficult time understanding "Pretreatment" issues and the Manager may allow the Gen Operating Director to chair the hearing with the aide of the WWTP Supt and Pret Coord.

(4) Compliance Orders

When the Manager of ~~City Water and Light Plant CWL~~ finds that a User has violated or continues to violate

the ordinance, individual wastewater discharge permits, orders issued hereunder, or any other Pretreatment Standard or Requirement, he may issue ~~the Manager may issue~~ an order ~~may be issued~~ to the User responsible for the discharge directing the User to come into compliance. If the User does not come into compliance within the time specified in the Manager's compliance order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also 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 Federal Pretreatment Standard or Requirement, nor does a compliance order release the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the User.

Comment: This section does not authorized any official to issue the order. An official (Manager) should be authorized to issue the order.

Comment: Insert the phrase "the Manager may issue" to give the Manager authority.

(5) Cease and Desist Orders

When the Manager of ~~City Water and Light Plant CWL~~ finds that a User is in violation of this ordinance, the User's individual wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or Requirement or that the User's past violations are likely to reoccur, the Manager may issue an order to the User directing the User to cease and desist all such violations and:

- (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 prerequisite to taking any other action against the User.

(6) Emergency Suspensions

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

- (A) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately and voluntarily comply with the suspension order, the Manager of ~~City Water and Light Plant CWL~~ shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage or endangerment to the POTW, the POTW's receiving stream, or any individuals. The Manager shall allow the User to recommence discharging to the POTW when the User has demonstrated to the satisfaction of the ~~Board of Directors of City Water and Light Plant~~ that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.04.14 (7) below 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 Manager of ~~City Water and Light Plant CWL~~, prior to the date of any show cause or termination hearing under Sections 10.04.14 (3) above and 10.04.14 (7) below.

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

(7) Termination of Discharge

In addition to those provisions set forth in Section 10.04.09 (6) above, any User that violates the following conditions of this ordinance, individual wastewater discharge permits, any orders issued hereunder, or any other Pretreatment Standard or Requirement, such as those conditions listed below, is subject to termination of wastewater discharge:

- (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/or characteristics prior to discharge;
- (D) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, and/or sampling; or
- (E) Violation of the ~~prohibited discharge~~ Pretreatment Standards set forth in Section 10.04.06 (+) of this ordinance.

Such Users in violation will be notified by the Manager of the proposed termination of its discharge and offered an opportunity to show cause under Section 10.04.14 (3) of this ordinance why the proposed action should not be taken.

(8) Administrative Fines

A. When the Manager 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 Manager may fine such User in an amount not to exceed \$1000 for each violation of this ordinance, and each day of a continuing violation may be deemed a separate violation. ~~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. Unpaid charges, fines, and penalties shall, after [_____] (_____) calendar days, be assessed an additional penalty of [_____] percent (____%) of the unpaid balance, and interest shall accrue thereafter at a rate of [_____] percent (____%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Manager to reconsider the fine along with full payment of the fine amount within [_____] (_____) days of being notified of the fine. Where a request has merit, [the Superintendent] may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

Comment: CWL may discover that in some cases court costs to collect civil penalties are prohibitive. Some SIUs have paid over a million dollars in legal expenses to avoid a \$250 fine!

Administrative fines are easy to assess and with no court costs.

10.04.15 - JUDICIAL ENFORCEMENT REMEDIES

(1) Injunctive Relief

Whenever a User has violated a Pretreatment Standard or Requirement or continues to violate the provisions of this ordinance, an individual wastewater discharge permit, any order issued hereunder, or any other

Pretreatment Requirement, ~~City Water and Light Plant CWL~~ may petition a Court of competent jurisdiction through the Manager of ~~City Water and Light Plant CWL~~ and the ~~City Water and Light Plant CWL~~ 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 Chapter 10.04 of the Jonesboro Municipal Code on activities of the Industrial User. ~~Such~~ Other actions, as appropriate for legal and/or equitable relief, may also be sought by ~~City Water and Light Plant CWL~~. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against an Industrial User.

(2) Civil Penalties

- (A) Any User which has violated or continues to violate Title 10, Chapter 10.04 of the Jonesboro Municipal Code, an individual wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to ~~City Water and Light Plant CWL~~ of Jonesboro, Arkansas, for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation per day, as provided by the Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.* In the case of the violation of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (B) Such civil penalties shall be recoverable in a Court of competent jurisdiction; but, as provided by Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.*, such civil proceeding may be initiated only after a majority vote of the ~~City Water and Light Plant CWL~~ Board of ~~Directors~~ resolving to pursue such civil penalty.
- (B) ~~City Water and Light Plant CWL~~ may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by ~~City Water and Light Plant CWL~~.
- (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, (~~such economic benefit shall minimally be that determined in accord with EPA Guidance Manual for POTWS to Calculate the Economic Benefit of Noncompliance dated August, 1997~~), corrective actions by the User, the compliance history of the User, and any other factors as justice requires.
- (D) Filing a suit seeking civil penalties shall not be a prerequisite for taking any other action against an Industrial User.

(3) Criminal Prosecution

- (A) Any User that willfully or negligently violates any provision of Title 10, Chapter 10.04 of the Jonesboro Municipal Code, an individual wastewater discharge permit, or any orders 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 one thousand dollars (\$1,000.00) per violation per day, as provided by Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.*
- (B) Any User that 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, an 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 not more than one thousand dollars (\$1,000.00) per violation per day, as provided by Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.*

- (C) As provided by Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.*, no criminal prosecution under the foregoing subparagraphs 10.04.15 (3) (A) and (B) above, may be initiated except upon a majority vote of the ~~City Water and Light Plant~~ CWL Board of ~~Directors~~ resolving to pursue such criminal prosecution.
- (D) The criminal penalties provided in the foregoing subparagraphs (A) and (B) above, shall be in addition to any other cause of action for personal injury or property damage available under State law and shall be in addition to civil penalties which may be assessed under Section 10.04.15 (2) above.

(4) Remedies Nonexclusive

The provisions in Sections 10.04.13, 10.04.14, 10.04.15, and 10.04.16 of the Jonesboro Municipal Code are not exclusive remedies. ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with ~~City Water and Light Plant's~~ CWL's Enforcement Response Plan (ERP). However, ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL shall have the right to take other action against any User when the circumstances warrant. Furthermore, ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL is empowered to take more than one enforcement action against any noncompliance User. These actions may be taken concurrently.

10.04.16 - SUPPLEMENTAL ENFORCEMENT ACTIONxxx

(1) Performance Bonds

The Manager of ~~City Water and Light Plant~~ CWL may decline to reissue an individual wastewater discharge permit to any User which has failed to comply with the provisions of this ordinance, any orders, or a previous individual wastewater discharge permit issued hereunder, unless such User first files a satisfactory bond, payable to ~~City Water and Light Plant~~ CWL, in a sum not to exceed a value determined by the Manager of ~~City Water and Light Plant~~ CWL to be necessary to achieve consistent compliance.

(2) Liability Assurance

The Manager of ~~City Water and Light Plant CWL~~ may decline to reissue an individual wastewater discharge permit to any User which has failed to comply with the provisions of this ordinance, any order, or a previous individual wastewater discharge permit issued hereunder, 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.

(3) Water Supply Severance

Whenever a User has violated or continues to violate the provisions of this ordinance, an individual wastewater discharge permit, or any order issued hereunder, water service to the User may be severed. Service will only recommence at the User's expense and after the User has satisfactorily demonstrated the ability to comply.

(4) Public Nuisances

Any violation of this ordinance, the individual wastewater discharge permit, or any order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager of ~~City Water and Light Plant CWL~~ or ~~his~~ the Manager's approved designee. Any person(s) creating a public nuisance shall be required to reimburse ~~City Water and Light Plant CWL~~ or the City of Jonesboro for any costs incurred in removing, abating, or remedying said nuisance.

(5) Penalties for Late Reports

A penalty of \$1,000 may be assessed to any User for each day that a report required by this ordinance or a permit or order issued hereunder is late, beginning ten (10) days after the date the report is due. Further enforcement by CWL may be taken beginning thirty (30) days after the date the report is due, including but not limited to the designation of the Industrial User as in Significant Noncompliance with this ordinance. Actions taken by the Manager to collect late reporting penalties shall not limit the Manager's authority to initiate other enforcement actions that may include penalties for late reporting violations.

(6) Payment of Outstanding Fees and Penalties

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

10.04.17 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

(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 Industrial 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 Section 10.04.17 (C) are met.

(C) An Industrial User wishing to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs or other relevant evidence that:

i) An upset occurred, and the Industrial User can identify the causes(s) of the upset;

- ii) The facility was at the time of upset being operated in a prudent and workmanlike manner, in compliance with applicable operation and maintenance procedures; and
- iii) The Industrial User has submitted the following information to the POTW ~~and treatment plant operator~~ within 24 hours of becoming aware of the upset [if this information is provided orally, a written submission must also 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 Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.
- (E) Industrial Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
- (F) The Industrial User 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 electric power of the treatment facility is reduced, lost, or fails.

(2) General/Specific Prohibitions Prohibited Discharge Standards

An Industrial User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions listed in Section 10.04.06 (1) (A) and specific prohibitions listed in Section 10.04.06 (1) (B) (iii-xviii) of **this ordinance** if the User 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 Industrial 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 POTW was regularly in compliance with its NPDES permit, and in the case of interference was in compliance with applicable sludge use and/or disposal requirements.

(3) Bypass

(A) Definitions

- i) "Bypass" means the intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
- ii) "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) An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if for essential maintenance or to assure efficient operation. These bypasses are not subject to the provision of Sections 10.04.17 (3) (C) and (D) below.

(C) Notification of Bypass

- i) If an Industrial User knows in advance of the need for a bypass, the IU shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass if possible.
 - ii) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the POTW within 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 Industrial 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 POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (D) Enforcement Action Against or Approval of a Bypass
- i) Bypass is prohibited, and the Manager of ~~City Water and Light Plant~~ CWL may take enforcement action against an Industrial 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 industrial User submitted notices as required under Section 10.04.17 (3) (C) above.
 - ii) The Manager of ~~City Water and Light Plant~~ CWL may approve an anticipated bypass, after considering its adverse effects, and if ~~the Manager determines~~ determined that such bypass will meet the ~~three~~ conditions listed in Section 10.04.17 (3) (D) (i) above.

10.04.18 – EXCESSIVE POLLUTANT RATES

The Manager of ~~City Water and Light Plant~~ CWL may charge ~~non-residential~~ POTW Users the following surcharges, penalties, and capacity charges in addition to the normal metered charge for sewer service. ~~The Sewer surcharges, penalties, and capacity charges shall be based on the following formulas set forth herein.~~ Unit charges for ~~unusual~~ excessive BOD₅, ~~unusual~~ suspended solids TSS, and ~~FOG~~ fats, oils, and grease in excess of 100 mg/L shall be the ~~then-current~~ surcharges, penalties, and capacity charges set forth in the ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL Sewer Service Rate Schedule.

(1) Excessive Strength Surcharge

~~The Manager of CWL may charge a surcharge, in addition to the normal metered charge for sewer service, to IUs who discharge wastewater into the Jonesboro POTW having a BOD₅ concentration in excess of 250 mg/L or a TSS concentration in excess of 250 mg/L.~~

Excessive Strength Surcharge Formula:

$$S = \frac{V_{WW}}{1000} * 8.34 \{ [CBOD (BOD_5 - 250)] + [CSS (SS - 250)] + [CO\&G (O\&G - 100)] \}$$

$$S = (V_{ww}) (8.34) [C_{BOD_5} (BOD_5 - 250) + C_{ss} (TSS - 250)]$$

Where: S = Surcharge in dollars
 V_{ww} = Volume of wastewater in millions of gallons
 8.34 = Weight in pounds of one gallon of water Weight of water in pounds per gallon
 C_{BOD_5} = Charge per pound of BOD_5 Unit charge for BOD_5 in dollars per pound
 C_{ss} = Charge per pound of TSS Unit charge for BOD_5 in dollars per pound
 BOD_5 = Monthly average BOD_5 in mg/L of non-residential User's wastewater (≥ 250 mg/L)
 TSS = Monthly average suspended solids TSS content in mg/L of non-residential User's wastewater (≥ 250 mg/L)
 250 = Concentration in mg/L above which both BOD_5 and TSS are defined as "unusual" "excessive" and a surcharge may be assessed

(2) Excessive Strength Capacity Charge

The Manager of CWL may charge a capacity charge, in addition to the normal metered charge for sewer service, to IUs who discharge wastewater into the Jonesboro POTW having a BOD_5 concentration in excess of 250 mg/L or a TSS concentration in excess of 250 mg/L. The capacity charge shall be based on the greater of the BOD_5 and the TSS concentrations.

Excessive Strength Capacity Charge Formula:

$$CAP = (V_{ww}) (8.34) [((\text{Greater of } BOD_5 \text{ or TSS}) - 250) C_{CAP}]$$

Where: CAP = Capacity Charge in dollars
 V_{ww} = Volume of wastewater in millions of gallons
 8.34 = Weight in pounds of one gallon of water
 C_{CAP} = Charge per pound for greater of BOD_5 or TSS
 BOD_5 = BOD_5 in mg/L of non-residential User's wastewater
 TSS = TSS content in mg/L of non-residential User's wastewater
 250 = Concentration in mg/L above which both BOD_5 and TSS are defined as "excessive" and a surcharge may be assessed

(3) Excessive FOG Penalty

The Manager of CWL may charge a penalty in addition to the normal metered charge for sewer service to IUs who discharge wastewater into the Jonesboro POTW having a fats, oils, and grease (O&G FOG) concentration in excess of 100 mg/L surcharge.

Excessive Fats, Oils, and Grease (FOG) Penalty Formula:

$$P = (V_{ww}) (8.34) [C_{FOG} (FOG-100)]$$

Where: P = Penalty in dollars

V_{ww} = Volume of wastewater in millions of gallons

8.34 = Weight in pounds of one gallon of water

C_{FOG} = Charge per pound of FOG Unit Charge for FOG Oil and Grease concentrations in excess of 100 mg/L, in dollars per pound

FOG = fats, oils, and grease FOG content in mg/L of non-residential User's wastewater (≥100 mg/L)

100 = Concentration in mg/L above which O&G FOG is deemed defined as "excessive" and a penalty surcharge may be assessed

10.04.19 - MISCELLANEOUS PROVISIONS

(1) Pretreatment Charges and Fees

~~The City Water and Light Plant of Jonesboro, Arkansas CWL~~ may adopt reasonable administrative charges and fees for ~~the reimbursement of costs associated with~~ of setting up and operating the ~~City Water and Light Plant CWL~~ Pretreatment Program which may include:

- (A) Fees for individual wastewater discharge permit applications, including the cost of evaluating and processing such applications;
- (B) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing an Industrial User's discharge and reviewing monitoring reports submitted by Industrial Users;
- (C) Fees for reviewing and responding to accidental discharge procedures and construction;
- (D) Fees for filing appeals; and
- (E) Other fees as the ~~City Water and Light Plant CWL~~ 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 ~~City Water and Light Plant CWL~~.

(2) Severability

If any court of competent jurisdiction invalidates any provision of this ordinance, the remaining provisions shall not be effected and shall continue in full force and effect.

(3) Conflicts

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of the inconsistency or conflict.

~~The provisions of Sections 10.12.01, 02, and 03 are specifically repealed.~~

SECTION 2.

Effective Date

That The Jonesboro City Council hereby determines that Title 10, Chapter 10.04 (Sewer Use - Pretreatment Ordinance Regulations) of the Jonesboro Municipal Code shall be revised to enable effective operation of City Water and Light Plant's WWTP sewage treatment plant and implementation of the Industrial Pretreatment Program of Jonesboro, Arkansas, and that such passage of this ordinance is necessary to enable such operation and implementation. Therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately following from and after its passage, approval, and publication as provided by law.

INTRODUCED the ___ day of _____, _____
 FIRST READING the ___ day of _____, _____
 SECOND READING the ___ day of _____, _____
 PASSED this ___ day of _____, _____

AYES:	NAYES:	ABSENT:	NOT VOTING:
_____	_____	_____	_____
_____	_____	_____	_____
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APPROVED this ___ day of _____, _____.

 Mayor

ATTEST:

 City Clerk

Published: _____ Date: __/__/__
 Publication