

AN ORDINANCE RELATING TO SANITARY SEWERS PRETREATMENT AND AMENDING SECTION 16-1(c)(51) OF THE CODE OF ORDINANCES DEFINING "SIGNIFICANT VIOLATION" BY REFERENCING 40 CFR 403.3.1, INCREASING THE TIME LIMIT TO FORTY-FIVE (45) DAYS FOR REQUIRED REPORTS AND PROVIDING THAT VIOLATION OF BEST MANAGEMENT PRACTICES MAY BE A SIGNIFICANT VIOLATION; AMENDING SECTION 16-(1)(c)(52) TO RE-DEFINE THE TERM "SLUG" TO MEAN ANY DISCHARGE WHICH HAS REASONABLE POTENTIAL TO CAUSE INTERFERENCE OR PASS THROUGH OR VIOLATES LOCAL LIMITS OR PERMIT CONDITIONS; AMENDING SECTION 16-45(f) TO REQUIRE THAT WASTEWATER MONITORING AND FLOW MEASUREMENT FACILITIES BE PROPERLY OPERATED AND PROVIDE THAT FAILURE TO DO SO SHALL NOT ALLOW THE USER TO CLAIM UNREPRESENTATIVE SAMPLING; AMENDING SECTION 16-46(a)(6) TO REQUIRE SIGNIFICANT INDUSTRIAL USERS TO NOTIFY THE DIVISION OF WATER QUALITY OF ANY CHANGES TO ITS FACILITY AFFECTING POTENTIAL FOR A SLUG DISCHARGE AND INCREASING SLUG CONTROL PLAN REQUIREMENTS; AMENDING SECTION 16-46(g) TO REQUIRE SEMI-ANNUAL REPORTING TO WATER QUALITY AND INCLUDE REPORTING OF DATA NECESSARY TO ENSURE COMPLIANCE WITH THE APPLICABLE PERMIT; CREATING SECTION 16-46(h) OF THE CODE OF ORDINANCES TO REQUIRE PERMIT HOLDERS TO MAINTAIN AND MAKE AVAILABLE FOR INSPECTION RECORDS OF REQUIRED MONITORING INFORMATION AND ANY ADDITIONAL RECORDS OF MONITORING ASSOCIATED WITH "BEST MANAGEMENT PRACTICES" ESTABLISHED BY THE URBAN COUNTY GOVERNMENT, SPECIFYING THE CONTENTS OF SUCH RECORDS AND REQUIRING THEM TO BE MAINTAINED FOR AT LEAST THREE (3) YEARS WHICH SHALL BE EXTENDED DURING ANY RELATED LITIGATION OR AS REQUIRED BY THE DIRECTOR OF WATER QUALITY; CREATING SECTION 16-46.2 OF THE CODE OF ORDINANCES TO PROVIDE THAT SAMPLING DONE TO COMPLY WITH SAMPLING REQUIREMENTS IN SECTIONS 16-44, 16-44.1, 16-45, AND 16-46 MUST BE REPRESENTATIVE OF CONDITIONS OCCURRING DURING THE REPORTING PERIOD AND SPECIFYING SAMPLING TECHNIQUES WHICH MUST BE FOLLOWED.

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BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 16-1(c)(51) and Section 16-1(c)(52) of the Code of Ordinances be and hereby are amended to read as follows:

(51) *Significant violation* means a violation that meets one (1) or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period prior to the end of each calendar quarter exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);

(b) Technical review criteria (TRC)—Violations defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period prior to the end of each calendar quarter equal or exceed the product of a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR

403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) (daily maximum, long term average, instantaneous limit, or narrative standard) that the director, division of water quality, determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a waste water discharge permit or other order issued hereunder for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations, which may include a violation of best management practices, which the director, division of water quality, determines will adversely affect the operation or implementation of the local pre-treatment program.

(52) *Slug* shall mean any discharge of water or waste of a non-routine episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which has reasonable potential to cause interference or pass through, or in any way violate local limits or permit conditions.

Section 2 – That Section 16(45)(f) of the Code of Ordinances be and hereby is amended to read as follows:

(f) When required by the director, division of engineering and or the director, division of water quality, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole and monitoring equipment in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be in accordance with plans approved by the director, division of engineering. The manhole and monitoring equipment shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. Sampling and measurement of the waste will be done in accordance with instructions and at a frequency specified in the users permit. Monitoring frequencies will be based on the volume and strength of waste and have been approved by the urban county government, state and EPA. All wastewater samples must be

representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

Section 3 – That Section 16-46(a)(6) of the Code of Ordinances be and hereby is amended to read as follows:

(6) Each significant industrial user shall provide protection from accidental and/or slug discharges of prohibited materials or other substances regulated by this article. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the owner's or user's cost and expense. The director, division of water quality, will determine whether each significant industrial user needs to develop a plan to control slug discharges. Significant Industrial Users shall notify the director, division of water quality immediately of any changes at its facility affecting potential for a slug discharge. If the director, division of water quality, decides that a slug control plan is needed, the plan shall contain the following:

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

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW, including any discharge that would violate a prohibition under Sec. 16-43 with procedures for follow-up written notification within five days;

(d) If necessary, procedures to prevent adverse impact from accidental spills, including 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, measure for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response; Where spill prevention or contingency plans are already in existence, the director shall accept the existing plan but shall retain authority to impose additional or differing requirements where reasonably necessary to assure compliance with the intent of this chapter.

Section 4 – That Section 16-46(g) of the Code of Ordinances be and hereby is amended to read as follows:

(g) Further, to effectuate the purpose of this section 16-46, all holders of permits for industrial waste water discharge shall, at least semiannually (during the months of June and December), furnish the director, division of water quality a written report on a form furnished by division of water quality on the quantity and quality of the discharge as demonstrated by parameters specified by the director, division of water quality. Such specification of parameters, however, does not relieve the discharger from reporting any and all other data that may be necessary to ensure compliance with the permit or any other section of this article.

Section 5 – That Section 16-46(h) of the Code of Ordinances be and hereby is created to read as follows:

(h) Permit holders subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying upon reasonable request, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the permit holder independent of such requirements, and documentation associated with “best management practices” established by the urban county government. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any related litigation concerning the permit holder or where the permit holder has been specifically notified of a longer retention period by the director, division of water quality.

Section 6 – That Section 16-46.2 of the Code of Ordinances be and hereby is created to read as follows:

Section 16-46.2.

Samples collected to satisfy reporting requirements in sections 16-44, 16-44.1, 16-45, or 16-46 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.

(1) Except as indicated in subsections (2) and (3) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the government, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the government, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

(3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and

volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Section 7 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL