

# **MSD WASTEWATER / STORMWATER DISCHARGE REGULATIONS**

REGULATIONS AFFECTING THE USE OF PUBLIC AND PRIVATE SEWERS AND  
DRAINS, REGULATING THE DISCHARGE OF WATERS AND WASTES INTO  
THE PUBLIC SEWER SYSTEM, AND PROVIDING FOR CORRECTIVE ACTION  
AND LIABILITES AND PENTALTIES FOR THE VIOLATION OF THE  
PROVISIONS THEREOF.

**Effective Date: November 26, 2013 (Articles 1 through 5 & Article 7)**

**Effective Date: August 1, 2013 (Article 6)**



Louisville and Jefferson County  
Metropolitan Sewer District  
700 West Liberty Street  
Louisville, KY 40203

FIRST READING – MSD Board: June 10, 2013

SUBMITTED TO KENTUCKY DIVISION OF WATER: June 28, 2013

APPROVAL FROM KENTUCKY DIVISION OF WATER: September 20, 2013

SECOND READING – MSD Board: November 25, 2013

EFFECTIVE DATE: November 26, 2013

# MSD WASTEWATER / STORMWATER DISCHARGE REGULATIONS

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## ARTICLE 1

### GENERAL PROVISIONS

#### SECTION 1.01 CREATION OF MSD

In the interest of the public health and for the purpose of providing adequate sewer and drainage facilities for the City of Louisville and Jefferson County, Kentucky, there was created and established in 1946 the Louisville and Jefferson County Metropolitan Sewer District (MSD) under and pursuant to the provisions of Chapter 76 of the Kentucky Revised Statutes, as a public body corporate and political subdivision acting for its own purposes and possessing defined, though limited, powers of a municipal community.

#### SECTION 1.02 RULES AND REGULATIONS

MSD shall exercise and discharge all the powers, privileges, rights, duties and obligations given to and imposed upon it by Chapter 76 of the Kentucky Revised Statutes, and shall adopt such regulations as it deems necessary for the accomplishment of the purposes of KRS Chapter 76. Such regulations shall affect the use of public and private sewers and drains, regulate the discharge of waters and wastes into the public sewer system, provide for wastewater discharge permits and provide for abatement of liabilities and penalties for the violation of the provisions thereof.

#### SECTION 1.03 AUTHORITY

These regulations are adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to a consolidated local government in KRS Chapter 67C. These regulations are also adopted pursuant to the powers granted and limitations by the Federal Clean Water Act, 33 U.S.C. § 1323, Part A., et seq., and in particular those parts that authorize local governments to require any federal department or agency to comply with all local water pollution control requirements.

#### SECTION 1.04 PURPOSE AND POLICY

These Wastewater / Stormwater Discharge Regulations set uniform requirements for discharges into the public sewer system, including the wastewater collection and treatment system, and stormwater drainage system, and, enable MSD to comply with the administrative provisions of the Clean Water Act (PL92-500), as amended, and any regulations promulgated hereunder, Ohio River Valley Water Sanitation Commission (ORSANCO) regulations, the water quality requirements set by the Kentucky Department for Natural Resources and Environmental Protection, and the applicable effluent limitations, national standards and any other discharge criteria which are required or authorized by state or Federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into the public sewer system.

The organization of these Regulations is such that wastewater is covered in Articles 2, 3, and 4; while stormwater is covered in Articles 5 and 6. Article 1 (General Provisions) and Article 6 7 (Enforcement) cover both wastewater and stormwater.

#### SECTION 1.05 APPLICATION

These Regulations apply to any user of a public sewer.

#### SECTION 1.06 AMENDMENTS

These Regulations may be modified or changed from time to time by the Board of MSD.

#### SECTION 1.07 SUPERSEDING PREVIOUS DISCHARGE REGULATIONS

These Regulations shall supersede all previous Discharge Regulations adopted by MSD.

#### SECTION 1.08 REGULATIONS SUPPLEMENT - OTHER LAWS

These Regulations shall not be construed as repealing any of the laws or regulations of the Commonwealth of Kentucky, its agencies and political subdivisions, or the United States governing the design, construction, maintenance, operation and use of sanitary, storm and combined sewers, but shall be held and construed as ancillary and supplementary thereto, except to the extent that the same may be in direct conflict with the laws of the Commonwealth of Kentucky or the United States.

#### SECTION 1.09 ENFORCEMENT

The Executive Director of MSD, or his designated representative, shall administer and enforce these Regulations.

#### SECTION 1.10 EFFECTIVE DATE OF REGULATIONS

Articles 1 through 5 and Article 7 of these Regulations shall be in full force and effect after October 28, 2013. Article 6 of these Regulations shall be in full force and effect after August 1, 2013.

#### SECTION 1.11 NOTICES TO EMPLOYEES

In order that employees of users are informed of MSD requirements, users shall make available to and inform their employees of these Regulations together with such other wastewater and / or stormwater information and notices directed toward more effective water pollution control, which may be furnished by MSD from time to time.

#### SECTION 1.12 SEVERABILITY

If any provision of these Regulations or the application to any person or circumstances is held invalid, the remainder of these Regulations, or the application of such provisions to other persons or other circumstances, shall not be affected.



## SECTION 1.13 ABBREVIATIONS

BMR - Baseline Monitoring Report  
BMP – Best Management Practices  
BOD - Biochemical Oxygen Demand  
CIU – Categorical Industrial User  
CFR - Code of Federal Regulations  
COD - Chemical Oxygen Demand  
CSO – Combined Sewer Overflow  
EPA - United States Environmental Protection Agency  
FOG – Fats, Oils & Greases from Food Sources  
FSE – Food Service Establishments  
GCE – Grease Control Equipment  
GI – Grease Interceptor  
GT – Grease Trap  
HMPC - Hazardous Materials Spill Prevention Control  
IWD - Industrial Waste Department  
KDOW - Kentucky Division of Water  
KPDES - Kentucky Pollutant Discharge Elimination System  
KRA – Kentucky Restaurant Association  
KRS - Kentucky Revised Statute  
KTC - Kentucky Transportation Cabinet  
mg/l - milligrams per liter  
MS4 - Municipal Separate Storm Sewer System  
MSD - Louisville and Jefferson County Metropolitan Sewer District  
NMC – Nine Minimum Controls  
NOI - Notice of Intent  
NPDES - National Pollutant Discharge Elimination System  
ORSANCO - Ohio River Valley Water Sanitation Commission  
PL - Public Law  
POTW - Publicly Operated Treatment Works  
RCRA - Resource Conservation Recovery Act  
SIC - Standard Industrial Classification  
SIU - Significant Industrial User  
SS - Suspended Solids  
SSO – Sanitary Sewer Overflow  
SWDA - Solid Waste Disposal Act  
SWPPP – Stormwater Pollution Prevention Plan  
SWQMP - Storm Water Quality Management Plan  
TRC - Technical Review Criteria  
TSS - Total Suspended Solids  
UDR - Unusual Discharge Request  
WDR - Wastewater / Stormwater Discharge Regulations

## SECTION -1.14 DEFINITIONS

Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, the Water Pollution Control Federation or other appropriate agency.

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.

Approval Authority - The Secretary of the Kentucky Environmental and Public Protection Cabinet and/or any authorized representative thereof.

Authorized or Duly Authorized Representative - An authorized representative of a user may be:

(a) A responsible corporate officer, if the user submitting the required reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means:

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

(2) the manager of one or more manufacturing, production, or operating facilities, 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 capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) A general partner or proprietor if the user submitting the required reports is a partnership, or sole proprietorship respectively.

(c) The individuals described in paragraphs (a) and (b), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the facility, and the written authorization is made in writing and submitted to MSD.

(d) If 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 authorization satisfying the requirements of paragraph (3) above must be submitted to MSD prior to or together with any reports to be signed by an authorized representative.

Bad Batch - Typically, a batch which is unacceptable for rework or reuse and / or does not meet production specifications (due to color, pH, concentration, etc.). May result from deficiencies in quality control, from surpluses, or may also result from unusual maintenance / cleaning procedures.

Batch - A substance or mixture of substances produced as the result of one discrete or intermittent operation of a process.

Batch Process - A treatment process in which a tank or vessel is filled, the wastewater (or solution) is treated to meet discharge limitations and is then released to the sanitary sewer system. A batch process is intermittent rather than continuous.

Beneficial Uses - Uses of the waters of the Commonwealth that may be protected against quality degradation including domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves and other uses, both tangible and intangible as specified by federal or state law.

Best Management Practices (BMPs) – Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent the discharge of wastewater in violation of prohibitions listed in Section 2.01 of these Regulations, as well as prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems (MS4). BMPs include treatment practices and/or requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Best Management Practices (BMPs) for Post-Construction - A control measure or an activity that supports erosion prevention and sediment control and/or water quality prior to discharge from a property, this may include Green Management Practices (GMPs) as defined in the MSD Design Manual.

Biochemical Oxygen Demand (BOD) - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five (5) days at 20 Centigrade expressed in terms of weight and concentration in milligrams per liter (mg/l).

Black Water - Wastewater from toilets, kitchen sinks and dishwashers. Water polluted with [food](#), animal, or human [waste](#).

Board of MSD or The Board - The membership, appointment and qualifications of which are set forth in KRS 76.030, or for the purpose of hearings, those designated Board Members authorized by the whole Board of MSD to conduct hearings.

BTEX - See definition for Total BTEX.

Building Sewer - A sewer conveying wastewater from the premises of a user to a public sewer.

Bypass - The diversion of wastewater and/or stormwater streams from any portion of a User's treatment facility which is discharged to the public sewer system, treatment works, or drainage conveyance owned, operated or maintained by MSD.

Categorical Industrial User - An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

Categorical Standards - National Categorical Pretreatment Standards or Pretreatment Standard. Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

Certified Waste Hauler – users that have successfully completed the MSD certification classes and hold a valid certification from MSD.

Qualified Post-Construction Inspector (hereinafter “QPCI”) – Those individuals, having passed a training course sponsored or approved by the Louisville and Jefferson County Metropolitan Sewer District (hereinafter “MSD”), who provide on-site Post-Construction BMP inspections for the Permittee in accordance with these regulations.

Chemical Oxygen Demand – or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Combined Sewer Overflow (CSO) – The discharge of flow through a combined sewer outfall.

Combined Sewer Outfall - an outfall identified as a combined sewer overflow (CSO) in MSD's KPDES permit for the Morris Forman WQTC from which MSD is authorized to discharge during wet weather.

Dry Weather CSO - an overflow from a permitted outfall identified as a combined sewer overflow or CSO in MSD's Morris Forman WQTC KPDES permit that is not the result of a wet weather event.

Wet Weather CSO - an overflow from a permitted outfall identified as a combined sewer overflow or CSO in MSD's Morris Forman WQTC KPDES permit that is the result of a wet weather event.

Combined Sewer System (CSS) - the portion of the public sewer designed to convey municipal sewage (domestic, commercial and industrial wastewaters) and stormwater runoff through a single-pipe system to MSD's Morris Forman WQTC or CSOs.

Compatible Pollutant - Biochemical oxygen demand, suspended solids and fecal coliform bacteria; plus additional pollutants that the POTW is designed to treat and, in fact, does treat to the degree required by the POTW's NPDES / KPDES Permit.

Composite Wastewater Sample - A combination of individual samples of water or wastewater taken at selected intervals, or based on quantity of flow for some specified period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be proportioned to the flow at the time of the sampling.

Consistent Removal - Shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant to a less toxic or harmless state in the effluent as determined in accordance with the procedures set forth in "General Pretreatment Regulations for Existing and New Sources of Pollution", 40 CFR 403.7, promulgated pursuant to the Federal Act.

Contamination - An impairment of the quality of the waters of the Commonwealth by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the Commonwealth are affected.

Control Authority – The POTW, if the POTW's submission for its pretreatment program 40 CFR 403.3(t)(1) has been approved in accordance with the requirements of 40 CFR 403.11. MSD is the Control Authority.

Conveyance - Any feature of the landscape or earth (to include sinkholes), manmade or natural, that carries wastewater / stormwater in a concentrated flow.

Cooling Water - The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Co-permittee - Any person, other than the permittee, including but not limited to a developer or contractor who has or represents having financial or operational control over the land disturbing activity.

Daily Maximum – The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit – The daily maximum allowable discharge limit of a pollutant during a calendar day. Where maximum daily 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 measurement of the pollutant concentration derived from all measurements taken that day.

Day - Unless stated otherwise in these Regulations, day shall mean calendar day.

De minimus - Any wastestream characteristic that does not cause a violation of the Clean Water Act, cause interference on the operation of the water quality treatment center relative to volume or treatability, cause harm to personnel or facilities, or violate any discharge Permit, WDR, or Slug/Spill Control Plan as determined by MSD.

Developer - A person undertaking, or for whose benefit, any or all the activities covered by these regulations are commenced or carried out.

Development Code- The Land Development Code including the Zoning District Regulations and the Metropolitan Subdivision Regulations, as amended from time to time.

Dilution Stream - Term which, when used in reference to a categorical industry, refers to any wastewater not generated by a process regulated for the specific pollutant by a categorical standard under 40 CFR, Subchapter N.

Direct Discharge - The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Kentucky.

Discharge - Shall mean any spilling, leaking, pumping, pouring, emitting, emptying, injecting, escaping, leaching, dumping or disposing of any substance into the environment.

Ditch - Open channel that transports stormwater runoff.

Domestic Waste - Wastes from residential users and from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

Drainage - The flow of stormwater runoff into a conveyance.

Easement - An acquired legal right for the specific use of land owned by others.

EPA - The United States Environmental Protection Agency.

EPSC - The prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

Equipment - All movable, non-fixed items necessary to the wastewater treatment process.

Executive Director - The chief executive officer of MSD or his designated representative.

Exemption: A release from the requirement to install grease control equipment (GCE) in a food service establishment (FSE).

Existing Source – Any source of discharge that is not a New Source.

Facility - Shall mean any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft.

Federal Act, also The Act - The Federal Water Pollution Control Act (PL92-500), also known as the Clean Water Act, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Act or any additional Federal Acts pertaining to environmental protection.

Federal Categorical Pretreatment Standards or Federal Pretreatment Standards - Same as Categorical Standards.

Flow Recorder - A device installed on a user's wastewater discharge line in such a manner as to accurately determine wastewater flow entering the MSD sanitary or combined sewer system.

Fats, Oils, & Grease (FOG) - Organic polar compounds derived from animal and/or plant sources. FOG may be referred to as "grease" or "greases" in this section.

Food Service Establishment (FSE) - Any establishment, business or facility engaged in preparing, serving or making food available for consumption. Food Service Establishments are classified as follows:

Class 1: Deli – Engaged in the sale of cold-cuts and microwaved sandwiches/subs with no frying or grilling on site, Ice Cream shops and beverage bars as defined by NAICS 72213, Mobile Food Vendors as defined by NAICS 722330, Day Care Facilities as defined by NAICS 624410.

Class 2: Limited-Service Restaurants - As defined by NAICS 722211 and Caterers as defined by NAICS 722320

Class 3: Full Service Restaurants as defined by NAICS 722110

Class 4: Buffet and Cafeteria Facilities as defined by NAICS 72212

Class 5: Institutions (Schools, Hospitals, Prisons, etc) as defined by NAICS 722310 but not to exclude self-run operations.

Garbage Disposal - A kitchen appliance designed to grind food particles to a small enough size to dispose to a sink drain.

General Wastewater Discharge Permit - Also referred to as General Permit. A permit issued to users, other than Significant Industrial Users, who discharge or have the potential to discharge wastewater containing other than domestic waste. MSD may issue a General Permit to these users as necessary to regulate, monitor or control the

wastewater discharge. General Permits include all information contained in the Wastestream Classification Sheet.

Grab Sample - A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Gray water - Is wastewater collected from clothes washers, bathtubs, showers, and laundry or bathroom sinks.

Grease Control Equipment (GCE) - Devices for separating and retaining FSE wastewater FOG prior to entering the MSD sewer system. The GCE is constructed to separate and trap or hold fats, oils and grease substances from entering the MSD sewer system. GCE should only receive kitchen wastewater. Devices include grease interceptors, grease traps, or other devices approved by MSD.

Grease Interceptor (GI) - GCE identified as a large multi-compartment tank, usually 1,000 gallon to 2,000 gallon capacity with proper inlet and outlet T's, and other necessary components, that provides FOG control for a FSE. No sanitary wastewater (black water) line should be connected to the grease interceptor. Grease interceptors will be located outside the FSE.

Grease Trap (GT) - GCE identified as an "under the sink" trap, a small container with baffles, or a floor trap. For a FSE approved to install a grease trap, the minimum size requirement is the equivalent of a 25-gallon per minute/50 pound capacity trap. Grease traps shall have flow control restrictor and a vent pipe. No dishwasher, or sanitary wastewater (black water) line shall be allowed to be connected to a "under the sink" or floor grease trap.

Green Management Practices (GMPs) - Shall mean pervious pavement, rain gardens, green roofs, infiltration drains, wetlands, bioswales, increased green space, etc. consistent with the Green Infrastructure Design Manual (MSD Design Manual, Chapter 18).

Groundwater - Water below the land surface in the zone of saturation.

Groundwater Infiltration - Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include and is distinguished from inflow.

Habitat - The place where a population (e.g. human, animal, plant, microorganism) lives and its surroundings, both living and non-living.

Hauled Waste - Any waste transported to MSD or to a permitted waste treatment or disposal facility for discharge from place of origin via rail, truck or other mode of transportation.



Hazardous Materials – Materials and substances as defined in Section 95.03 of the Metro Hazardous Materials Ordinance.

Hazardous Materials Ordinance (HMO) - An ordinance related to the use and control of hazardous materials and the timely reporting of releases thereof as found under City of Louisville Metro amended Ordinance Number 121-2007, approved July 2, 2007 or succeeding legislation.

Holding Tank Waste - Any wastes from chemical toilets, campers, trailers, septic tanks, portable vessels and tank trucks used to retain, transport or transfer any waste.

Illicit Connection - Any connection to the municipal separate storm sewer which discharges non-stormwater to the municipal separate storm sewer system.

Illicit Discharge - Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities. (ref: 40 CFR 122.26 (b)(2)).

Incompatible Pollutant - All pollutants other than compatible pollutants as defined in this section.

Indirect Discharge - The discharge or the introduction of pollutants into a POTW (MSD) from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act and including holding tank wastes discharged into the system.

Industrial Activity – Activities subject to NPDES (KPDES) industrial stormwater permits as defined in 40 CFR 122.26 (b) (14).

Industrial Wastewater - Wastewater admissible to the public sewer from industrial manufacturing processes, trade or businesses, or from the development, recovery or processing of natural resources.

Instantaneous Limit – The maximum concentration of a pollutant to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference - Inhibition or disruption of MSD's sewer system, treatment processes or operations which may contribute to a violation of ORSANCO standards or any requirement of MSD's NPDES permit. The term includes prevention of sewage sludge use or disposal by MSD in accordance with Section 405 of the Federal Act, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent criteria of the Commonwealth of Kentucky (including those contained in the state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by MSD.

KPDES - Kentucky Pollutant Discharge Elimination System. - A permitting system established by Section 402 of the Clean Water Act. Permits are issued by the State of Kentucky, Division of Water under delegation from EPA for discharges directly to the surface waters of the State.

Local Limits - Term commonly used to refer to the Specific Discharge Limitations which are listed in Section 2.02 of these Regulations. Local limits are specifically developed to apply to dischargers in each of the six service areas (Morris Forman, Hite Creek, Jeffersontown, Derek R. Guthrie, Floyds Fork and Cedar Creek).

MS4 (Municipal Separate Storm Sewer Systems) – A conveyance or system of conveyances including roads with drainage systems, storm drains, gutters, and ditches under the jurisdiction of a city, county, state or other public body. ((40 CFR 122.26 (b)(8)).

MSD – The Louisville and Jefferson County Metropolitan Sewer District, its officers, employees and agents.

Mass Discharge Rate - The weight of material discharged to the public sewer system during a given time interval. Unless otherwise specified, the mass discharge rate shall mean pounds per day of a particular constituent or combination of constituents.

Maximum Daily Limit (Concentration) - The maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where maximum limitations are expressed in terms of concentration, the daily discharge is the arithmetic average of the pollutant concentration derived from all measurements taken that day.

Monitoring Facility - A type of facility which enables inspection, sampling and flow measurement of wastewater / stormwater discharges of a user.

Monthly Average – The sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Monthly Average Limit – The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Multi-Unit Facility - A single building or facility with multiple separate but adjoining units, each with separate plumbing and possibly other utilities.

NAICS - North American Industry Classification System - Current listing can be found at: (<http://www.census.gov/epcd/www/naics.html>)

NPDES - The National Pollutant Discharge Elimination System - a program for issuing, conditioning or denying permits for the discharge of pollutants from point sources into

the navigable waters, the contiguous zone and the oceans, pursuant to Section 402 of the Federal Act.

NPDES Permit - A permit issued to a POTW pursuant to section 402 of the Act.

NPDES State - (as defined in 40 CFR 122.2) A State or Interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act.

Natural Outlet - Any outlet to a watercourse, pond, ditch, lake or other body of surface water or groundwater.

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:

(1) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) 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 rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subparts (19)(A)(ii) or (iii) of the Act but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(1) Begun, or caused to begin as part of a continuous onsite construction program:

- Any placement, assembly, or installation of facilities or equipment; or
- 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

- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nine Minimum Controls – Technology based actions or measures implemented by POTWs which are designed to reduce CSOs and their effects on receiving water quality.

Non-Commercial Car Washing - Any automotive washing performed by individuals or groups for no fee or for a charitable contribution. This shall include but is not limited to car washes performed by local church groups, school groups, athletic teams, youth organizations, and individuals at their place of residence.

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.

Non-Point Source - A diffuse pollutant source, such as stormwater runoff that does not flow from a single point.

Non-Storm Water Discharge - Any addition of any “pollutant” or combination of pollutants to “waters of the Commonwealth” from any “point source” or any additions of pollutants into waters of the Commonwealth from: surface runoff which is collected or channeled by man; discharges of wastes through pipes, sewers, or other conveyance owned by a state, municipality, or other person which does not lead to a treatment works; and discharges of wastes through pipes, sewers, or other conveyance, leading into privately owned treatment works. (40 CFR 122).

ORSANCO - The Ohio River Valley Water Sanitation Commission.

Outfall (Stormwater) - A point source at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. (40 CFR 122.26 (b)(9)).

Outfall (Wastewater) - The point, location or structure where wastewater discharges from a sewer or other conduit, public or private.

pH - The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

Pass-through - A discharge which exits the POTW (MSD) into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the MSD KPDES permit (including an increase in the magnitude or duration of a violation).

Person - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity of any other legal entity, or their legal representatives, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

Point Source - Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural wastes discharged into water.

Pollution - An alteration of the quality of the waters of the Commonwealth by waste to a degree which unreasonably affects such waters for beneficial uses or affects the facilities which serve such beneficial uses. Pollution may include contamination.

Premises - A parcel of real estate or portion thereof, including any improvements thereon, which is determined by MSD to be a single user for purposes of receiving, using and paying for wastewater service.

Pretreatment - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state by application of physical, chemical or biological processes or process changes prior to or in lieu of discharging or otherwise introducing such pollutants into a public sewer.

Pretreatment Standard - National Pretreatment Standard, or Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Users as defined in these Regulations. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

Private Meter - A meter installed by a customer to record water usage from a private water system.

Process Wastewater - Any water that comes into contact with any raw material, product, byproduct, or waste. Wastewater used in any manufacturing, forming or thermal process, or any other operation during which its characteristics are modified.

Prohibited Discharge Standards or Prohibited Discharges - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.01 of these Regulations.

Public Drainage System - An improved or earthen ditch system, streams (ephemeral or perennial), retention and detention basins, pipe or conduit owned, operated or maintained by MSD.

Public Meter - A meter installed by and in a public water system.

Public Record - as defined in Kentucky's Open Records Statute, KRS 61.870 et seq.

Public Sewer - A sewer owned or operated by MSD. Public Sewers are further classified as sanitary, combined storm and sanitary and storm sewers. Also called Sewer System.

Public Water System - The Louisville Water Company or other public water supply system.

Publicly Owned Treatment Works (POTW) - Same as Treatment Works.

Quality Charges - Those charges applicable to contributed wastewater strengths in excess of 250 mg/l of biochemical oxygen demand (BOD) and/or 270 mg/l of total suspended solids (TSS) for commercial and industrial wastewater customers. (Also called Surcharge.)

Rainwater - The water resulting from precipitation.

Residential Dwelling Unit - Any building or other shelter primarily used as a single-family residence.

Riparian Habitat - A habitat adjacent to rivers and streams that have a high density, diversity, and productivity of plant and animal species relative to nearby uplands.

Sanitary Sewer - A sewer which is intended to convey only domestic wastes and commercial and industrial wastes not specifically prohibited or restricted by these Regulations.

Sanitary Sewer Overflow (SSO) - Any discharge of wastewater to waters of the United States from the public sewer through a point source not authorized by a KPDES permit, as well as any release of wastewater from the public sewer to public or private property that does not reach waters of the United States, such as a release to a land surface or structure that does not reach waters of the United States; provided, however, that releases or wastewater backups into buildings that are caused by blockages, flow conditions, or malfunctions in a building lateral, or in other piping or conveyance system that is not owned or operationally controlled by MSD are not SSOs.

Sanitary Sewer System (SSS) - The portion of MSD's sewer system designed to convey only municipal sewage (domestic, commercial and industrial wastewaters) to MSD's WQTCs.

Sewer - A pipe or conduit for conveying wastewater or drainage.

Significant Industrial User – (as defined in 40 CFR 403.3 (v)(i) and (ii))

(a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;

(b) Any other industrial user that discharges an average of

25,000 gallons per day to the Morris Forman Water Quality Treatment Center  
25,000 gallons per day to the West County Water Quality Treatment Center  
25,000 gallons per day to the Jeffersontown Water Quality Treatment Center  
25,000 gallons per day to the Hite Creek Water Quality Treatment Center

or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);

(c) Any other industrial user that contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant;

(d) Any other industrial user that is designated as such by MSD as defined in 40 CFR 403.12 (a) on the basis that the industrial user has a reasonable potential for adversely affecting MSD's treatment works operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403).

Significant Industrial User Permit - The permit issued to Significant Industrial Users (SIUs). SIU Permit includes all information contained in the Wastestream Classification Sheet.

Significant Non-Compliance - A violation that meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a 6 month period 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 33 percent or more of all of the measurements for each pollutant parameter taken during a 6 month period 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 as defined by 40 CFR 403.3 (1) (daily maximum, long term average, instantaneous limit, or narrative standard) that MSD 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 90 days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or other order issued hereunder for starting construction, completing construction or attaining final compliance;
- (f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (g) Failure to accurately report non-compliance;
- (h) Any other violation or group of violations, which may include a violation of Best Management Practices, which MSD determines will adversely affect the operation or implementation of the local pretreatment program.

Slug Discharge – Includes but is not limited to any discharge of a non-routine, episodic nature; an accidental spill or non-customary or unapproved batch discharge that has a reasonable potential to cause interference or pass-through, or in any other way violates these Regulations. Any discharge of water or wastewater in which the concentration of any given constituent or the quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow rate during normal operation.

Slug Load – Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of these Regulations.

Solid Waste - Includes, but is not limited to, uncomminuted garbage, grease, paunch manure, entrails, bones, hair, hides or fleshings, feathers, cinders or ashes, straw, leaves, grass clippings, spent grains and hops, mud, sand, gravel, inert materials, tar, asphalt, concrete, cement, paper, wood, plastic, metal or glass, refuse, trash, nails, tacks, wire, bottles, cans, yard trash, earthen fill, containers, litter, tree limbs, broken branches, general yard waste or other debris.

Spill - The accidental release of a substance from its containment.

Standard Industrial Classification (SIC) - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, U.S. Bureau of the Budget, 1987.

State - The Commonwealth of Kentucky.

Storm Drain or Storm Sewer - A conveyance designed for transporting stormwater.



Stormwater - Any flow occurring during or following any form of natural precipitation and resulting there from; rainfall runoff, snowmelt runoff and drainage, and as defined in 40 CFR 122.26(b)(13).

Stormwater Discharge Associated with Industrial Activity - The discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial facility which is within one of the categories of facilities listed in 40 CFR 122.26(b)(14), and which is not excluded from EPA's definition of the same term.

Stormwater Pollution Prevention Plan (SWPPP) - A document(s) also known as a BMP Plan, EPSC Plan, etc. that identify constructed and operational practices and controls to benefit short-term and/or long-term stormwater management.

Stormwater Quality Maintenance Agreement - A binding document that identifies short- and long-term operation and maintenance responsibilities of the current and future property owner, define acceptance of right-of-entry access for oversight inspections, self-inspection and documentation requirements; and identifies how the document passes from the current property owner to future owners.

Stormwater Quality Event - Shall mean the first measure of rainfall over the drainage area. It shall be based on the threshold rain event the BMPs are able to treat through infiltration and/or pollutant removal. The BMP, or series of BMPs, must at a minimum, treat the threshold/minimum water quality rain event, as defined in the MSD design manual, imposed upon new development. Alternatively, this may include a detailed analysis performed by the property owner identifying the resultant discharge volume reduction and priority pollutant removal efficiencies.

Stream - A body of running water over the earth's surface.

Streambed - The channel through which a natural stream of water runs or once ran.

Subtractor Meter - A meter installed by a user to record metered water not entering the sewer system, which is deducted from the water usage recorded by a public or private meter to determine water entering the MSD sanitary or combined sewer system.

Sump Pump - is a special electrically operated water pump usually installed in a building basement that removes water that has collected in a sump pit either from leakage into the building, high water table or from flooding. Once a certain level of water is attained, the sump pump turns on and discharges the water away from the building, either into the back yard or into the municipal storm water system (not the sewer system).

Surcharge

- (a) A charge for service in addition to the basic sewer user and debt service charge, for those users whose contribution contains biochemical oxygen demand (BOD), chemical oxygen demand (COD), suspended solids (SS) or ammonia nitrogen (N-NH) in concentrations which exceed limits specified herein for such pollutants.

(b) An abnormal condition where the flow of a sewer fills the pipes and manholes above the normal wastewater level.

Tee or T (Influent & Effluent) - A T-shaped pipe extending from the ground surface below grade into the grease interceptor to a depth allowing recovery (discharge) of the water layer located under the layer of FOG. Influent & effluent T's are recommended to be made of PVC – schedule 40 or equivalent material. Influent T's should extend 2/3 of the grease interceptor water depth, and effluent T's should extend to within 12" to 15" of the bottom of the interceptor tank to prevent short-circuiting.

Total BTEX - BTEX is an acronym that stands for Benzene, Toluene, Ethylbenzene, and Xylenes (three isomeric forms included). The term "Total BTEX" refers to the sum of the concentrations of all six compounds.

Total Suspended Solids (TSS) - Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.

Toxic Pollutant - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of CWA Section 307(a) or other Acts.

Treatment Works - Any devices and systems used by MSD in the conveyance, storage, treatment, recycling and reclamation of municipal sewage, or liquid industrial wastes including interceptor sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; and any works, including the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.

Unpolluted Water - Water to which no constituent has been added, either intentionally or accidentally, which would make such water unacceptable to the agency having jurisdiction thereof for disposal to storm sewers, natural drainage or directly to surface waters (e.g., certain non-contact cooling water, ground water, rain water).

Unusual Discharge Request (UDR) Permit - A wastewater discharge permit issued to users who request to discharge, on a one-time basis or for a continuous short duration (typically less than one year), wastewater which is not specifically included in a permit (to include the Wastestream Classification Sheet) previously approved by MSD. As such, UDRs are evaluated on a case-by-case in accordance with procedures, which may be updated as needed. Approval may be conditional upon treatment to an appropriate level prior to discharge. UDR permits are not subject to automatic permit duration extensions.

Upset - An exceptional incident in which there is unintentional and temporary non-compliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.

User

- (a) Any person that contributes, causes, or permits the contribution or introduction of wastewater or pollutants into the POTW and / or stormwater into the Municipal Separate Storm Sewer, whether intentional or unintentional, and whether direct or indirect. For purposes of these Regulations, the term user shall also be utilized when referring to Industrial Users, Significant Industrial Users and Categorical Users, as well as facilities that discharge stormwater to the MS4, but shall not apply to facilities that are otherwise exempt under the provisions of the Clean Water Act, 33 U.S.C. 1342(1)(1), Section 402(1)(1) and 33 U.S.C. 1344(f)(1)(A), Section 404(f)(1)(A).
- (b) For purposes of these Regulations, the term user also includes municipalities or other units of local government that contribute, cause, or permit the contribution or introduction of wastewater, stormwater and/or pollutants into the public sewer whether intentional or unintentional, and whether direct or indirect.

User Charge - The charge levied on all users, including but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW (MSD).

Waste - Includes any and all waste substances, whether liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin or from any producing, manufacturing or processing operation of any nature, including such waste placed within containers of any nature prior to, and for purposes of, disposal.

Waste Hauler - Any person engaging in the vehicular transport of liquid wastes for commercial reasons and who discharges the waste into any MSD facility.

Waste Hauler Manifest – A document that lists the sources of wastewater being hauled for discharge at a MSD facility.

Waste Hauler Permit – A permit issued by MSD to a user licensed by the Metro Public Health and Wellness Department, or appropriate local or state regulatory agency, to haul solid or liquid, nonhazardous domestic or other wastes with the Metro Louisville area and who may, with MSD approval, discharge those wastes at a location within the MSD collection system as specified by MSD.

Water System - Water in sources other than a public water system.

Wastestream Classification Sheet (WCS) - A systematic characterization of a facility's wastewaters.

Wastewater - The liquid and water-carried industrial and commercial wastes (to include process water as defined in these Regulations) and sewage from residential dwellings, commercial buildings, industrial manufacturing facilities, and institutions whether treated or untreated.

Wastewater Constituents and Characteristics - The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

Wastewater Discharge Permit - A written authorization from MSD to discharge wastewater conditioned upon these Regulations, State and Federal laws, regulations and guidance, and MSD policy or best professional judgment. Wastewater Discharge Permits may have various durations and may be styled as follows: Significant Industrial User Permit; General Permit; Unusual Discharge Request Permit; and Waste Hauler's Permit.

Wastewater Facilities - The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

Wastewater Treatment Works - An arrangement of devices and structures for treating domestic wastewaters and sludges. Sometimes used synonymously as "waste treatment plant" or "sewage treatment plant."

Watercourse - A natural or artificial channel for the passage of water either continuously or intermittently.

Waters of the Commonwealth – This definition is used by the Kentucky Environmental and Public Protection Cabinet, Department in 401 KAR 5:002. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within or border upon, this Commonwealth, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface or underground waters.

Waters of the United States -

- (a) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters including interstate wetlands;
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

- Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
  - From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - Which are used or could be used for industrial purpose by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under the definition;
- (e) Tributaries of waters identified in paragraphs (a)(1)-(4) of this section;
- (f) The territorial seas;
- (g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1)-(6) of this section.
- (h) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.
- (i) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.

Watershed -- The entire land area contributing surface or groundwater drainage or precipitation with regard to a specific point of interest (e.g., intake for water-supply reservoirs, drainage outfall, etc.)

Wetland - An area that is regularly saturated by surface or groundwater and subsequently is characterized by a prevalence of vegetation that is adapted for life in saturated soil conditions. Examples include: swamps, bogs, fens, marshes, and estuaries.

Yard Wastes - Wastes generated from yard activities such as grass clippings, leaves, tree and shrub clippings, etc.

## ARTICLE 2

### WASTEWATER LIMITATIONS

#### SECTION 2.01 PROHIBITED DISCHARGES - Public Sewer

- (a) No user shall discharge wastes to a public sewer which cause, threaten to cause, or are capable of causing, either alone or by interaction with other substances:
- (1) A fire or explosion hazard (e.g., gasoline, kerosene, fuel oil, mineral spirits, benzene, naphtha, etc.);
  - (2) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° Fahrenheit or 60° Centigrade using the test methods specified in 40 CFR 261.21.
  - (3) Any pollutant, including oxygen demanding pollutants (BOD, etc.), and/or petroleum oil, nonbiodegradable cutting oils, or oil products of a mineral oil origin and/or fats, oils or greases of animal or vegetable origin released in a discharge at a flow rate and/or pollutant concentration which will cause interference or pass through at the POTW.
  - (4) Obstruction to flow in the public sewer or treatment works;
  - (5) Wastewater with a pH of less than 5.0, or otherwise causing corrosive structural damage, alkaline encrustations, or other damaging affects the public sewer or treatment works;
  - (6) Heat in amounts which will inhibit biological activity in the receiving MSD treatment plant resulting in interference but in no case in such quantities that the treatment plant influent exceeds 104°F (40°C) notwithstanding those limits prescribed in Section 2.02.1:
  - (7) Danger to life or safety of any person;
  - (8) A strong offensive odor which prevents the effective maintenance or operation of the treatment works;
  - (9) Air pollution, toxic or malodorous gases, or malodorous gas-producing substances;
  - (10) A Pass Through or Interference with the operation, maintenance or performance of the treatment works;

- (11) MSD's effluent or any other product of the treatment process, residues, sludges or scums, to be unsuitable for or interfere with, reclamation, reuse or disposal;
- (12) A detrimental environmental impact, or a nuisance in the waters of the Commonwealth or a condition unacceptable to MSD or to any public agency having regulatory jurisdiction over MSD;
- (13) Wastewater which imparts color which cannot be removed by the treatment process and which imparts discoloration or any other condition in the quality of effluent from MSD's treatment works such that receiving water quality requirements established by law cannot be met;
- (14) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (15) Conditions which violate any statute, rule, regulation or ordinance of any public agency or state or federal regulatory body;
- (16) MSD's treatment works to be overloaded or subjected to slug;
- (17) Unusual collection or treatment costs to MSD;
- (18) The use of a disproportionate share of MSD facilities.
- (19) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- (20) No user shall discharge into any public sewer wastewater containing material that would normally be classified as solid waste.
- (21) No user shall discharge waste via truck, rail or dedicated pipeline where such waste constitutes hazardous waste as defined in 40 CFR 261.
- (22) MSD may impose the following limits for groundwater discharges and Unusual Discharge Request Permits:

Benzene:	0.5 mg/l
BTEX:	10.0 mg/l
- (23) Detergents, surface active agents, or other substances which might cause excessive foaming in the POTW;
- (24) In addition, MSD may impose additional limits from Section 2.02 of these Regulations on the above discharges to protect the POTW.

SECTION 2.02 RESTRICTED DISCHARGES

SECTION 2.02.1 SPECIFIC DISCHARGE LIMITATIONS

MSD is authorized to establish Local Limits pursuant to 40 CFR 403.5.

The following limits apply at the point where wastewater is discharged to the public sewer. All concentrations for metallic substances are for total metals unless indicated otherwise. MSD may apply mass limitations for limited pollutants where appropriate. The mass loading will be specified in the Significant Industrial User permits.

**(a) Jeffersontown Water Quality Treatment Center service area**

Although it may be necessary to define new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits, no user shall discharge into the **Jeffersontown Water Quality Treatment Center's** Sewer Collection System wastewater containing in excess of:

<u>Parameter</u>	<u>Limit</u>
Total arsenic	0.82 mg/l
Total cadmium	0.15 mg/l
Total chromium	5.0 mg/l
Total copper	0.92 mg/l
Amenable cyanide	0.15 mg/l
Total lead	0.25 mg/l
Total mercury	0.0005 mg/l
Total nickel	1.5 mg/l
Total silver	0.40 mg/l
Total zinc	3.4 mg/l
Ammonia	50 mg/l
pH, minimum	6.0
pH, maximum	10.0

- (1) Having a temperature higher than 150°F (65.6°C);
- (2) Containing oil and grease of mineral or petroleum origin (hydrocarbons) greater than 100 mg/l;



(b) **Hite Creek Water Quality Treatment Center service area**

Although it may be necessary to define new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits, no user shall discharge into the **Hite Creek Water Quality Treatment Center's** Sewer Collection System wastewater containing in excess of:

<u>Parameter</u>	<u>Limit</u>
Total arsenic	0.20 mg/l
Total cadmium	0.03 mg/l
Total chromium	3.1 mg/l
Total copper	0.16 mg/l
Amenable cyanide	0.04 mg/l
Total lead	0.07 mg/l
Total mercury	0.0005 mg/l
Total nickel	0.70 mg/l
Total silver	0.20 mg/l
Total zinc	1.9 mg/l
Ammonia	50 mg/l
pH, minimum	6.0
pH, maximum	10.0

- (1) Having a temperature higher than 150°F (65.6°C);
- (2) Containing oil and grease of mineral or petroleum origin (hydrocarbons) greater than 100 mg/l;

(c) **Morris Forman Water Quality Treatment Center service area**

Although it may be necessary to define new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits, no user shall discharge into the **Morris Forman Water Quality Treatment Center's** Sewer Collection System wastewater containing in excess of:

<u>Parameter</u>	<u>Limit</u>
Total arsenic	0.57 mg/l
Total cadmium	0.43 mg/l
Total chromium	5.0 mg/l
Total copper	4.2 mg/l
Amenable cyanide	0.50 mg/l
Total lead	1.1 mg/l
Total mercury	0.0015 mg/l
Total nickel	4.1 mg/l
Total silver	1.2 mg/l
Total zinc	12.7 mg/l
Ammonia	50 mg/l
pH minimum	5.0
pH, maximum	11.5

- (1) Having a temperature higher than 150°F (65.6°C);
- (2) Containing oil and grease of mineral or petroleum origin (hydrocarbons) greater than 100 mg/l;

**(d) Derek R. Guthrie Water Quality Treatment Center service area**

Although it may be necessary to define new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits, no user shall discharge into the **Derek R. Guthrie Water Quality Treatment Center's** Sewer Collection System wastewater containing in excess of:

<u>Parameter</u>	<u>Limit</u>
Total arsenic	0.57 mg/l
Total cadmium	0.43 mg/l
Total chromium	5.0 mg/l
Total copper	3.8 mg/l
Amenable cyanide	1.2 mg/l
Total lead	1.1 mg/l
Total mercury	0.0015 mg/l
Total nickel	4.1 mg/l
Total silver	1.2 mg/l
Total zinc	5.3 mg/l
Ammonia	50 mg/l
pH, minimum	5.0
pH, maximum	11.5

- (1) Having a temperature higher than 150°F (65.6°C);
- (2) Containing oil and grease of mineral or petroleum origin (hydrocarbons) greater than 100 mg/l;

**(d) Floyds Fork Water Quality Treatment Center service area**

Although it may be necessary to define new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits, no user shall discharge into the **Floyds Fork Water Quality Treatment Center's** Sewer Collection System wastewater containing in excess of:

<u>Parameter</u>	<u>Limit</u>
Total cadmium	0.04 mg/l
Total copper	1.4 mg/l
Amenable cyanide	0.66 mg/l
Total lead	0.83 mg/l
Total mercury	0.0013 mg/l
Total zinc	8.2 mg/l
pH, minimum	6.0
pH, maximum	10.0

- (1) Having a temperature higher than 150° F (65.6° C);
- (2) Containing oil and grease of mineral or petroleum origin (hydrocarbons) greater than 100 mg/l;

## SECTION 2.02.2 FEDERAL CATEGORICAL PRETREATMENT STANDARDS

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standards, if more stringent than limitations imposed under these Regulations for sources in that subcategory, shall immediately supersede the limitations imposed under these Regulations. MSD will notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

If MSD achieves consistent removal of pollutants limited by Federal Pretreatment Standards, MSD may apply to EPA for modification of specific limits in the Federal Pretreatment Standards. MSD may modify pollutant discharge limits applicable to users in the Federal Pretreatment Standards if the requirements contained in 40 CFR 403.7 are fulfilled and prior approval from EPA is obtained.

MSD will recognize and enforce the conditions allowed for by variances from Pretreatment Standards "for fundamentally different factors", as may be granted by EPA in accordance with 40 CFR 403.13 and with the prior written approval of the Approval Authority.

National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW (MSD) by existing or new users in specific industrial subcategories will be established as separate regulations under the appropriate subpart of 40 CFR chapter I, subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this part.

MSD may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Significant Industrial Users. The conversion is at the discretion of the MSD.

When converting such limits to concentration limits, MSD will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Section 2.02.4 of these Regulations. In addition, MSD will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available according to 40 CFR 403.6(c)(7)).

Once included in its permit, the Significant Industrial User must comply with the equivalent limitations developed by MSD in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

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.

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

(a) Category Determination Request

(1) Application Deadline - Within 60 days after the effective date of a Pretreatment Standard for a subcategory under which a user may be included, the user may request that the Approval Authority, as appropriate, provide written certification on whether the user falls within that particular subcategory. If an existing user adds or changes a process or operation which may be included in a subcategory, the existing user must request this certification prior to commencing discharge from the added or changed processes or operation. A New Source must request this certification prior to commencing discharge. Where a request for certification is submitted by MSD, MSD will notify any affected Industrial User of such submission. The user may provide written comments MSD's submission to the Approval Authority, as appropriate, within 30 days of notification.

(2) Contents of Application - Each request shall contain a statement:

(i) Describing which subcategories might be applicable; and

(ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

SECTION 2.02.3 NOTIFICATION OF DISCHARGE OF HAZARDOUS WASTE

(a) Any user who commences the discharge of hazardous waste shall notify MSD, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the MSD sewer of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).

- (b) If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the MSD sewer, the notification also shall contain the following information to the extent such information is known and readily available to the user:
  - (1) an identification of the hazardous constituents contained in the wastes,
  - (2) an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and
  - (3) an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
- (c) All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of new or altered discharges must be submitted under Section 4.04 of these Regulations.
- (d) Users are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- (e) 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, users must notify MSD, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (f) In the case of any notification made under this Section, users shall certify that they have programs in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (g) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any

applicable Federal or State law. MSD may deny or condition this discharge at any time.

#### SECTION 2.02.4 DILUTION PROHIBITED AS SUBSTITUTE FOR TREATMENT

Except where expressly authorized to do so by an applicable pretreatment standard or requirements or permit, no industrial user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. MSD may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.

#### SECTION 2.03 OTHER DISCHARGE CONDITIONS

If MSD determines that the provisions of these Regulations may not be sufficient to protect the operation of the treatment works or to enable the effluent from the treatment works to comply with water quality standards or effluent limitations specified in MSD's NPDES (KPDES) permit, it may be necessary to impose new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits.

#### SECTION 2.04 PROHIBITED DISCHARGES TO EITHER THE SANITARY SEWERS OR COMBINED SEWERS

Any direct or indirect connection or entry point for deleterious substances to the building sewer or drainage system is prohibited.

Groundwater, rainwater, surface drainage, subsurface drainage, or yard drainage shall not be discharged through direct or indirect connections (downspouts, sump pumps) to a sanitary sewer, except as specifically permitted by MSD.

#### SECTION 2.05 DISCHARGES OF UNPOLLUTED WATER

Unpolluted water shall not be discharged through direct or indirect connections to:

- (a) Combined sewers, except where no storm sewer or natural outlet is available, or except by a permit issued by MSD;
- (b) Sanitary sewers, except by a permit issued by MSD.

#### SECTION 2.06 LIMITATIONS ON RADIOACTIVE WASTES

No user shall discharge or cause to be discharged, any radioactive wastes into a public sewer except:

- (a) When the user is authorized to use radioactive materials by the State Department for Human Resources or other governmental agency empowered to regulate the use of radioactive materials; and



- (b) When the waste is discharged in strict conformity with Kentucky law and federal regulations and recommendations for safe disposal; and
- (c) When the user is in compliance with rules and regulations of other applicable regulatory agencies; and
- (d) When the user has obtained a permit as prescribed in Article 4 of these Regulations.

#### SECTION 2.07 LIMITATIONS ON THE USE OF GARBAGE DISPOSALS

Wastes from garbage disposals shall not be discharged into a public sewer except:

- (a) Wastes from residential premises generated in preparation of food;
- (b) Where the user has obtained a permit for that specific use from MSD, and agrees to undertake whatever self-monitoring is required to enable MSD to equitably determine the charges and fees based on the waste constituents and characteristics.

Such disposals must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the public sewer, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension. Garbage disposals shall not be used for grinding plastic, paper products, inert materials, garden refuse or other materials that would otherwise be classified as solid waste.

#### SECTION 2.08 LIMITATIONS ON POINT OF DISCHARGE

No user shall discharge any waste or wastewater directly into a manhole or other opening in a public sewer other than through an approved building sewer for that facility, unless ~~he has been~~ issued a permit by MSD. If a permit is issued for such discharge, the user shall pay the applicable charges and fees and shall meet such other conditions as required by MSD.

#### SECTION 2.09 HAULED WASTE

MSD issues Wastewater Discharge Permits to waste treatment facilities that receive hauled waste from Waste Haulers, and may issue Waste Hauler's Permits to users that are permitted by the Metro Public Health and Wellness Department to haul waste in Jefferson County. No point of discharge within MSD's collection system will be allowed without the expressed, written permission of MSD. The discharge of any hauled waste to a point in MSD's collection system, other than as specifically designated by MSD, shall be deemed a violation of these Regulations and shall be subject to enforcement action.

All domestic septic tank waste, portable toilet waste, approved Unusual Discharge Request (UDR) waste, or other hauled waste deemed acceptable by MSD will be subject to the terms and conditions of these Regulations, as well as, any applicable Local, State and Federal regulations governing hauled waste or any conditions MSD deems necessary for protection of its treatment works.

Nothing contained in these Regulations shall be construed as being preemptory of any other regulations governing hauled waste, or waste haulers, or any business activities pertaining to hauled waste, or as set forth in any federal, state or local guidance governing hauled waste.

Any user seeking to discharge hauled waste to any designated and properly permitted facility within the MSD collection system, must have approval from MSD or an approved Waste Hauler's Permit.

#### SECTION 2.09.1 GREASE TRAP/INTERCEPTOR WASTE CERTIFIED HAULER

MSD will certify users permitted in Jefferson County by the Metro Public Health and Wellness Department to pump, haul and dispose of waste from food service establishments (FSE) grease control equipment (GCE). Those wishing to obtain the certification shall attend training by MSD and shall abide by the requirements of the program as set by MSD. Certified haulers shall also submit information in a format as requested by MSD relative to waste removed from FSE GCE. Certified haulers shall dispose of FOG waste at a facility permitted and authorized to receive such waste in accordance with applicable federal, state and local laws and regulations. Certified haulers shall inspect and certify the GCE at FSEs annually. The results of the annual inspection shall be submitted to MSD.

#### SECTION 2.10 GREASE, OIL AND SAND TRAPS

- (a) Grease, oil, and sand interceptors or traps shall be provided by other users when necessary for the proper handling of liquid wastes containing grease in excessive amounts, sand or other harmful ingredients, except that such interceptors or traps will not be required for private single-family homes if that home is not used for commercial purposes.
- (b) Users involved in the preparation of food for commercial purposes shall provide grease interceptors (GI) or grease traps (GT). GIs and GTs shall be of a type and capacity approved by MSD. Unless otherwise approved by MSD, GIs shall be located in an underground outdoor location that is readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and shall be of substantial construction, gastight, watertight and equipped with easily removable covers located over the inlet and outlet "T" pipes. GI and GT designs shall meet the specifications and requirements as set forth in MSD Design Manual. Sanitary wastewater shall not be connected to a GI or GT.
- (c) All users, at their expense, shall maintain grease, oil and/or sand interceptors and/or traps, in continuously efficient operation at all times. GIs shall be completely pumped out and cleaned by a Certified Waste Hauler on a scheduled frequency that prevents grease and/or solids from accumulating to 25% or more of the water depth capacity of the interceptor. GTs shall be cleaned at least weekly unless a different schedule is approved by MSD.

- (d) Approval of proposed facilities or equipment by MSD does not, in any way, guarantee that these facilities or equipment will function in the manner described by their constructor or manufacturer; nor shall it relieve a person, facility, firm or corporation of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose.

#### SECTION 2.11 PROPERTY SERVICE CONNECTIONS

Property service connections shall be sized based on fixture units with a minimum size of 6-inch, with the exception of Residential Dwelling Units (single family homes) which may use a 4-inch size.

#### SECTION 2.12 CAPPING AND SEALING OF PROPERTY SERVICE CONNECTIONS

MSD shall release a wrecking permit for the demolition of a building only after the applicant has signed a statement certifying that each sewer service connection to the building has been or shall be capped or plugged with a watertight seal prior to the completion of the wrecking project. MSD may inspect prior to issuance of the permit.

#### SECTION 2.13 SEWER CONNECTIONS FROM BASEMENTS AND SUBSURFACE LIVING AREAS

##### SECTION 2.13.1 PROHIBITED CONNECTIONS TO SANITARY SEWERS

No user shall permit or cause the connection, by gravity or via sump pumps, of any basement or subsurface living area floor drains (except shower stall drains) to any sanitary sewer.

##### SECTION 2.13.2 PERMISSIBLE DISCHARGES TO UPON THE GROUND SURFACE

Uncontaminated basement or subsurface living area sump pump discharges shall be discharged upon the surface of the ground where conditions allow infiltration.

##### SECTION 2.13.3 NONPERMISSIBLE DISCHARGES TO STORM DRAIN OR STORM SEWERS

It shall be a violation of these Regulations to discharge to any parts or portions of the stormwater drainage conveyance system within the defined jurisdiction of these Regulations, whether the stormwater drainage conveyance system resides within the municipal separate storm sewer system or within the combined sewer system, any wastewater (gray or black water) or other polluted waters, including potable chlorinated water, except where suitable treatment has been provided in accordance with subsequent provisions of these Regulations and with the Kentucky Department for Environmental Protection permits and/or regulations.

#### SECTION 2.13.4 BACKFLOW PREVENTION DEVICE REQUIREMENTS

- (a) For Plumbing fixtures installed after the effective date of this regulation, all plumbing fixtures and openings connecting to a combined / sanitary / storm sewer shall either be installed above the elevation of the cover of the nearest manhole serving the main or they shall discharge through a backflow prevention device. Where the installation(s) is/are in a newly constructed building in the combined sewer area, the backflow prevention device must be a sewage ejector or sump pump.
- (b) Backflow prevention devices must conform to current specifications used in the MSD Backflow Prevention Program.

#### SECTION 2.13.5 ELEVATIONS OF SANITARY SEWERS

New sanitary sewers approved or constructed by MSD shall be installed at elevations necessary to serve properties in the manner required by these Regulations.

#### SECTION 2.13.6 CONFLICT OF RULES AND REGULATION

Except where these Regulations are more stringent than the provisions of the Kentucky State Plumbing Law, Regulations and Code, such Kentucky State Plumbing Law, Regulation and Code shall govern the manner, procedure and means for the installation and maintenance of plumbing fixtures; where these Regulations are more stringent, these Regulations shall govern.

#### SECTION 2.14 SEGREGATION OF SANITARY WASTE AND PROCESS WASTE LINES

##### SECTION 2.14.1 FOOD SERVICE ESTABLISHMENTS

- (a) All new construction of Food Service Establishments shall have separate sanitary (restroom) and kitchen process lines. The kitchen process lines shall be plumbed to appropriately sized Grease Control Equipment (GCE) that meet the specifications and requirements of the MSD Design Manual. Kitchen process lines and sanitary lines may combine after the GCE before entering the public sewer.
- (b) When an existing building and/or building's plumbing is being renovated and the facility is a FSE, internal plumbing shall be reconstructed to separate sanitary (restroom) flow from kitchen process flow. Sanitary flow and kitchen process discharges shall be approved separately by MSD and shall discharge from the building separately. The kitchen process line(s) shall be plumbed to appropriately sized GCE. Kitchen process lines and sanitary lines may combine after the GCE.

##### SECTION 2.14.2 MULTI-UNIT FACILITIES

If allowed by Kentucky Plumbing Code, multi-unit facilities ("strip malls") shall separate private wastewater lines for kitchen and sanitary wastewater for each "individual" unit to

include “stub-out” locations to accommodate a minimum 1,000 gallon GI for each unit of the multi-unit facility. Multi-unit facility sites shall include suitable physical property space and sewer gradient that will be conducive to the installation of an exterior, in-ground GI when determining the building location. In the event that the Kentucky Plumbing Code does not allow lines to be “stubbed out” and a Food Service Establishment (FSE) is located in one or more of the units, internal plumbing lines will be segregated and plumbed to the appropriate Grease Control Equipment for the class of FSE being located in each unit.

FSEs located in a new multi-unit facility shall have a minimum of a 1,000 gallon grease interceptor installed, unless that FSE is identified as a Class 1 FSE facility. Sanitary wastewater, or black water, shall not be connected to a GI or GT.

#### SECTION 2.15 ELIMINATION OF CONNECTIONS TO COMBINED SEWERS

- (a) Roof leaders, downspouts, sump pumps (pumping groundwater), area drains, yard drains shall be disconnected from the combined sewers and rerouted to the ground surface or storm sewer under the following conditions:
  - (1) MSD or other public agency initiates a project to eliminate a combined sewer overflow discharge,
  - (2) MSD or other public agency initiates a project to separate a combined sewer into a storm and sanitary sewer system.
  - (3) MSD directs the user to disconnect and/or separate the fixtures.
- (b) When 50 percent of a building and/or building’s plumbing is being renovated, internal plumbing shall be reconstructed to separate sanitary flow from stormwater and/or groundwater flow. Sanitary flow and stormwater and/or groundwater discharges shall be approved separately by MSD and shall discharge at separate locations.

## ARTICLE 3

### WASTEWATER VOLUME DETERMINATION

#### SECTION 3.01 APPLICATION

Article 3 provides rules governing water from private water systems entering the public sanitary and/or combined sewer system, and credit for metered water not entering the public sanitary and/or combined sewer system.

#### SECTION 3.02 PRIVATE WATER SYSTEMS

Water from a private water system may be discharged into the public sanitary and/or combined sewer system subject to the following conditions:

- (a) An industrial or commercial user, as classified by MSD, is required by MSD to install either a private water meter or a flow recorder, or the user chooses to install the meter. If the user chooses to install a meter, they must inform the MSD Finance Division in writing at least thirty (30) days prior to the installation.
- (b) A residential user, as classified by MSD, must pay sewer service charges based on the average water consumed by the average residential MSD user, as determined by MSD.
- (c) MSD shall be granted access to private property for the purpose of inspecting and reading private meters and flow recorders.

#### SECTION 3.03 METERED WATER NOT ENTERING THE SEWER SYSTEM

A user shall not be charged sewer service for metered water not entering the public sanitary and/or combined sewer system under any one of the following conditions:

- (a) The user must furnish evidence that the entire supply of water from the public meter or from the private meter is used in such a manner as to establish beyond a reasonable doubt that all of the water so used does not enter the MSD sanitary or combined sewer system.
- (b) The user must install a flow recorder(s) to measure the volume of the wastewater flow entering the MSD sanitary or combined sewer system at the point(s) of discharge.
- (c) The user must install a subtractor meter in such a manner as to establish beyond a reasonable doubt that all water metered by said subtractor meter does not enter the MSD sanitary or combined sewer system.

SECTION 3.04 INSTALLATION AND USE OF PRIVATE METERS, SUBTRACTOR METERS AND FLOW RECORDERS

If MSD determines that installation of private meters, subtractor meters and/or flow recorders or any other measuring devices are necessary to accurately determine flow for the purpose of determining a users' compliance with applicable permit conditions and/or these Regulations, the users shall, at his expense, install any and all such devices.

The following regulations shall govern the installation and use of private meters, subtractor meters and flow recorders:

- (a) Upon request, MSD will provide the user an application to be completed, executed and returned to MSD by the applicant. The application and other information required by MSD, including drawings and specifications, shall be submitted to MSD and approved by MSD in advance of the actual installation.
- (b) If the proposed installation is not in accordance with general requirements of MSD, MSD will reject the application.
- (c) Private meters, subtractor meters and flow recorders shall register in increments of 1,000 gallons or as approved by MSD.
- (d) The user at his expense shall make the installation.
- (e) The installation will be inspected and approved by a MSD representative after completion of the installation work. In the event, the installation does not conform to the approved plans, the user, at his expense, shall immediately proceed to make the changes necessary to conform to MSD requirements.
- (f) Private meters, subtractor meters and flow recorders shall be maintained in good operating condition at all times and at the user's expense. The user shall provide to MSD a Certification of Accuracy for each private meter or flow recorder verifying that the registered gallons are accurate as approved by MSD, said Certificate to be issued to MSD within two years of the installation and each biennial period thereafter.
- (g) The user shall notify MSD immediately in the event the meter or flow recorder fails to accurately register, in any way that would affect the accurate recording of wastewater entering the MSD sanitary or combined sewer system.
- (h) In the event it is discovered that a meter or flow recorder is not accurately registering the flow, MSD will notify the user to correct said condition, and the user shall provide MSD, within ninety (90) days after receipt of said notice, a Certificate of Accuracy verifying that said condition has been corrected and that the registered gallons are reasonably accurate.
- (i) During the periods when a meter or flow recorder is not properly registering, MSD will bill sewer service charges based on estimated water consumption or wastewater flow to the sewer, as determined by MSD.
- (j) The user shall at all times grant access to MSD personnel or personnel of the public water system for purposes of reading the meters or the recorders and inspecting the installation.

## ARTICLE 4

### WASTEWATER DISCHARGE REPORTS, WASTEWATER DISCHARGE PERMITS AND ADMINISTRATION

#### SECTION 4.01 APPLICATION

This Article applies to all non-residential users of the MSD treatment works.

#### SECTION 4.02 WASTEWATER DISCHARGE PERMIT

The Wastewater Discharge Permit is required by users to the MSD treatment works, which may include Significant Industrial Users, other industrial users, “no discharge” categorical users, food service establishments, multi-establishment facilities, groundwater clean-ups, unusual discharge requesters, hauled waste dischargers, but is not limited thereto. Wastewater Discharge Permits may contain requirements or conditions as deemed necessary by MSD for purposes of regulating, monitoring or controlling the discharge. Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State and/or local law.

##### SECTION 4.02.1 CATEGORIES

The categories of Wastewater Discharge Permits are:

- (a) Significant Industrial User Wastewater Discharge Permits (referred to as SIU Permits). Categorical users are SIUs;
- (b) General Wastewater Discharge Permits (referred to as General Permits);
- (c) Unusual Discharge Request Permits (referred to as UDR Permits); and
- (d) Waste Hauler’s Permits.

##### SECTION 4.02.2 PERMIT APPLICATION

- (a) Any non-residential user of the MSD treatment works who discharge now, or may discharge in the future, wastewater containing other than domestic waste may be required to complete and file with MSD an application in the form prescribed by MSD. The application may include, but not be limited to, the following information in units and terms appropriate for evaluation:
  - (1) Identifying Information;
    - i. The name and address of the facility, including the name of the operator and owner.
    - ii. Contact information, description of activities, facilities, and plant production processes on the premises;



- (2) A list of any environmental control permits held by or for the facility from other local, state or federal agencies;
- (3) Description of Operations;
  - i. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to MSD from all 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 MSD;
  - 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;
- (4) Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 2.02.1 (i.e. BOD, COD, TSS and flow);
- (5) Time and duration of discharge;
- (6) The location for monitoring all wastes covered by the permit;
- (7) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to MSD from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2C (40 CFR 403.6(e));
- (8) A schematic flow representation of the applicant's water system including water supply;
- (9) Measurement of Pollutants;
  - i. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
  - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by

MSD, of regulated pollutants in the discharge from each regulated process.

- iii. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - iv. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 4.02.8(d) of these Regulations.
- (10) Any other information as may be deemed necessary by MSD to evaluate the permit application. Such information may include but not be limited to:
- (i) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by sizes, locations and elevations;
  - (ii) Each raw material utilized by type, amount and rate of utilization;
  - (iii) Each substance considered toxic, hazardous, noxious or malodorous, including the hazards associated with each substance;
  - (iv) Any other necessary information;
- (11) Certification of authenticity and professional certificationA statement, reviewed by an authorized representative of the user as defined in these regulations and certified to be a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the Pretreatment Standards and Requirements. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with 40 CFR 403.12:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

- i. 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 MSD prior to or together with any reports to be signed by an Authorized Representative.

- ii. MSD will evaluate the information furnished by the user and may require clarification or additional information. After the receipt of all necessary information, MSD may issue a Wastewater Discharge Permit, under which any further discharges by the user shall be subject to the terms and conditions therein to include conditions disclosed in the permit application. Any de minimus wastestream (as defined herein) does not have to be disclosed in the Wastestream Classification Sheet.
- (b) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

#### SECTION 4.02.2.1 PERMIT APPLICATION DEADLINE

- (a) Within 60 days after the effective date of a Pretreatment Standard for a subcategory under which an user may be included, the user or MSD may request that the Kentucky Department for Environmental Protection, Division of Water or designee, as appropriate, provide written certification on whether the Industrial User falls within that particular subcategory. If an existing user adds or changes a process or operation which may be included in a subcategory, the existing user must request this certification prior to commencing discharge from the added or changed processes or operation. A New Source must request this certification prior to commencing discharge. Where a request for certification is submitted by MSD, the MSD shall notify any affected user of such submission. The user may provide written comments on the MSD submission to the Kentucky Department for Environmental Protection, Division of Water within 30 days of notification. Each request shall contain a statement:

(1) Describing which subcategories might be applicable; and

(2) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

- (b) In addition, requests to discharge any spill or slug release of wastewater (other than a de minimus amount) to MSD’s treatment works which are not specifically

included in the Wastewater Discharge Permit and/or Spill/Slug Control Plan must be approved as an Unusual Discharge Request (UDR) Permit. The procedures setting forth the criteria for approval/denial of a UDR permit are incorporated herein, as if set forth fully.

#### SECTION 4.02.2.2 CERTIFICATION STATEMENTS

- (a) Certification of Permit Applications, User Reports. The following certification statement is required to be signed and submitted by users submitting permit applications, baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic compliance reports in accordance with this Section, the following certification statement must be signed by an Authorized Representative as defined in these regulations.

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

- (b) 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 facility, a new authorization satisfying the requirements of this Section must be submitted to MSD prior to or together with any reports that are required to be signed by the facility’s Authorized Representative.

#### SECTION 4.02.3 PERMIT CONDITIONS

- (a) Wastewater Discharge Permits shall be expressly subject to all provisions of these Regulations and all other regulations, charges and fees established by MSD. The conditions of Wastewater Discharge Permits will be uniformly enforced by MSD in accordance with these Regulations, and applicable state and federal regulations. Permits may contain, but not be limited to, the following:
- (1) A statement that indicates the permit issuance date, expiration date and effective date;
  - (2) A statement that the permit is nontransferable and that in the event that a change of owner/operator has occurred, the seller must notify the buyer/new owner/operator of the requirement to submit a permit application to MSD in accordance with Section 4.02.7 of these Regulations.

- (3) The unit charge or schedule of charges and fees for the wastewater to be discharged to a public sewer;
- (4) The average and maximum allowable wastewater constituents and characteristics;
- (5) Equalization, neutralization or other requirement to control high pH or highly variable pH discharges;
- (6) Limits on rate and time of discharge or requirements for flow regulations and equalization;
- (7) Requirements for installation, maintenance and/or operation of monitoring, inspection and sampling facilities;
- (8) Pretreatment requirements;
- (9) Specifications for monitoring programs, including self-monitoring, which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
- (10) Requirements for submission of technical reports or discharge reports;
- (11) Requirements for maintaining plant record relating to wastewater discharges, as specified by MSD;
- (12) Mean and maximum mass discharge rates, or other appropriate limits when pollutants subject to limitation and prohibition by these Regulations are proposed or present in the user's wastewater discharge;
- (13) Requirements for maintaining records, submission of plans, reports, etc., for the prevention of and the control of accidental releases of controlled substances;
- (14) Compliance schedules;
- (15) Requirements for users located in the Combined Sewer System to implement controls during wet weather events, which lessen or eliminate the impact of discharges to the receiving stream. Examples of such controls include holding wastewater until the wet weather event is over then slowly releasing it to the sewer and delaying cleaning operations until after a wet weather events ends;
- (16) Requirements to notify MSD immediately of any changes at the facility affecting the potential for a slug discharge;

- (17) Requirements for any Best Management Practices based on applicable General Categorical Standards, Categorical Pretreatment Standards, local limits, state or local law;
  - (18) Other conditions as deemed appropriate by MSD to insure compliance with these Regulations.
- (b) Where an effluent from an industrial process is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived for the wastewater discharge permit by MSD. These alternative limits shall be applied to the mixed effluent. These alternative limits shall be calculated using the Combined Wastestream Formula and/or Flow-Weighted Average Formula given in 40 CFR 403.6(e).
  - (c) Where the effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), MSD may convert the limits to equivalent limitations expressed either as mass of pollutant that may be discharged per day or of effluent concentration for purposes of calculating effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under 40 CFR 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must notify MSD thirty (30) days in advance of any change in production levels that might affect the flow or other data used to calculate the effluent limits in the Significant Industrial Wastewater Discharge Permit.
  - (d) All sampling analyses done in accordance with approved U.S. EPA procedures by the significant industrial user during a reporting period shall be submitted to MSD regardless of whether or not that analysis was required by the user's wastewater discharge permit.

#### SECTION 4.02.4 DURATION OF PERMITS

Wastewater Discharge Permits –Will be issued for a specified time period, not to exceed five years. If the user is not notified by MSD thirty (30) days prior to the expiration of the permit, the permit will be automatically extended for six months. The terms and conditions of the Permit may be subject to modification and change by MSD during the life of the permit as provided for in Article II. The user will be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit will include a reasonable time schedule for compliance.

#### SECTION 4.02.5 PERMIT MODIFICATION

MSD may modify an individual wastewater discharge permit at any time during the permit cycle for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised Federal, State or local Pretreatment Standards or Requirements;
- (b) To address significant alterations or additions to the user's operations, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- (c) A change at the MSD treatment works that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge poses a threat to MSD, MSD personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the individual wastewater discharge permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (g) To correct typographical or other errors in the individual wastewater discharge permit; or
- (h) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 4.02.7 of these Regulations.

SECTION 4.02.6 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS

- (a) If another municipality, or user located within another municipality, contributes wastewater to MSD, MSD shall enter into an intermunicipal agreement with the contributing municipality;
- (b) Prior to entering into an agreement required by paragraph (a) above, MSD shall request the following information from the contributing municipality:
  - (1) A description of the quality and volume of wastewater discharged to MSD by the contributing municipality;
  - (2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
  - (3) Such other information as MSD may deem necessary.
- (c) An intermunicipal agreement, as required by paragraph (a) above, may be required to contain the following conditions:
  - (1) A requirement for the contributing municipality to adopt a sewer use ordinance or regulations which is at least as stringent as these Regulations and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 4.02.8 (b) of these Regulations. The requirement shall specify that such ordinance/regulations and Local Limits must be revised as necessary to reflect changes made to these Regulations and/or Local Limits;
  - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  - (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by MSD; and which of these activities will be conducted jointly by the contributing municipality and MSD or solely by MSD;
  - (4) A requirement for the contributing municipality to provide MSD with access to all information that the contributing municipality obtains as part of its pretreatment activities or other applicable building permit process;
  - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to MSD;
  - (6) Requirements for monitoring the contributing municipality's discharge;



- (7) A provision ensuring MSD access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by MSD; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

#### SECTION 4.02.7 TRANSFER OF A PERMIT

Wastewater Discharge Permits are issued to a specific user for a specific operation. Wastewater Discharges Permit shall not be reassigned or transferred or sold to a new owner, a new user, different premises or a new or changed operation.

In the event of any change in control of ownership of land or wastewater discharge facilities presently owned or controlled by the user, the user shall notify the succeeding owner or operation by letter of the requirement to obtain a new Wastewater Discharge Permit. Application for the Wastewater Discharge Permit shall be submitted by the successor owner within 30 days of the transfer of ownership to MSD. The letter shall inform the succeeding owner that self-monitoring sampling must continue uninterrupted even though a new permit in the succeeding owner's name has not been reissued at the time the property is transferred. A copy of the letter shall be immediately forwarded to MSD.

#### SECTION 4.02.8 REPORTING REQUIREMENTS FOR PERMITTEES

- (a) Report on Compliance with Categorical Pretreatment Standard Deadline
  - (1) Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into MSD's sewer system, any user subject to Pretreatment Standards and Requirements shall submit to MSD a report containing the information described in paragraph (b), (1) and (2), iv through vii of this section;
  - (2) For users subject to equivalent mass or concentration limits established by MSD in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate; and
  - (4) For all other users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.
  - (5) All compliance reports must be signed and certified in accordance with Section 4.02.2.2 of these Regulations.

(b) Reporting Requirements for Users upon Effective Date of Categorical Pretreatment Standards – Baseline Monitoring Report

(1) Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to MSD shall be required to submit to MSD a report which contains the information listed in paragraph (b), (1) and (2), i-viii of this section; and

(2) At least 90 days prior to commencement of discharge, New Sources, and sources that become Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the MSD a report which contains the information listed in paragraph (b), (1) and (2), i-viii of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraph (b), (1) and (2), iv and v of this section.

- i. Identifying information - The user shall submit 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;
- iii. Permits - The user shall submit a list of any environmental control permits held by or for the facility;
- iv. Description of operations - The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification (SIC) or a classification system as subsequently approved by EPA, of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to MSD from the regulated processes;
- v. Flow measurement - The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to MSD, from each of the following:
  - A. Regulated process streams; and
  - B. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

MSD may allow for verifiable estimates of these flows where justified by cost or feasibility considerations; and

- vi. Measurement of pollutants

- A. The user shall identify the Pretreatment Standards applicable to each regulated process and any new processes categorically regulated processes for Existing Sources;
- B. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or MSD) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by MSD or the applicable Pretreatment Standards to determine compliance with the Standard;
- C. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working condition at all times. The failure of a user to keep its monitoring facility in good working condition shall not be grounds for the user to claim that the results of sampling under those conditions are not representative of the facility's typical discharge;
- D. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to MSD;
- E. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by MSD or other parties, approved by the Department for Environmental Protection, Division of Water and/or EPA;
- F. MSD 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;

- G. 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 MSD; and
- vii. Compliance Certification A statement, reviewed by an authorized representative of the user as defined in Section 1.13 and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the Pretreatment Standards and Requirements; and
- viii. Compliance Schedule/Consent Order If additional pretreatment and/or O and M will be required to meet the Pretreatment Standards; the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard;
  - A. The schedule shall contain increments of progress 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 categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment of this section shall exceed nine (9) months;
  - B. Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to MSD including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to MSD.

(c) Periodic Reports on Continued Compliance

- (1) All Significant Industrial Users and any User subject to a categorical Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge to MSD, shall submit no less than twice per year to MSD ( June

and December), unless required more frequently in the Pretreatment Standard or by MSD or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the user's discharge except that MSD may require more detailed reporting of flows. At the discretion of MSD and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., MSD may modify the months during which the above reports are to be submitted;

- (2) Where MSD has imposed mass limitations on users as provided for in 40 CFR 403.6(d), the report required by paragraph (1) of this section shall indicate the mass of pollutants regulated by Pretreatment Standards in the discharge from the user;
- (3) For Users subject to equivalent mass or concentration limits established by MSD in accordance with the procedures in 40 CFR 403.6(c), the report required by paragraph (1) shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (1) shall include the user's actual average production rate for the reporting period;
- (4) For Users subject to any Best Management Practices based on applicable General Categorical Standards, Categorical Pretreatment Standards, local limits, state or local law, the report required by paragraph (1) of this section shall indicate the user's compliance with these Best Management Practices;
- (5) Periodic compliance reports must be signed and certified in accordance with Section 4.02.2.2 of these Regulations.

(d) Sample Collection

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.

If a User subject to the reporting requirement in this section monitors any regulated pollutant at the permitted outfall identified in the User's Wastewater Discharge Permit, more frequently than required by MSD, using procedures

prescribed in this Section of these Regulations, the results of that monitoring shall be included in the report.

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.

(1) Except as indicated in Sections 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 MSD. Where time-proportional composite sampling or grab sampling is authorized by MSD, 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 MSD, 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 4.02.8 (a) and (b) [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, MSD may authorize a lower minimum. For the reports required by paragraphs Section 4.02.8 (c) (40 CFR 403.12(e) and 403.12(h)), the User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(e) Date of Receipt of Reports

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

(f) Record-Keeping Requirements

Users subject to the reporting requirements of these Regulations shall retain, and make available for inspection and copying, all records of information obtained

pursuant to any monitoring activities required by these Regulations, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices. 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 methods utilized; and the results of the analyses. These records shall remain available for a period of at least three (3) years. The period shall be automatically extended for the duration of any litigation concerning the user, or where the user has been specifically notified of a longer retention period by MSD.

#### SECTION 4.02.9 PERMIT VIOLATIONS/REPEAT SAMPLING AND REPORTING

All users must notify MSD within 24 hours of first becoming aware of a permit violation. This notification shall include the date of the violation, the parameter violated and the amount in exceedance. Within thirty (30) days of first becoming aware of a permit violation, the user must resample for the parameter(s) violated and submit this sample analysis to MSD.

#### SECTION 4.02.10 REVOCATION OF A PERMIT

Any user who violates the conditions of the Wastewater Discharge Permit, any provisions of these Regulations, applicable state or federal regulations, or any of the following, is subject to having their Permit revoked:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring by MSD;
- (d) Tampering with MSD or third party contract laboratory sampling equipment;
- (e) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (f) Falsifying self-monitoring reports and certification statements
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;

- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; and/or
- (m) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or these Regulations.

#### SECTION 4.03 QUALITY CHARGE TESTING

All users discharging wastewater into the sewer shall be subject to a surcharge (quality charges) on a case-by-case basis, in addition to any other applicable sewer service charges, if the wastewater to be discharged possesses any of the following characteristics:

- (a) A BOD (5-day biochemical oxygen demand) and/or a TSS (total suspended solids) concentration in excess of values stipulated and published in MSD's Wastewater Service Charges. Users subject to quality charges will be surcharged at the rates published in MSD's Wastewater Service Charges;
- (b) MSD will determine billing rates per MSD's Quality Charge Program Policy, incorporated herein and made a part thereof, and will stipulate and publish those rates in the Wastewater Service Charges;
- (c) MSD may establish surcharge criteria and rates for other wastes and/or parameters in concentrations in excess of levels established by MSD in accordance with the provisions of KRS 76.090;
- (d) MSD may establish standard BOD and TSS loadings and/or concentrations for specific user and/or user classes, developed by MSD, which will be used to determine applicable quality charges using approved or developed billing rates, for each user and/or user classification;
- (e) The volume/flow of each user's discharge(s) will be determined as provided in Article III of these Regulations; and
- (f) MSD will determine the frequency of sampling activities, the period (length) of sampling activities, analytical techniques per Standard Methods used and any other requirements it deems necessary relative to the Quality Charge Program.

#### SECTION 4.04 NEW OR ALTERED DISCHARGES

Any user or potential user shall give written notification to MSD, 21 days prior to the occurrence of any of the following:

- (a) Initiation of any discharge containing industrial wastes from new processes or facilities.
- (b) Significant changes in existing operations or wastewater constituents and characteristics.



Thereafter, MSD may require a Wastewater Discharge Application or a new or modified Wastewater Discharge Permit.

In addition, the user must submit detailed plumbing plans for approval by MSD's Industrial Waste Department, prior to commencement of construction if the changes require Kentucky Division of Plumbing review.

#### SECTION 4.05 MONITORING FACILITIES

Users may, at MSD's discretion, be required to install a monitoring facility. The purpose of a monitoring facility is to enable inspection, sampling and flow measurement of wastewaters produced by a user. Whether on public or private property, the monitoring facilities shall be constructed in accordance with MSD's requirements and all applicable local agency construction standards and specifications.

- (a) Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. If sampling or metering equipment is also required by MSD, it shall be provided, installed and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside of the building. MSD may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area, with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.
- (b) When more than one user can discharge into a common building sewer, MSD may require installation of a separate monitoring facility for each user. Also, when in the judgment of MSD, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, MSD may require that separate monitoring facilities be installed for each separate discharge.
- (c) If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for MSD personnel, such as a gate secured with an MSD lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.
- (d) When, in the judgment of MSD, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within the time designated by MSD.
- (e) The user must receive the approval of MSD before changing the sampling point and/or monitoring facilities to be used in all required sampling.

## SECTION 4.06 PRETREATMENT

### SECTION 4.06.1 PRETREATMENT FACILITIES

Users shall provide wastewater treatment as necessary to comply with these Regulations and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.01 of these Regulations within the time limitations specified by EPA, the State, or MSD, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to MSD for review, at least sixty (60) days prior to the initiation of new construction and / or modification of existing facilities and must be approved by MSD before construction of the facility is initiated. MSD's review and approval will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of these Regulations. Prior to modification of existing facilities, any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by MSD.

### SECTION 4.06.2 ADDITIONAL PRETREATMENT MEASURES

- (a) Whenever deemed necessary, MSD may require users to take any and all necessary measures to include but not be limited to the following:
  - (1) Restrict their process wastewater discharge during peak flow periods in the public sewer;
  - (2) Designate that certain wastewater be discharged only into specific public sewers;
  - (3) Relocate and/or consolidate points of process wastewater discharge from the facility;
  - (4) Separate sanitary sewer wastestreams from commercial and/or industrial wastestreams, and/or
  - (5) Such other conditions as may be necessary to protect MSD's collection system and/or treatment works and/or determine the user's compliance with these Regulations.
- (b) MSD may require any person discharging into the MSD public sewer to install and maintain, at their expense, a suitable storage and flow-control facility to ensure equalization of flow. MSD may issue an individual wastewater discharge permit solely for this purpose.
- (c) Users with the potential to discharge flammable substances may be required to install and maintain, at their expense, an approved combustible gas detection meter.

SECTION 4.07 PROTECTION FROM ACCIDENTAL DISCHARGE AND SLUG DISCHARGE PREVENTION

- (a) Users shall provide protection from accidental discharge of prohibited materials or other wastes covered by these Regulations. Users shall maintain facilities to prevent accidental discharge of prohibited materials or other wastes covered by these Regulations. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to MSD, upon request, for review and shall be approved by MSD before construction of the facility. MSD shall be immediately notified of any revisions to all such plans and operating procedures. The review and approval of such plans and operating procedures shall not relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of these Regulations.
  
- (b) MSD may randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing non-compliance with pretreatment standards. MSD may also inspect and sample the effluent from each industrial user, and evaluate, whether each such industrial user needs a Slug Discharge Control Plan. If MSD decides that a plan is needed, the plan shall be submitted to MSD upon request and contain, at a minimum, the following elements:
  - (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days;
  - (4) 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 runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
  - (5) Topics developed in the plan may include planned contingencies such as routine preventative or predictive maintenance, seasonal plant shutdown, reaction vessel and piping clean-up after batches or at initiation of new product campaigns, aborted production runs due to quality assurance or other protocols or decommissioning of production equipment. The report shall also review unplanned contingencies such as spills, bad batches (monitoring, collection treatment and storage), surplus or off-spec chemical stocks, process upsets, or other contingencies. The report may include procedures for use by the user relative to obtaining an Unusual Discharge Request

(UDR) Permit to discharge wastewater from spills, bad batches, surplus or off-spec chemical stocks, process upsets and other contingencies.

- (6) Users shall provide a representative sample of slug discharges (to include spills and bad batches) to MSD upon request.
- (c) Users shall notify MSD immediately of any changes at the facility affecting the potential for a slug discharge as required in 40 CFR 403.11(f)(2)(vi).

#### SECTION 4.08 PUBLIC ACCESS TO INFORMATION

All information and data concerning a user either provided by the user or obtained from reports, questionnaires, permit applications, permits and monitoring program and from inspections will be available to the public or any other agency pursuant to KRS Section 61.870 et. seq.

Information and data concerning a user obtained from reports, questionnaires, permit applications, permits and monitoring program and from inspections will be available to all governmental agencies for uses related to this regulation, the NPDES / KPDES Permit, Sludge Disposal System Permit and/or the Pretreatment Program upon request of the agency. Such portions of a report will be available for use by the State or any State agency in judicial review or enforcement proceedings involving the user furnishing the report.

#### SECTION 4.09 CONFIDENTIAL INFORMATION

Information and data concerning users obtained from reports, surveys, Wastewater Discharge Permit Applications, Wastewater Discharge Permits, and monitoring programs, and from MSD inspection and sampling activities, will be available if it is a public record as defined in KRS 61.870 et seq., and subject to the exemptions contained therein. However, if the industrial user specifically requests, and is able to demonstrate to the satisfaction of MSD, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law, then such information and data will not be released. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes will 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 user furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 403.12 will not be recognized as confidential information and will be available for inspection by the public.

#### SECTION 4.10 ANALYSES PERFORMED BY A THIRD PARTY LABORATORY

- (a) All analyses conducted pursuant to these Regulations shall be performed by a laboratory acceptable to MSD. Analytical procedures shall be in accordance with procedures established by the U.S. EPA pursuant to Section 304 (h) of the Act and

contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the U.S. EPA. Sampling shall be performed in accordance with the techniques approved by the U.S. EPA or where no Federal regulation is applicable, a procedure approved by the Approval Authority.

- (b) All chemical analytical data submitted under any section of these Regulations shall be certified in writing by the laboratory conducting the analysis.

#### SECTION 4.11 WASTE HAULER'S PERMIT

All waste haulers must be licensed by the Kentucky Cabinet for Human Resources through the Louisville Metro Public Health and Wellness Department, or other applicable local, state or federal agency governing hauled waste in that respective jurisdiction, and issued a Waste Hauler's Permit by MSD to become certified as Preferred Waste Haulers for Food Service Establishments within MSD's collection system.

#### SECTION 4.12 FALSIFYING OF INFORMATION

Any user who makes any false oral or written statement or representation in any record, report, application, manifest, plan or other document filed with MSD, or who falsifies, tampers with, or renders inaccurate any sampling or monitoring device facility or method required under these Regulations, is hereby declared to be in violation of these Regulations, and subject to enforcement imposed under Article 7 of these Regulations.

#### SECTION 4.13 REPORT OF SPILL, UPSET, BYPASS, OR DISCHARGE IN VIOLATION OF DISCHARGE REQUIREMENTS

The following discharges to MSD's sewer system are prohibited unless specific written authorization (under a UDR permit) is given by MSD; (1) bypasses around a facility's pretreatment system, (2) wastewater from spills or upsets in violation of the facility's permit, spill/slug control plan, or these Regulations, (3) unpermitted bad batches. Compliance with notification provisions of this section shall not preclude enforcement action by MSD to recover costs associated with its response to unusual conditions caused by the user or from assessing penalties related to violations of the discharge requirements. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process, or for any fines, civil liabilities or penalties imposed on MSD on account thereof under the Federal Act or state or local law.

- (a) Anticipated bypass or discharge in violation of these Regulations: If the user knows in advance of an unavoidable bypass or discharge in violation of these Regulations the user shall submit written notice to MSD at least ten days prior to such occurrence. The written request should be addressed to MSD's Enforcement and Inspection Supervisor. If the bypass or discharge in violation of this permit is to occur within ten days of the permittee's knowledge of the need to bypass or discharge, the user shall immediately notify MSD's Computer Operation Center at the Morris Forman Water Quality Treatment Center by telephoning 540-6774 or 540-6710.

- (b) Unanticipated spill, upset, bypass or discharge in violation of these Regulations: The user shall immediately notify the Fire Communications Bureau whenever a release of any hazardous material explained in the Hazardous Material Ordinance occurs by telephoning "911". In all other cases, the user shall immediately notify MSD's computer operation center at the Morris Forman Water Quality Treatment Center by telephone at 540-6774 or 540-6710 upon the occurrence of an unanticipated accidental discharge or spills in violation of these Regulations, or any slug loads that may enter the public sewer.
- (c) Written and telephone notification to MSD shall include company name, caller's name, telephone number, location of discharge, date and time thereof, type of waste, including concentration and volume, and the measures taken to prevent future occurrences. The user's notification hereunder does not relieve it of other reporting requirements that arise under local, State, or Federal laws. The notification shall include the cause of the unanticipated spill, upset, or bypass, the impact on the user's compliance status, the duration of non-compliance, including exact dates and times of non-compliance and, if the non-compliance is continuing, the time by which compliance is reasonably expected to occur.
- (d) Written notification shall be submitted to MSD within five (5) working days after the discovery of the spill, upset, bypass, or discharge in violation of these Regulations.
- (e) The user shall perform sampling during any spill, upset, bypass, or discharge in violation of these regulations as requested by MSD.
- (f) Should self-monitoring performed by the user or sampling conducted by MSD indicate a violation, the user shall repeat the sampling for all parameters violated as required by MSD. The user must submit the results of the repeat analysis to MSD within thirty (30) days after becoming aware of the violation.
- (g) If the violation continues for a period of more than fourteen (14) days, the user must submit a compliance schedule which addresses the specific limitations violated. The compliance schedule is subject to MSD approval and, pending approval, will be incorporated into the user's Wastewater Discharge Permit.
- (h) Users are required to immediately notify MSD of any changes at their facility affecting the potential for a slug discharge.

#### SECTION 4.14 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

MSD shall publish annually, in a newspaper of general circulation, that provides meaningful public notice within the jurisdictions served by MSD, a list of those users, which at any time during the previous twelve (12) months (calendar year), were in Significant Noncompliance (SNC) with applicable Pretreatment Standards and Requirements.

## ARTICLE 5

### STORMWATER DISCHARGES

#### SECTION 5.01 PURPOSE

The purpose of this Article is to protect and promote the public health, safety and welfare by preventing the introduction of potentially harmful materials into the municipal separate storm sewer system (MS4), receiving waterways, and other Waters of the Commonwealth. The purpose is also to maintain and enhance water quality and to meet the requirements in the City of Louisville and Jefferson County's Kentucky Pollutant Discharge Elimination System (KPDES) permit for stormwater discharges.

The four (4) basic objectives of this Article are to:

1. Prohibit non-stormwater discharges to the MS4 and require the removal of illicit connections to the MS4;
2. Prevent improper disposal of chemicals and other materials into the MS4 that degrade water quality;
3. Permit inspection, sampling, and monitoring as described in Article 7 of these regulations for pollutants such as those associated with illicit discharges, improper disposal, and activities on industrial, commercial, residential, and construction sites; and
4. Provide the necessary enforcement mechanisms pertaining specifically to illicit discharges, spills, and dumping into the MS4 as described in Article 7 of these Regulations.

#### SECTION 5.02 APPLICABILITY

This Article shall apply to all users of the MS4 located in the City of Louisville, Jefferson County, and the incorporated cities of Jefferson County.

#### SECTION 5.03 AUTHORITY

This Article provides for the regulation of direct and indirect users of the MS4 and authorizes monitoring activities. By discharging stormwater into the MS4, all users agree to comply with the terms and conditions established in these Regulations, as well as any permits, enforcement actions or orders issued hereunder. Except as otherwise provided herein, MSD will administer, implement, and enforce the provisions of this Article.

## SECTION 5.04 ALLOWABLE NON-STORMWATER DISCHARGES

It shall be a violation of these Regulations for any user or users to discharge non-stormwater to any stormwater conveyance with the exception of the following:

1. landscape irrigation;
2. discharges from potable water sources;
3. diverted stream flows;
4. ground water infiltration (per 40 CFR 35.2005(20)) to separate storm sewers;
5. springs;
6. flows from riparian habitats and wetlands;
7. foundation and footing drains;
8. air conditioning condensation;
9. water from sump pumps;
10. non-commercial car washing;
11. street wash waters;
12. discharge from fire fighting activities;
13. water line flushing;
14. discharges associated with emergency removal and treatment activities for hazardous materials, authorized by the federal, state, or local government on-scene coordinator;
15. flushing and cleaning of storm water conveyances with unmodified potable water;  
and
16. wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat.

If any of the above non-stormwater exceptions are found to be polluted and thus cause a negative impact on the quality of the Waters of the Commonwealth, said situation or occurrence shall be deemed a violation of these Regulations and shall not be allowed to discharge to the MS4. MSD or designee will determine these conditions. Such situations or occurrences shall be considered an illicit connection or improper disposal as defined in this article.

If a valid KPDES Stormwater Discharge Permit has been approved and issued by the Kentucky Division of Water, additional Stormwater Discharge Permits from MSD are not required in order to discharge into the MS4, provided that the discharge is in compliance with the terms of the KPDES Permit.



## SECTION 5.05 ILLICIT CONNECTIONS/DISCHARGES

Raw sewage shall not be discharged into the MS4 within the limits of Jefferson County.

Pipelines, ditches, and other physical connections carrying non-stormwater may not discharge into the MS4 with the exception of incidental non-stormwater flow which does not negatively impact the quality of the Waters of the Commonwealth as described in Section 5.04 or as permitted by a KPDES permit. Prohibited discharges include, but are not limited to: wastewater lines such as those from washing machines or sanitary sewers, commercial wash water from cleaning vehicles or equipment, flushing water such as that from industrial operations, floor drains and overflowing septic systems.

It shall be a violation of these Regulations to discharge to any parts or portions which comprise the stormwater drainage system within the defined jurisdiction of these Regulations any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article and with the Kentucky Department for Environmental Protection permits and/or regulations.

No water or refuse from any industrial, commercial or institutional process, including uncontaminated water used for heating or cooling shall be discharged in the MS4 by any user until such user has obtained the appropriate local, state, and/or federal permits.

## SECTION 5.06 IMPROPER DISPOSAL

It shall be a violation of these Regulations for any user to deposit, place, put or discard into any constant flow or temporary flowing stream or stormwater conveyance that runs within Jefferson County any foreign matter (to include yard waste), debris, refuse, rubbish, junk or discarded property of any kind, that will create a litter, nuisance, overflow, change of course, or impediment to the free flow of water therein, or that will pollute said stream, or cause it to be polluted, or that will cause an unsanitary condition or disagreeable odor in such stream.

No garbage receptacle shall be cleaned on public property and no residual garbage or refuse from the handling or cleaning of garbage receptacles or garbage trucks shall be allowed to drain into a public gutter, street, sidewalk or storm sewer or into a constant flowing or intermittent flowing stream or stream bed.

## SECTION 5.07 REQUIRED CONTROL MEASURES

In the event that MSD determines a user is in violation of Section 5.04, 5.05, and/or 5.06 of these Regulations, the user shall, upon notice by MSD abate and alleviate the violation and implement control measures, which correct the violation within the timeframe specified by MSD.

## ARTICLE 6

### POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

#### SECTION 6.01 PURPOSE

The purpose of this article is to define the requirements for development, as described in Section 6.02, for Post-Construction Best Management Practices (BMPs), including Green Management Practices (GMPs), users must meet the Stormwater Quality Event, as defined in the MSD Design Manual Chapter 18, to protect the general health, safety, and welfare of the citizens of Louisville and Jefferson County, by reducing the introduction of potentially harmful materials into the receiving waterways and Waters of the Commonwealth through the following:

- (a) Compliance with all applicable State and Federal requirements for clean water, including limitations on the discharge of pollutants as set forth in the Kentucky Pollutant Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination System general permit for municipalities (Phase I and Phase II) and
- (b) Definitive procedures in the area of Post-Construction Best Management Practices (BMPs) defined in this Article, MSD Design Manual, Standard Specifications and Standard Drawings, and supporting policy documents identified by MSD.

#### SECTION 6.02 APPLICABILITY

These regulations will apply to all development with a disturbed area equal to or greater than 1 acre, including projects less than one acre that are part of a larger common plan of development or a common scheme of development equal to or greater than one acre, located in the City of Louisville, Jefferson County, and the incorporated cities of Jefferson County.

#### SECTION 6.03 ADMINISTRATION AND REVIEW PROCEDURES

The powers and functions of MSD with respect to administering these regulations are as follows:

- (a) Review and approve all Post-Construction plans authorized by this Article.
- (b) Negotiate the terms and conditions of all general permits authorized by these regulations.
- (c) Perform pre-construction site meetings, construction inspections and negotiated compliance efforts in the enforcement of these regulations, issue notices of violation and stop work orders.
- (d) Develop an education and training program for contractors, inspection agency personnel, plan reviewers and plan preparers, and individuals seeking qualification.

- (e) Develop, implement, and administer a Post-Construction BMP Long-Term Maintenance Program.
- (f) Prepare, implement and revise methods, Post-Construction BMP standards and specifications for inclusion in the MSD Design Manual, Standard Specifications and Standard Drawings.
- (g) Issue remedial orders and impose specified civil fines to enforce violations of this Article.
- (h) At its discretion, administer and manage a fee in lieu program for Post-Construction BMP management as an alternative to the requirements in this Article.

#### SECTION 6.04 APPLICATION SUBMITTAL REQUIREMENTS

The Permittee for the Post-Construction BMP Plan authorized by this Article shall sign the application form acknowledging their status as the Person Responsible for the Post-Construction BMPs. Applications for review and approval of Post-Construction BMP plans will be submitted by the Permittee on forms provided by MSD in such numbers as required by MSD. Applications must be accompanied by executed Stormwater Quality Maintenance Agreements and BMP Maintenance Plans. A schedule of submittal requirements for each type of application and plan required pursuant to this Article is set forth in the MSD Design Manual, Standard Specifications, and Standard Drawings. The schedule of submittal requirements will be reviewed periodically and may be adjusted, if necessary, by MSD.

- (a) Review and approval of Post-Construction BMPs; general provisions.
  - (1) No land disturbing activity subject to the provisions of this Article will take place except in accordance with either:
    - i. An approved EPSC Plan, Post-Construction BMP plan, and a duly-issued site disturbance permit; or
    - ii. An authorized general permit.
  - (2) All Post-Construction BMP plans will be reviewed and considered for approval according to the procedures set forth in this Article. In addition, all plans will demonstrate compliance with the standards set forth in this Article and all applicable standards and specifications set forth in MSD's Design Manual, Standard Specifications and Standard Drawings.
  - (3) MSD may impose conditions on the application or allow amendments to the application if the effect of the conditions or amendments is to ensure compliance with this Article and/or to reduce long-term water quality adverse impacts or offset short-term or long-term degradation of the development.

(4) Plans must be stamped by a professional engineer licensed in the Commonwealth of Kentucky prior to approval.

(5) MSD will have the authority to revoke any final approval or permit granted pursuant to this Article, after notice to the Permittee, upon a finding of any of the following:

- i. The Post-Construction BMP activity is being undertaken in violation of this Article;
- ii. The Post-Construction BMP activity is being undertaken in violation of any approved plans, issued permits, specifications, or conditions of approval;
- iii. The Post-Construction BMP activity is being undertaken in such a way as to constitute a public nuisance; or
- iv. The approval or permit was procured by false representation or was issued by mistake.
- v. Upon revocation of any final approval or permit, all Post-Construction BMPs authorized by that approval or permit will cease until and unless a permit or approval is reissued, provided that all remedial or reclamation work will proceed as directed by MSD.

#### SECTION 6.05 POST-CONSTRUCTION (LONG-TERM) BMP SELF-INSPECTIONS

Long-term self-inspections are to be the responsibility of the landowner or the person defined in the Stormwater Quality Maintenance Agreement to ensure that the BMPs are functioning according to permit and subsequent Stormwater Quality Maintenance Agreement and Post-Construction BMP Maintenance Plan requirements. Self-inspections must be performed and documented consistent with the requirements of the Kentucky Division of Water in KPDES MS4 permit KYS000001, and the requirements in this Article, the Design Manual, and supporting policy documents.

The landowner or person defined in the Stormwater Quality Maintenance Agreement must utilize a QPCI to perform inspection activities and/or overseeing maintenance activities. The QPCI must be registered with MSD prior to performing inspection activities or overseeing maintenance.

(a) A QPCI must meet the following requirements.

- (1) QPCIs must be experienced and knowledgeable in the following for Post-Construction BMPs: operational standards for Post-Construction BMPs; causes and failures of Post-Construction BMPs; and maintenance practices for Post-Construction BMPs consistent with the MSD Design Manual; and successful completion of the MSD sanctioned training course and passing the applicable test; or,

- (2) Successful completion of alternative MSD approved training course and passing an applicable test.
- (b) All MSD inspectors will be required to attend a MSD-sponsored or approved training course(s) and pass related tests. Each inspector will be required to achieve qualification through this course to conduct site inspections, issue violations, negotiate on-site compliance, and refer violations for formal enforcement actions. This qualification will be valid for a period of three years, upon which the inspector must be re-qualified.
- (c) All MSD plan reviewers are required to attend a MSD-sponsored or approved training course. Each plan reviewer will be required to qualify through this course to conduct plan reviews, pre-construction site meetings, and permit negotiations. This qualification will be valid for a period of three years, upon which the plan reviewer must be re-qualification.
- (d) The QPCI registrations will be valid for a period of not more than three years. MSD may extend this period; however, continuing education will be required for maintenance of the QPCI. MSD, in its discretion, may provide incentives for the use of a QPCI.
- (e) Registrations may be revoked by MSD for repeated violations of the provisions of this Article, activities that result in significant adverse impact or off-site degradation, or for willful disregard in implementing the intent of the qualification programs. MSD will appoint a hearing officer to hear appeals of revocation actions. A third party may bring action for revocation of a qualification. These actions will be presented to the MSD hearing officer for decisions. Any revocation action will be supported by documentation as deemed appropriate by the hearing officer. The hearing officer may establish penalty amounts up to \$500 per occurrence depending on the nature of the offense. Revocation of qualifications will be for at least one year. Re-qualification will be based on attending the training courses. Re-qualification will only be allowed one time in a three-year period from the date of revocation.
- (f) MSD will maintain a list of attendees to all training programs and provide confirmation of attendance.
- (g) MSD may also, at its discretion, develop a separate course for qualified plan preparers.

#### SECTION 6.06 REVIEW STANDARDS AND CRITERIA

MSD will review all Post-Construction BMP plans for compliance with the following general standards and review criteria:

- (a) Except where innovative or alternative management practices are approved pursuant to this Article, all Post-Construction BMPs will be designed and installed in accordance with the specifications contained in the MSD Design Manual, Standard Specifications and Standard Drawings, as it may be revised from time to time, which

is hereby incorporated by reference into this Article. All permanent structural controls, including stormwater quality and drainage facilities such as channels, storm sewer inlets, detention basins, and other BMPs will be designed according to the standards set forth in the MSD Design Manual, Standard Specifications and Standard Drawings.

(b) To encourage the development and testing of Post-Construction BMPs, alternative management practices that are not included in the MSD Design Manual, Standard Specifications and Standard Drawings may be allowed upon review and approval of MSD.

- (1) A Permittee seeking to use an alternative management practice will concurrently submit substantial evidence that the proposed measure will perform at least equivalent to a currently approved control contained in the MSD Design Manual, Standard Specifications, Standard Drawings, and conforms to current ASTM Standards. Evidence may include, but is not limited to, peer-review by a panel of registered professional engineers and research results as reported in professional journals or other literature
- (2) If MSD finds the control or practice has failed or is inadequate to contain target pollutants onsite or meet long-term Post-Construction stormwater management objectives, the Permittee will remove and replace it with a control approved by MSD and found in the MSD Design Manual, Standard Specifications and Standard Drawings.

#### SECTION 6.07 MAINTENANCE AND INSPECTIONS

(a) Following release or acceptance of a project (and termination of the site disturbance permit), the property owner or third-party entity, such as a management group or homeowner's association, will be responsible for maintaining the project site in a manner to prevent soil erosion and sedimentation and other long-term water quality issues in violation of this Article and the Stormwater Quality Maintenance Agreement.

- (1) The Permittee, or his or her designee, will be required to conduct continuing inspections of all Post-Construction BMP measures, and direct the appropriate persons to make any repairs or modifications necessary, within 30-days of the initial discovery of a control failure or violation, unless extenuating circumstances such as weather or complexity of repairs or modifications justify a longer time frame. At a minimum, inspections of long-term water quality or Post-Construction BMPs will occur annually or as otherwise identified in the Stormwater Quality Management Agreement.
- (2) In addition, silt, debris or other pollutants accumulation upstream of Post-Construction BMPs will be removed when the Post-Construction BMP reaches the percentage of storage capacity established for the maintenance

of that particular type of control in the MSD Design Manual, Standard Specifications and Standard Drawings.

- (3) A copy of the Post-Construction BMP plan and records of all inspections, repairs, and modifications will be kept by the landowner or person identified in the Stormwater Quality Maintenance Agreement. All records of inspection will be in a form specified by MSD and will include the date and time of inspection, and the name and signature of the inspector. These records will be made available to MSD inspectors upon request.
- (4) If the landowner or person identified in the Stormwater Quality Management Agreement chooses to use a third party QPCI for site inspections and monitoring, the landowner or person identified in the Stormwater Quality Management Agreement will sign a statement giving the QPCI full authority to inspect the site and to require necessary measures to maintain compliance. The name, address, and phone number of the QPCI will be submitted to MSD. Copies of Post-Construction BMP inspection logs will be signed and dated by the QPCI and/or property owner and may be maintained off site, but available within 15-days of request, hard copy or electronic, by MSD.

#### SECTION 6.08 DRAINAGE REMEDIATION

In the event of adverse impacts or off-site degradation resulting from improper or inadequate controls or practice in violation of this Article, MSD will have the authority to take the following actions:

- (a) Determine the extent of damage resulting from noncompliance with the plan or failure to maintain the practices required by the plan;
- (b) Determine the impact and severity of the resulting adverse impacts or off-site degradation;
- (c) Require and approve an agreement with the Permittee for correction and clean-up of the existing drainage and an agreement for prevention of future damage. The agreement may require:
  - (1) Cost incurred by MSD and other agencies, as a result of having to hire outside expertise, to determine the extent, impact and severity of damage and in remediating any such damage will be collected from the Permittee.
  - (2) Failure of the Permittee to implement the agreement according to its terms will constitute a violation of this Article, and subject the Permittee to all applicable enforcement actions and penalties.

## SECTION 6.09 PERFORMANCE/MAINTENANCE ASSURANCES

The Permittee may be required to post a fiscal surety per the water management bond, subdivision bond, or other instrument approved by MSD, up until bond release. The Permittee will be responsible for the installation, good repair, routine inspection, maintenance, and the proper functioning of Post-Construction BMPs.

## ARTICLE 6.10 STORMWATER QUALITY MAINTENANCE AGREEMENT

- (a) An executed Stormwater Quality Maintenance Agreement must be submitted with permit application.
- (b) Stormwater Quality Maintenance Agreements will include a maintenance plan for all stormwater quality BMPs that require more than general maintenance (e.g., periodic mowing). MSD will withhold land disturbance permit approval until responsible parties sign the Agreement and required exhibits/plans are stamped by a Professional Engineer licensed in the Commonwealth of Kentucky.
- (c) The plan will be developed to ensure that the post-construction BMP(s) is (are) kept functional. The Stormwater Quality Maintenance Agreement will specify minimum operation and maintenance requirements and intervals to be performed by the property owner.
- (d) The plan will address schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment pollutants and other forms of pollution.
- (e) The agreement will be noted on the record plats with the appropriate notation on the particular lot(s).
- (f) The agreement will be recorded with Jefferson County Clerk to be included with property ownership title documents and will be binding on the Land Owner, its administrators, executors, assigns, heirs, and any other successors in interest.
- (g) The standard for the Stormwater Quality Maintenance Agreement will be provided in the MSD Design Manual, Standard Specifications, and Standard Drawings.
- (h) When a Post-Construction BMP serves more than one (1) parcel, an owners' association or binding contract for the purpose of operation and maintenance is required. The owners association will be responsible for operation and maintenance as directed by this article.

## ARTICLE 6.11 EFFECTIVE DATES

Article Six of these Regulations will be effective on August 1, 2013 for all new plan submittals. Article Six will be effective for phased projects with preliminary plans submitted prior to August 1, 2013, and construction beginning after August 1, 2015.



## ARTICLE 7

### ENFORCEMENT

#### SECTION 7.01 LEGAL AUTHORITY

- (a) The Executive Director will have the power to:
  - (1) Obtain remedies for violations of these Regulations by any user.
  - (2) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, discharged to MSD by users where such contributions do not meet applicable limits and restrictions of these Regulations, or where such contributions would cause MSD to violate its KPDES permit.
  - (3) Require compliance with applicable provisions of these Regulations by users.
  - (4) Control through permit, order or similar means, the contribution to MSD by each user to ensure compliance with the provisions of these Regulations.
  - (5) Require (A) the development of a compliance schedule by each industrial user for the installation of technology required to meet the applicable provisions of these Regulations and (B) the submission of all notice and self-monitoring reports from users as are necessary to assure and assess compliance by industrial users with these Regulations, including but not limited to reports required by 40 CFR 403.12.
  - (6) Carry out all inspections, surveillance and monitoring procedures necessary to determine, independent of information supplied by the user, compliance or non-compliance with the applicable provisions of these Regulations.
  - (7) Obtain remedies for noncompliance with these Regulations.
- (b) Nothing in these Regulations shall be construed to limit the powers granted MSD or the Executive Director under applicable state or federal law.
- (c) MSD shall develop and implement procedures to ensure consistent investigation and enforcement of violations of these Regulations.

#### SECTION 7.02 CORRECTION NOTICES

MSD's Executive Director or his designee may issue Correction Notices to users who are in violation of these Regulations. The Correction Notice will be in writing and may be issued in the field and will reference the section of these Regulations that is violated. Specific objectionable conditions or practices of the user relative to these Regulations shall be listed. Remedial measures may be referenced in the document along with an agenda or timetable for resolution of the problem(s). A copy of the Correction Notice

will be delivered to the user who is in violation and may require the signature of the user. Signatures are to acknowledge receipt and are not considered an admission of guilt or liability. Correction Notices may be issued in addition to or in lieu of other enforcement action.

### SECTION 7.03 NOTICE OF VIOLATION

- (a) Whenever MSD personnel conducting inspections or investigations find that any user has violated or is violating these Regulations or a Wastewater Discharge Permit, issued pursuant to section 4.02, the Executive Director or his / her designee may serve upon the user a notice of violation by letter or other written notification. Within ten (10) days of the receipt of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to MSD. Submission of the plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Submission of the plan shall be deemed an offer to enter into a consent order by the user.

### SECTION 7.04 CEASE AND DESIST ORDERS

When MSD finds that a discharge of wastewater and / or stormwater in violation of prohibitions or restrictions of these Regulations, or of the provisions of a Wastewater Discharge Permit has taken place, the Executive Director or his or her designee may issue an order to cease and desist, and direct those users not complying with such prohibitions, restrictions or provisions to:

- (a) Comply forthwith; or
- (b) Comply in accordance with a time schedule set forth by MSD. MSD may also issue an order to a user to take appropriate remedial or preventive action in the case of a threatened violation.

### SECTION 7.05 EMERGENCY SUSPENSIONS

- (a) The Executive Director or his or her designee, may suspend the wastewater treatment service and / or Wastewater Discharge Permit of a user whenever suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of the public, MSD facilities or the environment.
- (b) Any user notified of a suspension of service or suspension of its Wastewater Discharge Permit shall immediately stop or eliminate its contribution. In the event that the user fails to immediately comply with the suspension order, the Executive Director or his or her designee shall take such steps as necessary, including immediate severance of the property service connection, to prevent or minimize the damage to the receiving waters, MSD facilities or public health. The Executive Director shall allow the user to recommence discharge after the endangerment has

passed, unless termination proceedings are initiated as set forth in Section 6.10 of these Regulations.

#### SECTION 7.06 RIGHT OF ENTRY: INSPECTION AND SAMPLING

(a) Whenever it shall be necessary for the purposes of these Regulations and upon presentation of proper credentials and identification, MSD personnel shall be permitted to enter upon any user. MSD shall be provided ready access at any time to all parts of the user's premises for the purpose of inspection (to include photography if deemed necessary in accordance with the user's information security policies), sampling, monitoring, records examination and copying, or in the performance of any other duties necessary to determine compliance with these Regulations. Where a user has security measures in force which require proper identification and clearance before entry into its premise, the user shall make necessary arrangements with its security forces so that upon presentation of suitable identification, MSD personnel shall be permitted to enter without delay for the purpose of performing their specific responsibilities. MSD shall have the right to set up on the user's property such devices as are necessary to conduct sampling and/or monitoring of the user's operations. Any temporary or permanent obstruction to safe and easy access to the areas to be inspected, sampled and/or monitored shall be removed immediately by the user at the written or verbal request of MSD. The costs of removing such obstruction shall be borne by the user.

(b) Sampling Procedures

- (1) Sampling and monitoring of all Users shall be conducted in the time, place, manner, and frequency as determined at the sole discretion of MSD.
- (2) Non-compliance with mass discharge limits, concentration limits, Permit discharge conditions, and/or these WDR's may be determined by an analysis of a grab or a composite sample of the effluent of a permittee or discharger.

(c) Sampling

Non-compliance

If sampling of the effluent discharge of a user reveals non-compliance by the user with mass discharge limits, concentration limits, or other conditions and limitations specified in the users' wastewater discharge permit or with any provisions of these Regulations, then the user shall be subject to MSD's enforcement policies and/or procedures.

#### SECTION 7.07 SEARCH WARRANTS

If MSD has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of these Regulations or that there is a need to inspect an/or sample as part of a routine inspection and sampling program designed to verify compliance with these Regulations or any

permit or order issued hereunder, MSD may seek issuance of a search warrant, in conjunction with the appropriate legal authorities, from a court of competent jurisdiction.

#### SECTION 7.08 CONSENT ORDERS

The Executive Director or his or her designee is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar agreements with an industrial user responsible for non-compliance to ensure a return to compliance. Such orders will include specific actions to be taken by the user to abate the non-compliance within a specified time period. The order may also stipulate damages to be paid by the user. The order will stipulate that it is entered into in lieu of any fines imposed by MSD and is not an admission of liability on the part of the user. However, the waiver of fines is conditional upon compliance with the terms of the order by the user and execution of a consent order does not relieve the user of liability for damage to the health or welfare of persons, to MSD facilities or to the environment.

#### SECTION 7.09 COMPLIANCE MEETINGS

The Executive Director or his or her designee may order any industrial user which causes or contributes to a violation of these Regulations or of a Wastewater Discharge Permit or order thereunder, to appear at a meeting to show cause why a proposed enforcement action should not be taken. However, the user may request such a meeting if it wishes. The notice of the meeting will be served personally or by certified mail (return receipt requested) at least ten (10) days before the date of the meeting. Such notice may be served on any user or on its authorized agent. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

#### SECTION 7.10 COMPLIANCE ORDERS

When the Executive Director or his or her designee finds that a user has violated or contributed to a violation of these Regulations or a permit or order issued thereunder, he or she may issue an order to the user directing that, following a specified time period, sewer service will be disconnected unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary to address the non-compliance, including the installation of pretreatment technology, additional self-monitoring reports and management practices.

#### SECTION 7.11 PERFORMANCE BONDS

The Executive Director or his or her designee may decline to reissue a Wastewater Discharge Permit to any user which has failed to comply with the provisions of these Regulations, any orders, or a previous Wastewater Discharge Permit issued hereunder, unless such user first deposits a satisfactory bond, payable to MSD, in a sum not to exceed a value determined by the Executive Director or his or her designee to be necessary to achieve consistent compliance.

#### SECTION 7.12 ADMINISTRATIVE FINES

- (a) Notwithstanding any other section of these Regulations, any user who is found to have violated any provision of these Regulations, or permits or orders issued hereunder, may be fined by the Executive Director, or his or her designee, in an amount of not less than (\$1000) per violation per day and for a maximum penalty not to exceed \$32,500 per violation per day, or as subsequently approved by EPA. Each day of non-compliance with these Regulations will be deemed a separate and distinct violation. Such assessments will be communicated to the user by letter, which also contains a demand for payment. Such letter will be delivered personally or by certified mail (return receipt requested). The Executive Director will have all remedies available for the collection of fines as are available for the collection of sewer service charges.
- (b) Users desiring to dispute such fines must file a written request with the Executive Director to reconsider the fine along with full payment of the fine within thirty (30) days of being notified of the fine. In the event the user's appeal is successful, the payment, together with any interest accruing, will be returned to the user.

#### SECTION 7.13 TERMINATION OF SERVICE PROCEEDINGS

The Executive Director, or his or her designee, may terminate service, after appropriate notice, to property on which violation of any rule, or any provision of these Regulations is found to exist and MSD will have all remedies available for the collection of cost for the termination as for the collection of sewer service charges.

#### SECTION 7.14 INJUNCTIVE RELIEF

Whenever a violator fails to comply with orders to abate or prevent a violation of these Regulations or causes or otherwise threatens to cause a hazard to public health or damage to MSD facilities or the environment, the Executive Director may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, or both, as may be appropriate, in restraining such discharge.

#### SECTION 7.15 RECOVERY OF COSTS / CIVIL ACTION

- (a) The Executive Director or his or her designee will have all remedies available to collect costs, fines and losses resulting from a violation (and ensuing enforcement actions) as are available for the collection of sewer service charges.
- (b) In the event that such collection efforts fail, the Executive Director may institute a civil action in a court of competent jurisdiction for the recovery of the costs, fines and losses.

#### SECTION 7.16 ANNUAL PUBLICATION OF VIOLATIONS

The Executive Director will publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be

in Significant Non Compliance (SNC) as defined in these Regulations, or any permit or order issued hereunder.

#### SECTION 7.17 CRIMINAL PROSECUTION

- (a) A user who willfully violates any provision of these Regulations, an individual wastewater discharge permit or order issued hereunder, or any other pretreatment standard or regulations shall be referred by MSD to the appropriate agencies with legal authority to pursue criminal prosecution.
- (b) A user who willfully introduce any substance into the POTW which causes personal injury or property damage shall be referred by MSD to the appropriate agencies with legal authority to pursue criminal prosecution.
- (c) A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to these Regulations, wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these Regulations, shall be referred by MSD to the appropriate agencies with legal authority to pursue criminal prosecution.

#### SECTION 7.18 REMEDIES NONEXCLUSIVE

The remedies provided for in these Regulations are not exclusive. The Executive Director may take any, all, or any combination of these actions against any user that is in noncompliant of these Regulations. Enforcement of pretreatment violations will generally be in accordance with MSD's Enforcement Response Plan (ERP). However, the Executive Director may take other action against any user when the circumstances warrant such action.

#### SECTION 7.19 REQUEST FOR RECONSIDERATION

- (a) If a user wishes, it may petition the Executive Director for a reconsideration of any final decisions, permits, or orders of the agency. A request for reconsideration should be directed to the Executive Director, stating the basis for the request.
- (c) A written request for reconsideration shall be filed with the Executive Director within ten (10) days of receipt of the final decision, permit or order of the agency.
- (d) If the user is disputing a fine, it must petition the Executive Director for a reconsideration of the Notice of Violation and fine with a written request and payment of the fine within ten (10) days of receipt of the fine. In the event the user's appeal is successful, the payment, together with any interest accruing, will be returned to the user.

- (e) If the petition for reconsideration is denied, such denial shall be deemed a final agency action and therefore, appealable to the Board under 7.20 of these Regulations.
- (f) If the petition for reconsideration is granted and the Executive Director finds cause for re-determination, he or she will take appropriate action. The Executive Director's decision will be communicated in writing to the petitioner. Such actions by the Executive Director shall be deemed a final agency action and therefore, appealable to the Board under 7.18 of these Regulations.

## SECTION 7.20 APPEALS

### (a) PURPOSE

KRS 76.030 provides for the creation of the Board of MSD. Such a Board will be responsible to insure that an appeal is available to those persons aggrieved by an action of MSD regarding the issuance of wastewater discharge permits; to those persons fined or penalized pursuant to the regulations and to coordinate and integrate the policies and procedures of MSD. Any decision of the Board shall be binding.

### (b) NOTICE OF APPEAL

Any person aggrieved by an order or determination of the Executive Director of MSD may appeal said order or determination to the Board and have said order or determination reviewed by the Board under the provisions of this Section. A written notice of appeal shall be filed with the Chairman of the Board within ten (10) days of receipt of this order or determination. Said notice shall set forth the grounds for appeal and the relief being sought by the person filing said appeal. Unless the order involves a threat to public health and safety, MSD will suspend the operation of the appealed order or determination until such time as the Board has acted upon the appeal.

### (c) SCHEDULE OF HEARING

The Board will schedule a hearing to consider the matter appealed. Both parties will be given at least thirty (30) days notice of the scheduled hearing date. Thirty (30) days notice will not be required if both parties and the Board agree to an earlier hearing date. Hearings will be open to the public. All questions with regard to matters relating to the hearing of an appeal will be directed to the Special Counsel for the Board.

### (d) PLACE OF HEARING

Meetings and hearings of the Board will be conducted in the Board Room of the Louisville and Jefferson County Metropolitan Sewer District, 700 West Liberty Street, Louisville, Kentucky 40203, unless otherwise prescribed by the Board.

(e) ADMINISTRATION OF HEARING

The Board may, at its discretion, appoint a hearing body to conduct a hearing. Such hearing body will consist either of a committee of the Board or of a hearing officer. In the event that a hearing body is appointed, upon reviewing all the evidence presented, such body will make a recommendation to the full Board on whether or not to affirm the order or determination which is the subject matter of the appeal.

(f) PARTIES

Any party to a hearing may represent themselves or be represented by counsel, may make oral or written argument, offer testimony or take any combination of such actions. The Board Chairman or his designee will preside at the hearing in accordance with reasonable administrative practice.

(g) RECORDATION

It will be within the hearing body's discretion to require official transcripts or to set up other procedures of taking evidence. However, the hearing body will employ the use of mechanical recording devices for recording the testimony. The parties may jointly or independently provide further recording by court reporter.

(h) EVIDENCE

Since the proceedings are administrative and not judicial in nature, the hearing body is not bound by the rules of evidence prescribed for judicial tribunals. Any oral or written matter, including hearsay, deemed relevant and material, may be considered without regard to technical rules of admissibility; for fixing dates, places, persons, and events definitely and accurately. Evidence will be given the weight warranted by the circumstances. The Chairman will rule in open session on any question of admissibility. When a member of the hearing body objects to a ruling, a majority vote of the members present will determine whether the evidence will be admitted. When a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(1) Admissible Evidence

The best evidence obtainable and available should be considered to obtain answers to the following questions: What occurred? When, where, how, and why did it occur? Who was involved and to what extent? Evidence to be considered includes:

- a. Sworn testimony - Evidence given by a competent witness under oath or affirmation.



- b. Depositions - Testimony (questions and answers), in writing, under oath or affirmation before a person empowered to administer oaths.
- c. Affidavits - Written or printed declarations or statements of fact made voluntarily and confirmed by oath or affirmation before a person empowered to administer oaths.
- d. Original or properly identified copies of records and documents. The parties shall submit all records and documents they intend to introduce as evidence at the hearing to the Special Counsel for the Board no later than ten (10) days prior to the date of the hearing.
- e. Other writings and exhibits.
- f. Stipulation - An agreement between the parties regarding certain statements of fact.

(2) Precedence of Evidence

Whenever possible, a witness should appear in person. When personal appearance is not practicable, evidence should be obtained by deposition or affidavit. When this is not possible, evidence may be obtained by correspondence between the Board and the witness.

(3) Inadmissible Evidence

Certain evidence, such as the following, is not admissible:

- a. A witness cannot be compelled to incriminate himself, to answer any question that might incriminate him, or make a statement or produce evidence not material to the issue that might degrade him. The hearing body may decide whether the stated reason is acceptable.
- b. "Off the record" statements are not allowed during the Board hearing.

(i) INQUIRY BY BOARD

Any hearing body member may question any party for a full and true disclosure of the facts.

(j) ORDER OF HEARING

1. Opening the Hearing

- a. The hearing body will open the appeals hearing for the record by stating the name of the appellant, the violations alleged or reason for appeal.

- b. The appellant or their representative shall state for the record their names and whom they represent.

2. Opening Statements

The hearing body will allow the appellant fifteen (15) minutes to make an opening statement.

3. Each party shall be limited to two (2) hours to present its case. Such limit to include time used for presenting its case-in-chief, cross examination of witnesses, rebuttal and opening and closing statements.

4. Appellant's Case

Appellant must establish at the appeal hearing either that no violation of these Regulations occurred or that MSD's enforcement actions did not comply with the requirements of these Regulations. The Appellant bears the burden of proving the above conditions by a preponderance of the evidence.

5. MSD's Argument

It is the MSD's responsibility to present evidence to establish that:

- (a) A violation of these Regulations did occur; and
- (b) MSD's enforcement action was appropriate.

6. Rebuttal

At the close of the Appellant's argument both parties will be given the opportunity to offer any rebuttal evidence.

7. Closing Statement

The hearing body will offer each party fifteen (15) minutes to make a closing statement of summation.

(k) CIRCUIT COURT APPEAL

Any party aggrieved by the MSD Board's final order shall appeal the final determination to the Circuit Court of applicable venue within 20 business days of issuance of the final order.