

King County Industrial Waste Program

Portions of King County Code – Title 28

Revised July 1, 2019



King County

INDUSTRIAL WASTE PROGRAM

*Partnering with Industries
to Prevent Pollution*

Portions of King County Code – Title 28

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Chapter 28.81

Policy

Section 28.81.020

Statement of policy

It is the policy of the County to provide water pollution abatement service for King County and to provide water pollution abatement service for such areas adjacent to the County as may, in the judgment of the council, be feasibly served upon such terms, conditions, and rates as the council shall determine.

- A. In order to carry out its authorized function of metropolitan water pollution abatement as provided in RCW 35.58, and to comply with federal and state laws and regulations, it is necessary and in the best interests of the residents of the County and users of the metropolitan sewerage system that the council adopt policies and procedures for the disposal of sewage and disposal of industrial waste into the metropolitan sewerage system as set forth in this chapter.
- B. It is the policy of King County to provide sewerage facilities adequate for the transportation, treatment, and disposal of industrial and other wastes and to operate the metropolitan sewerage system in such a manner that protects public health and the environment. This chapter sets forth uniform requirements for users of the metropolitan sewerage system and enables the County to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR 403). In carrying out this policy, the objectives of this chapter are:
 1. To prevent pollutants from entering the sewerage system that will interfere with its normal operation, damage the collection or treatment systems, or contaminate the resulting biosolids;
 2. To prevent the introduction of pollutants into the sewerage system that will not be adequately treated and will pass through into the environment;
 3. To improve opportunities for recycling and reclamation of wastewater and biosolids;
 4. To ensure protection of worker safety and health;
 5. To reduce the introduction of clean water into the sewerage system;
 6. To implement waste reduction and recycling to prolong the useful life of existing and planned wastewater facilities and to protect the environment;
 7. To focus sampling and inspection efforts on those industries discharging the greatest volume and concentration of pollutants while still recognizing the cumulative impact of small discharges;
 8. To implement, administer, and enforce a fee program in compliance with federal and state law and ensure that industrial users pay a fair cost for monitoring and treatment;
 9. To implement an enforcement response plan aimed at achieving compliance in the shortest time frame possible and promoting responsibility of the industrial user to be in compliance with this chapter; and
 10. To make information and data on industrial users available to the public in accordance with state law.

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Chapter 28.82

DEFINITIONS

Sections:

28.82.010

The terms, words, and phrases when used in K.C.C. chapter 28.81 and 28.84 and this chapter shall have the meanings in this chapter, whether appearing in capital or lower case form. If not defined in this chapter, the words and phrases used in K.C.C. chapters 28.81 and 28.84 and this chapter shall have their common and ordinary meanings to the degree consistent with the technical subjects in K.C.C. chapters 28.81 and 28.84 and this chapter.

28.82.020

Act or the Act means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

28.82.025

AKART means “all known, available, and reasonable methods of prevention, control, and treatment” and is a technology-based approach to limiting pollutants from wastewater discharges that requires an engineering judgment and an economic judgment.

28.82.030

Annual shall refer to that twelve-month period commencing January 1 and terminating December 31.

28.82.040

Applicable pretreatment standards means for any specified prohibitive standards, specific pretreatment standards (local limits), State of Washington pretreatment standards, or EPA’s Categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

28.82.050

Authorized representative of industrial user may be:

- A. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
- B. The manager of one or more manufacturing, production, or operating facilities, but only if the manager:
 1. Is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;
 2. Can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; knowledgeable of King County reporting requirements; and
 3. Has been assigned or delegated the authority to sign documents, in accordance with corporate procedures;
- C. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

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- D. A director or highest official appointed or designated to oversee the operation and performance of the industry if the industrial user is a government agency; or
- E. The individuals described in subsection A. through D. of this section, may designate an authorized representative if:
 - 1. The authorization is submitted to King County in writing; and
 - 2. The authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company or agency.

28.82.060

Best management practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 403.5(a)(1) and (b) of the Act. “Best management practices” or “BMPs” also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

28.82.070

Biochemical oxygen demand or BOD shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter (as described in American Public Health Association publication *Standard Methods for the Examination of Water And Wastewater*, current edition or *Guidelines Establishing Test Procedures for the Analysis of Pollutants*, contained in 40 CFR Part 136) in five days at temperature of 20 degrees centigrade, expressed in milligrams per liter.

28.82.080

Biosolids means primarily organic solid products produced by wastewater treatment processes that can be beneficially recycled.

28.82.090

Branch shall mean a sewer or combined sewer, which will receive the flow from more than one lateral and which will discharge into a trunk or interceptor.

28.82.100

Categorical pretreatment standard or categorical standard refers to any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317), which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

28.82.110

Clean water or unpolluted water shall mean water in its natural state, or water which, after use for any purpose, is not substantially changed or contaminated as to chemical or biochemical qualities. Water from roof drains, building foundation drains, stormwater, clear water from cooling or condensing systems, air conditioning systems, wells, and cisterns shall normally be considered to be “clean water” or “unpolluted water.”

28.82.120

Combined sewer or combined sewer system shall mean a conduit or system of conduits in which both wastewater and stormwater are transported.

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28.82.130

Compatible pollutants shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in an NPDES permit if the publicly owned treatment works is designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term “substantial degree” is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Examples of the additional pollutants that may be considered compatible include: chemical oxygen demand; total organic carbon; phosphorus and phosphorus compounds; nitrogen and nitrogen compounds; and fats, oils, and grease of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the publicly owned treatment works).

28.82.140

Composite sample shall mean a sample composed of no less than two (2) grab samples, collected by either hand or machine, over the compositing period.

28.82.150

Comprehensive plan shall mean the Comprehensive Sewage Disposal Plan adopted by Resolution No. 23 of the Metropolitan Council and all amendments thereto.

28.82.160

Construction dewatering shall mean the act of pumping ground water or stormwater away from an active construction site.

28.82.170

Contaminated nonprocess wastewater shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct, or waste product by means of (a) rainfall runoff, (b) accidental spills, (c) accidental leaks caused by the failure of process equipment, or (d) discharges from safety showers and related personal safety equipment; provided, that all reasonable measures have been taken (1) to prevent, reduce, and control such contact to the maximum extent feasible, and (2) to mitigate the effects of such contact once it has occurred.

28.82.180

Control authority shall mean a publicly owned treatment works with an approved pretreatment program. The County is the control authority for dischargers to the metropolitan sewerage system.

28.82.190

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

28.82.200

Decant water shall mean water typically generated from the mechanical education and subsequent solids settling of wastewater from the cleaning and maintenance of storm and sanitary conveyance systems.

28.82.210

Department shall mean the department of natural resources and parks.

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28.82.215

Dilution shall be defined as the prohibited practice of adding process water, or in any other way, attempting to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with pretreatment standard or requirements.

28.82.220

Director shall mean the director of the department of natural resources and parks of King County or a duly authorized designee.

28.82.230

Discharge authorization means an authorization issued for the discharge of wastewater into a POTW treatment plant, public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system. The authorizations may include, but shall not be limited to, waste discharge permits, minor discharge authorizations, letters of authorization, and general permits.

28.82.250

Discharge to metropolitan system means any discharge that enters a private side sewer, a POTW treatment plant, or public sewer that is a tributary to the metropolitan sewerage system, and the discharge will be considered a discharge to the system whether or not specifically identifiable in effluent reaching the County's treatment works.

28.82.260

Domestic user or **residential user** means any person who contributes wastewater into the metropolitan sewerage system or POTW treatment plant from a residential dwelling unit.

28.82.270

Engineer shall mean the engineer duly appointed by a local public agency or the owner of private sewers to supervise and direct the design and construction of local sewerage facilities, acting personally or through agents or assistants duly authorized by him/her, such agents, or assistants acting within the scope of the particular duties assigned to them.

28.82.280

Excessive infiltration/inflow refers to the quantities of infiltration/inflow, which can be economically eliminated from a sewer system by rehabilitation, as determined by a cost-effectiveness analysis that compares the cost for correcting the infiltration/inflow conditions with the total costs for transportation and treatment of the infiltration/inflow.

28.82.290

Flow proportional composite sample shall mean a sample composed of grab samples collected continuously or discretely, by hand or machine, in proportion to the flow at the time of collection or to the total flow since collection of the previous grab sample. The grab sample volume or frequency of grab collection may be varied in proportion to flow.

28.82.300

General permit shall mean a written authorization issued for the discharge of wastewater from a category of business into a public sewer or side sewer tributary to the metropolitan sewerage system granted for a specific period of time up to five years.

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28.82.310

Grab sample shall mean a single sample collected without consideration to the flow in the waste stream and without consideration of time.

28.82.320

Ground water shall mean water in a saturated zone or stratum beneath the surface of land or below a surface water body.

28.82.330

Hazardous waste shall be as defined in accordance with 40 CFR 261.3 or amended.

28.82.340

Incompatible pollutants shall mean any pollutant that is not a compatible pollutant as defined in this chapter.

28.82.350

Indirect discharge, waste discharge, or discharge means the act of introducing or depositing wastes from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act into a POTW treatment plant, public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system.

28.82.360

Industrial activity shall refer to areas where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts, or industrial machinery are located. Such areas include but are not limited to: material handling sites, refuse sites, sites used for the application or disposal of process wastewater, sites used for the storage and maintenance of material handling equipment, sites used for residual treatment, storage or disposal sites, shipping and receiving areas, manufacturing buildings, material storage areas for raw materials and intermediate and finished products, and areas where industrial activity has taken place in the past and significant materials remain.

28.82.370

Industrial user or user means a source or potential source of indirect discharge. The source shall not include “Domestic User” as defined in this chapter.

28.82.380

Industrial waste shall mean any liquid, solid, or gaseous substance, or combination thereof, resulting from any process of industry, government agency, manufacturing, commercial food processing, business, agriculture, trade or research, including, but not limited to, the development, recovery or processing of natural resources, leachate from landfills or other disposal sites, decant water, contaminated nonprocess water, and contaminated stormwater and ground water.

28.82.390

Infiltration shall mean the water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from, inflow.

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28.82.400

Infiltration/inflow refers to the total quantity of water from both infiltration and inflow without distinguishing the source.

28.82.410

Inflow shall mean the water discharged into a sewer system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, cooling water discharges, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, stormwater, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

28.82.420

Interceptor shall mean a sewer or combined sewer, which receives the flow from a number of transverse sewers or combined sewers and transports it to a treatment plant or other point of disposal. Generally, an interceptor collects the flow from a number of trunks or laterals that would otherwise discharge to a natural outlet.

28.82.430

Interference means a discharge that, alone or in conjunction with a discharge or discharges from other sources, either: inhibits or disrupts the POTW, its treatment processes or operations; inhibits or disrupts its sludge processes, use, or disposal; causes King County to violate its NPDES permit; or prevents King County from using or disposing of its biosolids in compliance with federal, state, and local regulations.

28.82.440

King County or **County** shall mean the county of King, Washington, a home rule charter county of the State of Washington, acting through the council; executive, when applicable; or any board, committee, body, official, or person, which shall have been lawfully delegated the power to act for or on behalf of the County. Unless a particular board, committee, body, official, or person is specifically designated in this chapter, wherever action by the County is explicitly required or implied herein, it shall be understood to mean action by the executive or director, if designated by the executive.

28.82.450

Local public agency shall mean any legally constituted city, town, county, special district, or other public agency under whose jurisdiction local sewerage facilities may be constructed or operated.

28.82.460

Local public sewer shall mean a sewer, combined sewer, or appurtenant facility other than a side sewer, either owned or operated by or within the jurisdiction of a local public agency.

28.82.470

Lateral shall mean a sewer or combined sewer, which will receive the flow from more than one side sewer and discharge into a branch, trunk, or interceptor.

28.82.480

Metro datum or **metro datum plane** refers to mean sea level as a reference plane for elevation measured above and below such plane. Mean sea level is the normal level of the ocean at mean tide as determined by the United States Coast and Geodetic Survey - 1929 (1947 adjustments).

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28.82.490

County shall mean the area contained within the boundaries of King County as now or hereafter constituted.

28.82.500

Metropolitan sewer system, metropolitan sewerage system, or metropolitan system shall mean all or any part of the sewerage facilities acquired, constructed, or used by King County.

28.82.510

Metropolitan Water Pollution Abatement Advisory Committee (MWPAAC) shall mean the advisory committee to the metropolitan King County Council as now or hereafter constituted pursuant to RCW 35.58.210.

28.82.515

Middle tier categorical industrial user means a categorical industrial user for which the control authority has reduced monitoring requirements, because the control authority has determined that the user meets the requirements listed in Section 403.12(e)(3) of the Act.

28.82.520

National pretreatment standard, pretreatment standard, or standard shall refer to any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibited discharge limits established pursuant to 40 CFR 403.5.

28.82.530

Natural outlet shall mean an outlet into a pond, lake, sound, stream, river, ditch, watercourse, or other body of surface water.

28.82.540

New source shall apply to facilities subject to Categorical Pretreatment Standards and shall be as defined in 40 CFR 403.3(k) or amended.

28.82.550

New user shall be defined as an industrial user that applies to a participant local agency for a new building permit or any person who occupies an existing building and proposes to discharge wastewater to the metropolitan sewerage system after the effective date of this chapter. Any person who buys an existing facility that is discharging non-domestic wastewater will be considered an “existing user” if no significant changes are made in the operation that will affect the discharge. A “new user” is not a “new source.”

28.82.560

Noncontact cooling water shall mean the same as the words “cooling water” as defined in this chapter.

28.82.565

Nonsignificant categorical industrial user (NSCIU) means a categorical industrial user that the control authority has determined meets the requirements of 40 CFR Sec. 403.3(v)(2) of the Act.

28.82.570

Participant local agency shall mean each city, town, county, sewer district, municipal corporation, person, firm, or private corporation that shall dispose of any portion of its sanitary sewage into the metropolitan sewerage system and shall have entered into a contract with the County providing for such disposal.

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28.82.580

Pass through refers to a discharge that exits the POTW into waters of the state in quantities or concentrations that alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the County's NPDES permit (including an increase in the magnitude or duration of a violation).

28.82.590

Permittee shall mean any person to whom the County shall have issued a waste discharge permit.

28.82.600

Person shall mean any individual, company, partnership, association, corporation, society, joint stock company, trust, estate, governmental entity, or any other legal entity or group or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context, and the plural term shall include the singular.

28.82.610

pH shall mean the negative logarithm (base 10) of the concentration of hydrogen ions expressed in grams per liter of solution. Neutral water, for example, has a pH of 7 and a hydrogen ion concentration of 10^{-7} .

28.82.620

Point of compliance shall be the location immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process, if no such pretreatment exists and upstream from the point where the discharge enters any sewer after which the industrial user is no longer able to alter the concentration or characteristics of the wastes.

28.82.630

Pretreatment or treatment shall mean 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 prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological process changes or other means, except as prohibited by 40 CFR Section 403.6(d).

28.82.640

Pretreatment requirements refers to any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an industrial user.

28.82.650

Private sewer shall mean a sewer, or combined sewer, exclusive of side sewers, which is not owned or operated by the County or a local public agency.

28.82.660

Process wastewater shall mean any water which, during manufacturing or processing, comes into direct contact with, or results from production or use of any raw material, intermediate product, finished product, byproduct, or waste product. The "process wastewater" does not include "contaminated nonprocess wastewater."

28.82.670

Process wastewater pollutants shall mean pollutants present in process wastewater.

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28.82.680

Prohibited discharge standards or **prohibited discharges** shall mean prohibitions against the discharge of certain substances.

28.82.690

Public sewer shall mean a sewer or combined sewer, exclusive of side sewers, owned or operated, or to be owned or operated, by the County or a local public agency.

28.82.700

Publicly owned treatment works or **POTW** means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the County. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include any pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, “POTW” shall also include any sewers that convey wastewaters to the POTW from persons outside of the County who are, by contract or agreement with the County, users of the County’s POTW.

28.82.710

POTW treatment plant refers to that portion of the POTW designed to provide treatment to wastewater.

28.82.720

Relief drain shall mean a storm drain constructed to carry stormwater flows in excess of the capacity of an existing combined sewer or storm drain.

28.82.730

Relief sewer shall mean a sewer constructed to carry wastewater flows in excess of the capacity of an existing sewer or combined sewer.

28.82.740

Replacement refers to expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

28.82.750

Sampling point shall mean that point, as identified in the waste discharge permit or discharge authorization, which specifies the location samples should be collected to verify compliance with applicable pretreatment standards.

28.82.760

Sewage shall mean water-carrying waste discharged from the sanitary facilities of buildings occupied or used by people.

28.82.770

Sewer or **sewerage** shall mean a conduit designed or used to transport wastewater and to which stormwater, surface water, and ground water are not intentionally admitted.

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28.82.780

Sewage disposal agreement shall mean the agreement between the County and any local public agency or person providing for the delivery of sewage and industrial waste to the metropolitan sewerage system and the acceptance by the department of such wastewater for disposal.

28.82.790

Side sewer shall mean a conduit extending from the plumbing system of a building or buildings to, and connecting with, a public or a private sewer.

28.82.800

Significant industrial user (SIU) means any industrial users as defined in 40 CFR Sec. 403.3(t) including, but not limited to, all industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, except as exempted by 40 CFR 403.3(v)(2), and any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater, excluding sanitary, noncontact cooling, and boiler blow down wastewater to the metropolitan sewerage system; or contributes a process waste stream that makes up five percent or more of the average dry weather hydraulic or organic capacity of a particular treatment plant; or is designated as such by the County on the basis that the industrial user has a reasonable potential for adversely affecting the treatment plant's operation or violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6). In accordance with 40 CFR 403.3(v)(3), if an industrial user meeting the criteria in this section has no reasonable potential for adversely affecting the POTW's operation or violating any pretreatment standard, King County may determine that the industrial user is not a significant industrial user.

28.82.810

- A. **Significant noncompliance** applies to an industrial user if its violation or violations meet one or more of the following criteria:
1. Any violation of a pretreatment effluent limit, whether it be daily maximum, instantaneous maximum, or longer-term average, or best management practice required by a categorical pretreatment limit or developed in lieu of local pretreatment limits that the control authority 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;
 2. Any discharge of a pollutant that has caused imminent danger to human health and welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under this chapter to halt or prevent such a discharge; or
 3. Any other violation or group of violations including violations of best management practices required by a categorical pretreatment limit or developed in lieu of local pretreatment limits that the control authority determines will adversely affect the operation or implementation of the local pretreatment program.
- B. In addition to the criteria listed in A.1, 2, and 3 of this section, "significant noncompliance" applies to a significant industrial user that meets one or more of the following criteria:
1. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or average limit for the same pollutant parameter;
 2. 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 six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC, which is TRC=1.4 for BOD; TSS; fats, oil, and grease and 1.2 for all other pollutants except pH;

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3. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
4. Failure to provide, within 45 days after due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules; and
5. Failure to accurately report noncompliance.

28.82.820

Sludge shall mean the wet solids that have settled by physical, chemical, or biological means from the liquid phase in a waste treatment or pretreatment process.

28.82.830

Slug discharge means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

28.82.840

Standards shall mean limitations and requirements established by federal and state laws and regulations for discharges to the metropolitan sewerage system.

28.82.850

Storm drain shall mean a conduit designed or used to transport stormwater.

28.82.860

Stormwater shall mean waters on the surface of the ground or underground or any flow occurring during, following any form of, or resulting from, rainfall and/or other natural precipitation.

28.82.870

Suspended solids shall mean total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater and is removable by laboratory filtering as described in *Standard Methods for the Examination of Water and Wastewaters*, current edition, or *Guidelines Establishing Test Procedures for the Analysis of Pollutants*, contained in 40 CFR Part 136, as published in the Federal Register, and referred to as non-filterable residue.

28.82.880

Toxic shall mean having the properties to cause or significantly contribute to death, injury, or illness of persons or wildlife.

28.82.890

Toxic pollutants shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provision of Section 307(a) of the Act or other federal acts.

28.82.900

Treatment plant shall mean an arrangement of devices, structures, and equipment for treating wastewater.

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28.82.910

Treatment works shall mean any facility, method, or system acquired, constructed, or used by the County for the storage, treatment, recycling, or reclamation of sewage or industrial wastes of a liquid nature, including waste from combined sewers.

28.82.920

Trunk shall mean either (a) a major sewer or combined sewer into which two or more branches discharge and which transports the flow collected from laterals to an interceptor, pumping station, or treatment plant, or (b) a major sewer or combined sewer which transports the flow from a pumping station to a treatment plant or other pumping station, with or without collecting flows from laterals or branches en route.

28.82.930

User charge refers to a charge levied on users of a treatment works for the cost of operation and maintenance of such works.

28.82.940

Waste discharge permit or **permit** shall mean a permit issued pursuant to this chapter for the discharge of waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system. Such permits may be granted for a specified period up to five years.

28.82.950

Wastewater refers to the liquid and water-carried industrial or domestic waste from dwellings; commercial, industrial, and governmental activities; industrial facilities; and institutions, together that may be present, whether treated or untreated, that is contributed into or permitted to enter the POTW.

28.82.960

Watercourse shall mean an open channel, natural or man-made, used to transport stormwater.

28.82.970

Water pollution abatement shall mean the removal of waterborne pollutants, improvement of water quality, sewage disposal, and stormwater drainage.

28.82.990

Year shall refer to a 365-day period.

28.82.1000

Definition of additional terms: The words and terms, or expressions peculiar to the art or science of sewerage not defined in this chapter shall have the respective meanings given in *Glossary: Water and Wastewater Control Engineering*, 1981, 3rd Edition, prepared by a joint committee representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation, or the specialized definitions in applicable state or federal regulations. In the event of any conflict, the definitions prescribed by applicable federal regulations shall be controlling.

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Chapter 28.84

WATER POLLUTION ABATEMENT

Section 28.84.060

Industrial Waste rules and regulations

A. Administration and implementation of fees, rules, and regulations

The director shall administer and implement the following fees, rules, and regulations for the disposal of industrial waste into the metropolitan sewerage system.

B. Applicability

The following provisions shall govern the applicability of this section.

1. This section shall apply to all non-domestic users of the metropolitan sewerage system including, but not limited to, commercial and industrial companies and government agencies. Indirect discharges from non-domestic users regulated by this section include, but are not limited to, liquid, solid or gaseous substances, or any combination thereof resulting from any process of industry, government, manufacturing, commercial food processing, business, agriculture, trade, research, the development, recovery, or processing of natural resources, leachate from landfills or other disposal sites, contaminated nonprocess water, contaminated stormwater, and ground water.
2. This section shall not apply to the discharge of stormwater into an existing combined sanitary and storm system unless the discharge results from industrial activity and the director has determined that the discharge may affect the County's water quality and biosolids objectives.
3. This section shall not apply to participant local agencies when collecting domestic and industrial waste and conveying the waste to the metropolitan sewerage system.
4. This section authorizes the issuance of wastewater discharge permits, authorizes monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
5. Industrial waste shall be accepted into the metropolitan sewerage system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the County for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality, and avoidance of nuisance. At a minimum, all industrial users of metropolitan sewerage system facilities shall comply with the applicable pretreatment standards and requirements developed in accordance with Sections 307(b) and 307(c) of the Act. This includes the pretreatment standards for existing and new discharges, which are defined in regulations promulgated under Sections 307(b) and 307(c) of the Act.

C. Administration

The director shall administer, implement, and enforce this section. Any powers granted to or duties imposed upon the director may be delegated by the director to other department personnel. The director shall establish and publish administrative procedures for implementation of this section that shall include, but not be limited to, issuing permits and discharge authorizations, collecting samples, identifying and inspecting industrial users, monitoring, revenue/cost recovery, appeals, discharge approval processes, issuing waste discharge permits and discharge authorizations, conducting investigations of noncompliance, preparing enforcement actions according to the department's enforcement response plan, and setting local limits.

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D. Discharge standards and limitations

The following discharge standards and limitations shall be applicable under this section:

1. Discharge standards and limitations shall be established to the extent necessary to enable the County to comply with current National Pollutant Discharge Elimination System (NPDES) requirements, as promulgated by the U.S. Environmental Protection Agency (EPA) or the Washington State Department of Ecology, and to protect sewerage facilities and treatment processes, public health and safety, and the receiving waters, air quality, and biosolids quality.
2. Industrial users shall comply with all applicable pretreatment standards and requirements. Discharges subject to federal categorical discharge limits shall be subject to those limits, or to County local discharge limits, whichever is most restrictive. In addition to concentration limits, permit limits may also include mass limits stated as total pounds of a pollutant allowed per day.
3. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations or flow restrictions on users he or she believes may be using dilution to meet applicable pretreatment standards or requirements.
4. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.
5. **Specific prohibitions.** No industrial user shall discharge any of the following pollutants, substances, or wastewater directly or indirectly into any public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system:
 - a. Flammable liquids, solids, or gases capable of causing or contributing to explosion or supporting combustion in any sewerage facilities.
 - b. Any solid or viscous substances or particulates in quantities, either by itself or in combination with other wastes, that are capable of obstruction of flow or of interfering with the operation or performance of sewer works or treatment facilities.
 - c. Any gas or substance that, either by itself or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry by authorized personnel to pump stations and other sewerage facilities.
 - d. Any gas or substance that, either by itself or by interaction with other waste, may cause corrosive structural damage to sewer works or treatment facilities.
 - e. Wastes at a flow rate or pollutant discharge rate, or both, that are excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.
 - f. Heat in amounts that will inhibit biological activity in treatment plant facilities resulting in either interference in the treatment process or preventing entry by authorized personnel to pump stations and other sewerage facilities. This prohibition includes but is not limited to heat in such quantities that the temperature of the treatment works influent exceeds 40 degrees Celsius, or 104 degrees Fahrenheit, or the temperature exceeds 65 degrees Celsius, or 150 degrees Fahrenheit, at the point of discharge from the industrial source to public sewers or the metropolitan sewerage system, or both.
 - g. Food waste unless it will pass a one-quarter-inch sieve. The director shall establish rules on the use of food grinders to meet the one-quarter-inch criterion. The rules shall be based upon department biosolids criteria, impact on solid waste utilities, concerns of local health agencies, and imposition of high strength surcharge fees.

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- h. Any radioactive wastes or isotopes that exceed such concentration limitations as established by applicable Washington State Department of Social and Health Services regulations.
- i. Trucked and hauled wastes shall not be discharged into a sewer except at points in the metropolitan sewerage system designated for the discharge by the director.
- j. Any waters or wastes containing higher than ordinary concentrations or quantities of compatible pollutants, including but not limited to, biochemical oxygen demanding pollutants, suspended solids, pH, and fecal material, may be required to discharge at a specific release rate or at a specified strength if, in the opinion of the director, the release of the waste in an uncontrolled manner could adversely affect proper handling and treatment in the metropolitan sewerage system.
- k. Stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water, and unpolluted wastewater unless specifically authorized elsewhere in this section or by rules published by the director regarding the acceptance of clean water into the metropolitan sewerage system. The rules shall be based upon existing sewer capacity; cost and availability of alternate disposal options; cost of implementing control measures to prevent contamination of stormwater, surface water, and ground water; cost of recycling or reclaiming clean water; benefits to regional water conservation using reclaimed effluent; and adverse impacts to water quality and public health.
- l. Any waters or wastes generated during construction activities, which may include, but not be limited to, contaminated stormwater, surface water, or ground water and wells constructed for the purpose of lowering the ground water table unless specifically authorized by the director.
- m. Wastewater that imparts color that cannot be removed by the treatment process, such as dye wastes and vegetable tanning solutions that consequently impart color to the treatment plant's effluent, thereby violating the County's NPDES permit.
- n. Detergents, surface-active agents, or other substances that may cause excessive foaming in the metropolitan sewerage system.

E. **Federal categorical pretreatment standards**

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated in this section. These categorical pretreatment standards shall be met by all industrial users of the regulated industrial categories.

F. **Local discharge limits**

Local discharge limits shall be developed and complied with as follows:

1. The director shall publish and revise from time to time local discharge limits, including best management practices, developed according to guidelines promulgated by the U.S. EPA or Washington State Department of Ecology using data specific to the metropolitan sewerage system and its industrial users. At a minimum, local discharge limits shall restrict the following parameters: metals; organics; pH; temperature; fats, oils, and greases of animal or vegetable origin; fats, oils, and greases of mineral origin; and other toxic substances as required, including those defined in applicable state and federal regulations. These published local discharge limits shall, by this reference, be made a part of this section.
2. No industrial user shall discharge wastewater containing concentrations or mass limitations, or both, in excess of the published local discharge limits, except as provided for in this section.
3. Individual limits for specific companies or general permit limits for groups of companies may be established on a case-by-case basis for compounds not specifically listed in published local discharge limits or at levels higher or lower than published local discharge limits. The individual limits may be higher than published local discharge limits only for companies or groups of companies that have

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demonstrated that no reasonable treatment method is available to meet published limits, and the volume and mass of pollutants discharged does not endanger sewerage facilities or put the POTW at risk of violating NPDES limits, water quality standards, air quality standards, biosolids standards, or worker safety standards. Individual limits may be lower than published local discharge standards when the volume of discharge or mass of pollutants, or both, are such that lower limits are necessary to protect sewerage facilities and treatment processes, public health and safety, the receiving waters, air quality, or biosolids quality.

G. **Flow restrictions**

Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers; relocate or consolidate, or relocate and consolidate, points of discharge; separate domestic wastewaters from industrial waste streams; and other conditions as may be necessary to protect the POTW and determine the users compliance with the requirements of this section.

H. **Discharge to combined sewers**

In areas served by combined sewers, stormwater connections made before January 26, 1961, and stormwater connections made after January 26, 1961, that have no public or private storm sewer available within a reasonable distance may continue to discharge without authorization from the director unless the discharge has the potential to affect the County's ability to comply with all federal, state, and local regulations and meet the County's water quality objectives as stated in this chapter. In such cases, the stormwater shall be regulated as an industrial waste and be subject to all of this section. In some cases, the County may require the industrial user to eliminate or mitigate stormwater discharges by implementing control measures that shall include but not be limited to installation of a separate storm sewer, detention, pretreatment, roofing, reuse, relocation of processing or treatment areas, and discharging to receiving waters.

I. **Deadline for compliance with applicable pretreatment requirements**

The following provisions shall govern compliance with applicable pretreatment requirements:

1. Compliance by existing users covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standards.
2. The director shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for the user are more restrictive than EPA's categorical pretreatment standards. In establishing such a compliance deadline, the director shall consider the potential for violations of NPDES limits, biosolids quality, air quality, and worker safety standards and the difficulty and cost to industrial users of changes in industrial processes and installation of new pretreatment equipment.
3. New source industrial users and all other new users including significant industrial users shall comply with applicable pretreatment standards within the shortest feasible time, not to exceed 90 days from the beginning of discharge. New sources and new users shall install and have in operating condition all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

J. **Permits and authorizations**

The following provisions shall govern waste discharge permits and authorizations:

1. Each person discharging or proposing to discharge industrial waste into a POTW treatment plant, public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system shall secure written discharge authorization, which may include, but shall not be limited to, a waste discharge permit, minor

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discharge authorization, or general permit from the department unless otherwise provided in this section. The conditions and discharge standards in all written discharge authorizations shall be predicated on federal, state, county, and other applicable local regulations and requirements and on the results of analysis of the type, concentration, quantity, and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. These conditions and discharge standards shall be re-evaluated upon expiration of the written discharge authorization and may be revised from time to time as required by county, state, or federal regulations and requirements or to meet any emergency. Obtaining a written discharge authorization, however, shall not relieve a user of its obligation to comply with all federal and state pretreatment standards or requirements, or with any other requirements of federal, state, and local law.

- a. **New discharges.** Any person proposing to discharge industrial waste, but not holding a valid waste discharge permit or other written discharge authorization, shall apply to secure a waste discharge permit or discharge authorization unless the director has determined that written authorization is not required. Application to the department shall be made for permits at least 60 days before beginning of discharge unless the industrial user is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, in which case application to the department shall be made for the permit 90 days before beginning of discharge. Application to the department shall be made for all other written discharge authorizations 30 days before beginning of discharge. Any new source or new user meeting the definition of significant industrial user shall not discharge without a waste discharge permit.
 - b. **Change in existing discharge.** Any person with an existing permit or written discharge authorization proposing to make a change in an existing industrial waste discharge that will substantially change the volume of flow or the characteristics of the waste or establish a new point of discharge, shall apply for a new waste discharge permit 30 days before making the change. Substantial changes may include, but are not limited to, a 20 percent increase in the authorized daily maximum flow, addition of a new process, product, or manufacturing line that will increase or decrease the concentration of pollutants in the waste stream or require modification in the operation of the pretreatment system, addition of new pretreatment equipment, or altering a sample site.
 - c. **Discharging without written discharge authorization.** The director may grant permission to discharge without written authorization when the discharge is limited in concentration of pollutants, volume, duration, or when the user has applied for and is in the process of obtaining written discharge authorization.
2. **Discharges requiring permits.** All significant industrial users shall secure a waste discharge permit. Existing significant industrial users without permits and industrial users that the director has determined present a substantial risk with existing discharges shall, upon receipt of written notice, apply for a waste discharge permit within 30 days. Extensions of time for submittal of an application may be granted by the director, not to exceed a total of 60 days. The director on his or her own initiative or in response to a petition from an industrial user may determine that an industrial user is not a significant industrial user when there is no reasonable potential for the discharge to adversely affect the POTW's operation or to violate any pretreatment standard or requirement.
 3. **Discharges not requiring permits.** Persons who are not subject to federal categorical standards or who discharge less than 25,000 gallons per day or who in the opinion of the director have no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement are not required to obtain a waste discharge permit. Instead, the director may require and issue some other form of written authorization, which may include, but is not limited to, a minor discharge authorization, a letter of discharge approval, or a general permit. The director may require industrial users to obtain a waste discharge permit when noncompliance with this section exists. Upon written notice from the department that a permit is required, the person so

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notified shall apply for a waste discharge permit within 30 days. Extensions of time for submittal of an application may be granted by the director, not to exceed a total of 60 days.

4. **Application for permits and authorizations.** Application for waste discharge permits and authorizations shall be made to the director in writing on forms provided by the department and shall include such data, information, and drawings as to enable the department to determine which federal, state, and local regulations apply to the discharge and to set conditions for the industrial user to comply with the regulations. The information shall include, but not be limited to, identifying information such as name, address, owner and contact person, other environmental permits held by the operation, operation and site descriptions including manufacturing processes, flow measurements, measurements of pollutants, pretreatment system designs and operation and maintenance manuals, spill control plans, and certification statements. The department will act only on complete applications. Significant industrial users shall comply with all requirements of 40 CFR 403.12 (b) by the time of permit issuance or upon commencement of discharge, whichever comes first, unless the specific conditions of a waste discharge permit establish an alternate deadline.
5. **Processing of application.** Upon receipt of a completed application, the director shall determine if a permit, minor discharge authorization, or other document is required and notify the applicant. Waste discharge permits and authorizations shall be processed in accordance with Chapter 90.48 RCW, as amended, Public Law 92-500, and this section, which includes: public notice for discharges requiring permits; determination of applicable discharge limits and special conditions; review and approval of any pretreatment facilities; facility inspections; issuance of a draft permit; review of the application and any draft permits by appropriate federal, state, and local agencies; and issuance of the final permit or written authorization.
 - a. **Public notice.** If a permit is required, the director shall complete the public notice requirements and bill the applicant for the cost or the director shall instruct the applicant at its expense to publish notices twice in a newspaper of general circulation within King County and in a local newspaper serving the area where the industrial user is located and in other appropriate information media as the director may direct. The notice shall include a statement that any person desiring to present their views with regard to the application may do so in writing to the director, but only if the person submits his or her views or notifies the director of the person's interest within 30 days of the last date of publication of the notice. The notification or submission of views to the director shall entitle the person to review and comment on the draft permit and to a copy of the action taken on the application.
 - b. **Discharge limits and special conditions.** Waste discharge permits and written discharge authorizations shall be issued with conditions to demonstrate compliance; meet applicable federal, state, and local regulations; and prevent violations of this section and the waste discharge permit or authorization. The conditions may include, but shall not be limited to, discharge limitations and standards, spill control measures, accidental spill prevention plans, slug control plans, monitoring requirements, maintenance requirements, installation of monitoring equipment, record-keeping requirements, reporting requirements, federal and state requirements, installation of sampling sites, flow restrictions, engineering reports, solvent management plans, implementation of best management practices, and special studies to evaluate discharge limits or compliance status.
 - c. **Pretreatment facilities.** As a condition of the granting of a waste discharge permit or other authorization, the director may require the industrial user to install pretreatment facilities or make plant or process modifications as deemed necessary by the director to meet the requirements of this section and applicable federal and state standards. The facilities or modifications shall be designed, installed, constructed, operated, and maintained at the industrial user's expense in accordance with the provisions of this section and in accordance with the rules and regulations of all local and governmental agencies.

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- d. **Technology-based approaches for limiting pollutants.** The director shall have the authority to require that an industrial user implement a technology-based approach to limit pollutants discharged to the sanitary sewer through the application of all known, available, and reasonable methods of prevention, control, and treatment (AKART).
 - e. **Preoperative inspection.** No industrial user may discharge industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system until inspection has been made by the department for compliance with conditions of the permit or authorization and with this section unless the director has determined that an inspection is not required.
 - f. **Issuance of draft permit.** A draft permit shall be issued for review and comment by the applicant; federal, state, and local agencies; and members of the public who wish to comment on the application or draft permit. All comments will be reviewed and addressed by the director before issuance of a final permit.
 - g. **Coordination with other agencies.** During the application processing, the department will consult with and provide copies of applications and draft permits to participant local agencies, the Washington State Department of Ecology, and the U.S. Environmental Protection Agency (EPA), when appropriate, to ensure that the limitations and conditions of waste discharge permits or other written discharge authorizations will meet requirements of applicable federal, state, and local regulations.
 - h. **Denial of permit or discharge authorization.** The director may deny a permit or discharge authorization when the applicant's discharge will not comply with this section or will create a public nuisance. The director may also deny a permit or authorization to protect public health and welfare.
 - i. **Waste discharge permit and authorization duration.** Waste discharge permits and authorizations shall be issued by the director for a specified period, not to exceed five years. A waste discharge permit or authorization may be issued for a period fewer than five years at the discretion of the director. Each waste discharge permit or authorization will indicate a specific date upon which it will expire.
 - j. **Issuance of final permit.** If the characteristics of the proposed discharge or discharges meet the requirements of appropriate participant local agencies, the Washington State Department of Ecology, the EPA, any other applicable state and federal laws and regulations, and this section, the director shall issue a waste discharge permit or authorization to the applicant with appropriate conditions. A copy of the final permit will be submitted to the Washington State Department of Ecology. The appropriate local agencies will be notified in writing of the issuance of such a permit and will be furnished with one copy of each draft and final permit or other written discharge authorization issued within its jurisdiction at no charge.
6. **Modification of final permit or authorization.** Discharge conditions published in a waste discharge permit or authorization shall remain in effect until the permit or authorization expires, except that the director may modify the permit or authorization for good cause including the following:
- a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - b. To address alterations or additions to the user's operation, processes, or wastewater volume or character since the time of permit or authorization issuance, for which the modifications may be requested by the industrial user;
 - c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - d. Information indicating that the permitted discharge poses a threat to the metropolitan sewerage system, the department's, county's, or participant local agency's personnel or the receiving waters;
 - e. Violation of any terms or conditions of the waste discharge permit or authorization;
 - f. To correct typographical or other errors in the waste discharge permit or authorization; or
 - g. To reflect a transfer of the facility ownership or operation to a new owner or operator.

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7. **Renewal of permit or authorization.** If the industrial user wishes to continue discharging after the expiration date, an application shall be filed for renewal of the permit at least 180 days before the expiration date or at least 90 days before the expiration date for authorizations. Applications for renewal permits or authorizations shall be processed in accordance with the requirements of this section, with the exception of the public notice requirement. An industrial user whose existing waste discharge permit or authorization has expired and has submitted its application for permit renewal in the time specified herein shall be deemed to have an effective waste discharge permit or authorization until the director issues or denies the new waste discharge permit. An industrial user whose existing waste discharge permit or authorization has expired and who failed to submit its reapplication in the time period specified herein will be deemed to be discharging without a waste discharge permit or authorization.
8. **Revocation of permit or authorization.** A permit or authorization shall be subject to revocation upon 30 days' notice in writing if the director finds:
 - a. It was procured by misrepresentation of any material fact or by lack of full disclosure in the application;
 - b. A material change in the volume of flow or characteristics of waste was effected without notice to the department and application to the department for a new permit or authorization was not made and a permit or authorization was issued, as required in this section;
 - c. There has been a violation of the limitations or conditions of the permit or authorization, and the industrial user refuses to take corrective action, or that a violation has continued after notice thereof;
 - d. The industrial user has refused reasonable access to its premises for the purpose of inspecting or monitoring the discharge;
 - e. The industrial user has falsified self-monitoring reports or tampered with monitoring equipment;
 - f. The industrial user has failed to pay sewer charges or fines;
 - g. The industrial user has failed to provide advance notice of the transfer of a waste discharge permit; or
 - h. The industrial user has failed to pay the permit or authorization issuance fee, failed to pay for the annual compliance monitoring and administrative fee, surcharge fee, if applicable, or post-violation charges.

At the time that a permit or authorization is revoked, the director may thereafter require disposal of the waste in some manner other than into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system at the expense of the person whose permit is revoked. The appropriate local agency and the Washington State Department of Ecology will be notified in writing of the revocation of the permit.

9. **Suspension of permit or authorization.** A permit or authorization may be suspended temporarily and further discharges halted by the director if the director determines that waste discharges are in violation of waste discharge permit or authorization limitations or conditions of county, state, or federal standards and pose an immediate risk to public health and safety, receiving water quality, or biosolids quality, or an immediate risk of damage, obstruction, or interference with treatment facilities. The suspension shall be effective immediately upon written notice delivered to the industrial user's business premises or posting at the point of discharge.
10. **Transfer of permit or authorization.** A waste discharge permit or authorization shall not be transferred without prior notification and approval by the director. The notification shall be submitted at least 30 days before the date of facility transfer and shall:
 - a. Include a statement that the new owner or operator has no immediate intent to change the facility's operations and processes;
 - b. Identify the specific date on which the transfer is to occur;
 - c. Acknowledge full responsibility for complying with the existing waste discharge permit; and

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- d. Include a written agreement between the old and new owner or operator, or both, containing a specific date for transfer of permit responsibility, coverage, and liability.

Failure to provide advance notice of a transfer renders the waste discharge permit or authorization voidable on the date of facility transfer.

K. Responsibilities of industrial users

Industrial users shall have the following responsibilities in discharging industrial waste into the metropolitan sewerage system:

1. **Control of discharge.** It shall be the responsibility of every industrial user to control the discharge of industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system in compliance with this section and the requirements of a waste discharge permit or written discharge authorization issued under this section.
2. **Pretreatment facilities.** Whenever pretreatment facilities are required under this section, they shall be designed, constructed, installed, operated, and maintained at the expense of the industrial user and in a manner prescribed by the director. The director may require dischargers to submit plans in the form of engineering reports and drawings for approval. The reports and plans shall be prepared according to federal and state requirements. The industrial user shall maintain records indicating routine maintenance check dates, cleaning and waste removal dates, and means of disposal of accumulated wastes. The records shall be retained for a minimum of three years and be subject to review in accordance with this section. Approval of proposed facilities or equipment by the director will 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 of the responsibility of enlarging or otherwise modifying or replacing the facilities to accomplish the intended purpose and to meet the applicable standards, limitations, and conditions of a waste discharge permit.
3. **Waste analysis and reporting requirements.** Industrial users will be required to submit samples of industrial waste discharges to the director or to perform tests and report the test results to the director on a routine and continuing basis when:
 - a. Required by 40 CFR 403.12, as amended;
 - b. Requested by state or participant local agencies; or
 - c. Deemed necessary by the director for the proper treatment, analysis, or control of waste discharges.

All such tests and reports shall be at the cost of the industrial user.

4. All sampling data collected by industrial users and analyzed using procedures approved by 40 CFR 136 or approved alternatives shall be submitted to the director whether required as part of a written authorization or done voluntarily by the industrial user.
5. To the degree practicable, the director will provide each permittee or applicant with information on applicable county, state, and federal waste analysis and reporting requirements, provided, however, that any failure or inadvertence to do so shall not excuse the permittee from compliance with the requirements. Specific requirements will be established by written permit or authorization.
6. All wastewater discharge permit applications and industrial user reports must be signed and dated by an authorized representative of the industrial user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel 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.”

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7. **Sampling sites and equipment.** When required by the director, the industrial user shall install and maintain at its expense a suitable sample site or control manhole in its side sewer to facilitate observation, sampling, and measurement of wastes therein. The sample sites or manholes shall be located, if feasible, where it is accessible from a public road or street. It shall be constructed in accordance with plans approved by the director and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the director. The industrial user shall make access to the sample site or manhole available to the director at all times. Any tampering with flow or sampling equipment by the discharger or its employees is prohibited. When deemed necessary by the director, an industrial user may be required to obtain, install, operate, and maintain, at its expense, an automatic sampler or analyzer, or both, or flow measurement device in order to monitor its industrial waste discharges in the manner directed by the director.
8. **Notification of discharge.** Any person becoming aware of the discharge of regulated substances, spills, or slug discharges directly or indirectly into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system shall report the discharge immediately to the department and one of the treatment plants of the County. This notification shall include the location of discharge, type of waste, concentration, and volume, if known, and any corrective actions. Failure by any person aware of the discharge of prohibited or restricted substances, spills, or slug discharges to report the discharge in the manner provided above shall constitute a violation, as that term is defined in this section, and subject the person to the penalties in this section. Each failure to report a discharge shall be considered a separate violation. Notification shall not relieve the person responsible from penalties or recovery of the cost of damages resulting from the discharge. Discharges of prohibited or restricted substances directly or indirectly into navigable waters, or into streams, ditches, or sewers tributary to navigable waters, shall be reported to the United States Coast Guard or to the regional office of the Washington State Department of Ecology, in accordance with Section 311 of the Act, 42 U.S.C. 1321, as amended.
9. **Notice to employees and training.** In order that employees of industrial users involved in discharge to sewers will be informed of the County's requirements, the industrial users shall make available to their employees copies of this section together with such other wastewater information and notices directed toward more effective water pollution control that may be furnished by the director from time to time. A notice advising employees whom to call in case of a discharge violation of this section shall be furnished and permanently posted in highly visible places such as bulletin boards and lunchrooms. Where lack of proper employee training is determined to have caused noncompliance with this section or with the requirements of a waste discharge permit or written discharge authorization, the director shall require industrial users to provide employee training.
10. **Preventive measures.** Any direct or indirect connection or entry point that could allow prohibited or regulated substances to enter the industrial user's plumbing or drainage system shall be eliminated. Where the action is impractical or unreasonable, the industrial user shall label the entry points appropriately to warn against discharge of wastes in violation of this section.
11. **Notification of the discharge of hazardous wastes.** All industrial users shall notify the director, the EPA Region 10 Waste Management Division Director, and the Washington State Department of Ecology in writing of any discharge to the sewer of a substance that, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR Part 261.
 - a. Notification shall include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste generator number, where required, and the type of discharge, be it continuous, batch, or other. If the industrial user discharges more than 100 kilograms, or 220 pounds, of the waste per calendar month to the POTW, the notification shall also contain the following information:
 - (1) An identification of the hazardous constituents contained in the wastes;
 - (2) An estimation of the mass and concentrations of the constituents in the waste stream discharged during that calendar month; and

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(3) An estimation of the constituents in the waste stream expected to be discharged during the following 12 months.

Discharges of more than 15 kilograms, or 33 pounds, of non-acute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. All notifications shall be submitted by January 24, 1991, for existing industrial users. Industrial users who commence discharge after January 24, 1991, shall submit notification no later than 180 days after the discharge of the hazardous wastes. Any industrial user required to submit notification under this subsection shall be required to submit only once for each hazardous waste discharged unless the discharge is changed according to 40 CFR 403.12(j). Notification requirements under this subsection do not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e) before January 24, 1991.

- b. Industrial users are exempt from the notification requirements during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e).
 - c. In the case of new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921, identifying additional characteristics of hazardous wastes or listing any additional substance as a hazardous waste, the industrial user shall submit notification as required under this section within 90 days of the effective date of the new regulations.
 - d. Any industrial user subject to the notification requirements under this section shall certify in writing at the time of notification that the industrial user has a program in place to reduce the volume or toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
12. **Recordkeeping.** Industrial users shall maintain records relating to discharges to the metropolitan sewerage system. The records, which include, but are not limited to, routine maintenance, documentation associated with best management practices, waste disposal dates, manifests and disposal records for accumulated wastes, self-monitoring reports, analytical lab results, dates and times of sample collection and batch discharges, pH and equipment calibration log books, pH monitoring records, and flow records, shall be retained for a minimum of three years and shall be subject to review in accordance with this section.
13. **Electronic reporting.** The director may establish rules by which required reports can be received electronically from industrial users. The rules shall establish the framework for electronic reporting that ensures the legal dependability of electronic documents submitted in accordance with this section.

L. Inspection and sampling of industrial users

The following provisions shall apply to the inspection and sampling of industrial users:

1. **General inspection procedures.** To carry out this section and ensure compliance with federal and state laws and regulations relating to water pollution, authorized and properly identified representatives of the County shall have the right to enter that portion of the premises of any person discharging industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system, whether or not the discharge is officially permitted or authorized. The purpose of entry shall be for inspection, observation, measurement, review of operating and waste management records, including documentation associated with best management practices, sampling and testing in accordance with this section, at reasonable times or for the purpose of handling an emergency, as determined by the director, at any time if the director determines that an emergency exists. Inspections shall be limited to that portion of the premises that contains a side sewer, measuring manhole, pretreatment facilities, or facilities for the transportation, collection, concentration, or treatment of wastes. All regular sanitary and safety requirements of the person shall be complied with

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by the representative during the inspection. Before entering the premises, representatives of the County shall state their purpose and present credentials and an administrative inspection warrant, if one is required.

2. **Situations not requiring administrative inspection warrant.** A warrant shall not be required for entry and administrative inspections, including observation, measurement, sampling, or testing, under this section in the following situations:
 - a. With the consent of the owner, operator, or agent in charge of the premises;
 - b. If the discharge is permitted under an industrial waste discharge permit or other written discharge authorization;
 - c. In situations where the director has determined that an emergency exists presenting imminent danger to the public or worker health, safety, and welfare; the environment or water quality of a receiving water; interference or risk of interference or obstruction with the functioning of the metropolitan sewerage system; or violating the County's NPDES permit limits;
 - d. In any emergency circumstance where there is neither time nor opportunity to apply for a warrant; and
 - e. In any other situation where a warrant is not required by law.
3. **Issuance and execution of administrative inspection warrants.** In the event an administrative inspection warrant must be obtained to enter upon the premises of any person disposing of industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system, the director shall apply to the superior court for issuance of warrants for the purpose of conducting administrative inspections authorized by this section. For purposes of an administrative inspection, probable cause justifying the issuance of a warrant may be based either on:
 - a. Specific evidence of an existing violation of the terms and conditions of a waste discharge permit, this section, or any state or federal law or regulation relating to water pollution; or
 - b. Evidence that reasonable administrative standards for conducting an inspection, including observation, measurement, or testing of industrial waste, are satisfied with respect to a particular premises and that a specific premises has been selected for County inspection on the basis of a general administrative plan for the enforcement of this section or any county, state, or federal laws or regulations relating to water pollution.
4. **Point of compliance.** Consistent with federal pretreatment standards, pollutant levels for all regulated processes will be monitored at the point of compliance. The point of compliance shall be at the end of the regulated process following pretreatment or as specified in the waste discharge permit or written discharge authorization. The monitoring shall be before the addition of any dilution water.
5. **Inspection and sampling programs.** The purpose of the inspection and sampling programs shall be to verify independent of information supplied by industrial users in accordance with this section, the compliance or noncompliance with applicable pretreatment standards and requirements, best management practices, or special requirements as prescribed by the director.
6. The sampling programs shall be designed to provide sampling emphasis on those industrial users discharging the greatest volume and concentration of pollutants. Comprehensive sampling by automatic samplers will be augmented with grab samples taken on a random basis. Flow proportioned samples are preferred. At a minimum, significant industrial users will be sampled at the frequency required by 40 CFR 403.12 as amended. Those users with large industrial discharges can expect to be sampled quarterly or more often, while users with small discharges may be sampled once annually or as required by federal regulations or a National Pollutant Discharge Elimination System permit issued to the County. Industrial users also discharging high strength waste will be sampled or classified as part of the industrial surcharge program.

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7. The inspection programs shall be designed to provide emphasis on those industrial users discharging the greatest volume and concentration of pollutants. A significant industrial user will be inspected at the frequency required by 40 CFR 403.12 as amended.
8. **Post-violation inspection and sampling program.** The post-violation inspection and sampling program shall provide for additional inspection and sampling of any industry failing to comply with or violating any of this section or applicable state and federal requirements.
9. **Public disclosure.** Except as otherwise stipulated below, information and data on industrial users obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agencies in conformance with County ordinances and state laws and regulations. Industrial user information such as trade secrets may be withheld provided confidentiality is specifically requested by the industrial user at the time the information is provided or submitted to the director. Wastewater constituents and characteristics shall not be recognized as confidential information and will be available to the public without restriction.
10. **Sampling procedures.** A portion, or co-collected sample in the instance of fats, oils, and greases, of any samples collected by department personnel shall be made available to the industrial user being sampled. If the industrial user has samples analyzed for comparison with the department's results, the comparison will be considered valid only if methods and procedures are the same as those utilized or approved by the department and those methods and procedures conform to and are consistent with the analytical methods established by the latest edition of the following references:
 - a. Standard Methods for the Examination of Water and Wastewater;
 - b. American Society for Testing and Materials, A.S.T.M. Standards, part 23, Water, Atmospheric Analysis;
 - c. Environmental Protection Agency, Water Quality Office Analytical Control Laboratory, Methods for Chemical Analysis of Water and Wastes; or
 - d. Any other analytical method determined by the department to be required to identify and quantify a particular pollutant not adequately sampled by the above referenced methods.
11. If, as the result of a valid sample comparison, a discrepancy arises between the analytical results obtained by an industrial user and the County's results, and if a statistical summary indicates that the precision of the County's and the industrial user's results are within acceptable quality assurance/quality control standards, the two results will be averaged to determine the user's compliance.
12. **Spill and slug control plans.** The director may require any user to develop and implement an accidental discharge (spill)/slug control plan. An accidental discharge or accidental spill prevention plan (ASPP)/slug control plan describing facilities to prevent accidental discharge or slug discharges of pollutants and operating procedures to provide this protection, shall be submitted to the director for review and approval before implementation. The director shall determine which user is required to develop a plan and require the plan be submitted within 90 days following notification by the director. Each user shall implement its ASPP as submitted or as modified after the plans have been reviewed and approved by the director. Review and approval of the plans and operating procedures shall not relieve the user from the responsibility to modify its facility as necessary to meet spill control requirements.
 - a. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan that addresses, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW of any accidental or slug discharge; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of

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- containment structures or equipment, measures for containing toxic organic pollutants, including solvents, or measures and equipment for emergency response.
- b. Users shall notify the director immediately upon the occurrence of a slug or accidental discharge of substances regulated by this section. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions.
 - c. Within five days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures taken by the user to prevent similar future occurrences.
 - d. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge.
 - e. A significant industrial user shall notify the POTW immediately of any changes at its facility affecting potential for a slug discharge.

M. Fees and charges

The following provisions shall govern permit and other authorization issuance fees, compliance monitoring and administrative fees, fees to recover treatment costs for high strength wastes, and post-violation charges.

- 1.a. To cover the cost of issuing waste discharge permits and other types of authorizations, including general permits for industrial users connected to the county sanitary sewer system as provided in this section, the wastewater treatment division manager shall establish issuance fees. The issuance fees shall be applicable to each new, renewed or revised permit or other type of authorization issued after the adoption of this section. The permit and other types of authorizations shall be issued for a maximum period of five years. The costs for routine permit administration, including minor revisions to the permit or authorization, annual permit inspections, sampling, surcharge and post-violation inspection and monitoring are covered under other provisions in this section. The wastewater treatment division manager is hereby authorized to establish the permit and authorization issuance fees for new documents, renewals and revisions as part of the county's annual budget process. The wastewater treatment division manager shall periodically review and may modify issuance fees.
 - b. The wastewater treatment division shall bill the customer directly for the cost of issuing a permit or other types of authorization, after the permit or authorization is issued.
 - c. No refund of any permit or authorization issuance fee shall be granted before or after the expiration of the permit or authorization.
 - d. Failure to pay all charges within sixty days from the date of invoice shall be cause for revocation of the permit or authorization.
- 2.a. The wastewater treatment division manager is hereby authorized to establish an annual compliance monitoring and administrative fee structure for various types of commercial and industrial users. The wastewater treatment division manager shall assign commercial and industrial users to various compliance monitoring and administrative tiers. The wastewater treatment division manager shall periodically review and may modify the compliance monitoring and administrative fees.
 - b. Annual compliance monitoring and administrative fees may be assessed based on cost of service and the estimated cost to monitor and administer permits or other authorizations.
 - c. The compliance monitoring and administrative fees shall include, but not be limited to, routine administration and management of the permit or authorization, inspections, sampling, laboratory analytical costs and other associated costs.
 - d. It shall be the responsibility of each participant local agency to bill and collect the compliance monitoring and administrative fees for those industrial users within the agencies' jurisdiction.
3. Users discharging waste with a strength greater than domestic waste shall pay a high strength surcharge treatment fee in addition to the compliance monitoring and administrative fee. The wastewater treatment division manager shall periodically review and may modify the high strength

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surcharge treatment fees. The surcharge for high strength industrial wastes shall be based on treatment or removal costs of those constituents whose concentration exceeds that contained in domestic wastes and that contribute to the costs of operation and maintenance of the metropolitan sewerage system. The constituents typically in this category are biochemical oxygen demand (“BOD”) and suspended solids. In lieu of BOD or total suspended solids, which are also known as TSS, the wastewater treatment division manager may use or approve the use of other parameters, based on the characteristics of the waste, to establish a waste strength.

- a. The surcharge treatment cost shall be the unit cost of treating BOD and suspended solids in excess of domestic strength.
 - b. The concentration of domestic wastes shall be defined by the wastewater treatment division manager.
 - c. Treatment costs will be based on system-wide maintenance and operation costs allocated to the appropriate waste parameters. The wastewater treatment division manager shall conduct an annual review of waste strength and treatment costs and adjust charges.
 - d. The surcharge shall be based upon the average waste strength for each parameter and volume of discharge by the industrial user. Industrial users shall have the right to challenge the waste strength values that the wastewater treatment division manager develops.
 - e. The wastewater treatment division manager shall establish the average waste strength for each industrial user either by direct measurement or by classification. The wastewater treatment division manager shall establish thresholds for frequency and duration of direct measurement of industrial users for high strength waste parameters.
 - f. There shall be a domestic type classification established originating from domestic type activities. All industrial users in the domestic type classification shall be assigned a waste strength equal to the domestic equivalent.
 - g. The average annual discharge volume will be based upon the wastewater volumes reported by the industrial user for the previous four quarters. In lieu of utilizing recorded discharge volumes, the wastewater treatment division manager may develop conversion factors for selected industrial user classifications based on periodic production rates. The purpose of the conversion factors is to translate production rates into estimated wastewater discharge rates.
 - h. Industrial user waste strengths shall be based on average values derived using data points at or above a minimum number and a data collection time interval, as established by the wastewater treatment division manager.
 - i. It shall be the responsibility of each participant local agency to bill and collect the high strength waste treatment surcharge fee for those industrial users within the agencies’ jurisdiction.
4. Any industrial user has the right to challenge the compliance monitoring and administration tier to which the user has been assigned by first requesting that the wastewater treatment division manager reconsider the compliance monitoring and administration tier assigned to that user. The request must be made within fifteen calendar days of the date of the wastewater treatment division manager’s determination of that user’s compliance monitoring and administration tier. The wastewater treatment division manager shall promptly issue a decision on this request, which shall be appealable to the director as set forth in the rules published by the director. The director’s determination of the appeal shall be final and is not subject to the appeal procedure in K.C.C. 28.84.100.
 5. Any industrial user for whom the wastewater treatment division manager implements a post-violation inspection and sampling program under this section shall be responsible for costs therefore incurred by the county, including without limitation expert, legal and administrative costs.
 - a. The costs shall be in addition to the other fees, penalties and costs for damages set forth in this section.
 - b. Any industrial user subject to post-violation inspection and sampling shall be billed directly for the county’s costs.

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- c. The post-violation fees assessed by the county shall include all labor, supplies and special costs incurred for the inspection and monitoring effort, enforcement actions and cost of any appeals.
- d. The wastewater treatment division manager shall develop a fee schedule and review the costs and their allocation on a periodic basis.

N. Violations

The following provisions shall govern violations of discharge requirements:

1. The criteria constituting violations shall be as follows:
 - a. **Discharge violations.** A discharge violation will be considered to have occurred if the limitations established in or in accordance with this section, federal or state pretreatment standards, specific requirements of an industrial waste discharge permit, written discharge authorization, or any other pretreatment standards are exceeded, regardless of intent or accident.
 - b. A mass violation will be considered to have occurred if mass related limitations for specific pollutants have been exceeded. Mass related limitations will be based on daily average limits. A violation will be determined utilizing the formula: $(8.34) \times (\text{millions of gallons discharged per day}) \times (\text{concentration of pollutant in mg/L})$. The concentration used for the pollutant will be the arithmetic mean of those concentrations for samples collected during the period monitored over the operating day or the concentration of a flow proportioned composite during that period. The volume will be determined by either a water meter or sewer meter serving the monitored process and read immediately before and after sampling.
 - c. **Reporting violations.** A violation will be considered to have occurred if special reporting requirements established by permit, provided for in this section, included in written documents from the director, or specified by general federal pretreatment standards in 40 CFR 403.12 as amended, are not complied with.
 - d. **Other violations.** A violation will be considered to have occurred if special conditions, best management practices, or requirements established by this section, waste discharge permit, general permit, major or minor discharge authorization, letter of discharge authorization, or written orders from the director are not complied with. The violations include, but are not limited to, failure to pay sewer charges or fines, failure to complete the requirements of a compliance order or meet the deadlines of a compliance schedule, and inaccurate reporting.
 - e. Each discrete discharge that constitutes a violation under this section shall constitute a separate violation, or if the discharge is continuous, then each hour of the discharge shall constitute a separate violation, provided the director shall have the discretion to combine the discrete or continuous discharges and limit the number of violations for purposes of assessing penalties, if the violations are minor and do not pose significant risks to public health and safety or treatment processes and facilities, and the industrial user demonstrates to the reasonable satisfaction of the director that it is using its best efforts and the most current technology to avoid the discrete or continuous discharges.
2. **Public notification of violations.** In accordance with the requirements of 40 CFR 403.8, the director will cause to be published in a newspaper of general circulation within the County, at a minimum once every 12 months, a list of those industrial users that since the last previous publication were determined to be in significant noncompliance of the limitations established by this section and applicable pretreatment standards or other requirements under this section. This notification will summarize enforcement actions taken by the County during the same period covered by the publication.

O. Penalties and enforcements

The following provisions shall govern penalties and enforcement of the requirements of this section:

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1. **Enforcement actions.** Any person failing to comply with or violating any of this section shall, for each failure or violation or for each day that the failure or violation occurred or continues to occur, be required to correct such violation and shall be subject to enforcement action or actions to be determined by the director. Depending upon the severity of the situation, the director may require the immediate cease of discharge and disposal of the industrial waste in some manner other than into the public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system, at the expense of the person responsible for the failure or violation.
2. **Enforcement response plan.** The director shall develop and implement an enforcement response plan that contains guidelines indicating how the County will investigate and respond to instances of industrial user noncompliance. At a minimum the plan shall: describe how the County will investigate violations; describe escalating enforcement remedies and the times in which they will take place, including Notice of Violation, Compliance Order, Final Notice, Monetary Penalties, Post-Violation Inspections and Sampling, Cease Discharge Notice, Emergency Suspension, Termination of Discharge, and Supplemental Environmental Projects; identify by title the official or officials responsible for implementing each enforcement response; and reflect the County’s responsibility to enforce all applicable pretreatment requirements and standards. In determining the type of enforcement action and the amount of penalties to be levied, the enforcement response plan shall consider the type and concentration of the pollutant causing the violation, the analytical variability for that pollutant, the volumes discharged, the damages caused by or related to the discharges, the history of past violation by the same industrial user, the assessment of any prior penalties for similar violations, and the number of violations as determined in accordance with this section.
 - a. **Notice of violation.** Upon determination that a violation has taken or is taking place, a representative of the County shall make a reasonable effort to notify the violating party immediately. The first notification may be verbal if followed by written notification. The written notification shall be entitled “Notice of Violation” and shall specify the nature and source of the violation. The written notice may be delivered to the business premises of an industrial user or submitted by regular mail to the permit holders’ address, as given to the County. Following these notification procedures, applicable follow-up correspondence will be used to establish penalties and corrective action to be taken by the violator. Within 14 calendar days of receiving a Notice of Violation, the violator shall submit a report to the director describing the circumstances surrounding the violating condition. In the case of a discharge violation, the violator shall also collect an effluent sample and submit resultant data to the director in addition to the report. Submission of this report shall in no way relieve the user of liability for any violations occurring before or after receipt of the Notice of Violation.
 - b. **Compliance order.** Upon determination that a violation has taken or is taking place, the director may issue a compliance order to the violating party responsible for the discharge, directing that the user come into compliance within a time specified in a schedule. Compliance orders may also contain other requirements to address the noncompliance, including but not limited to additional self-monitoring and management practices, evaluations of control measures or pretreatment equipment, and installation of pretreatment equipment designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, and a compliance order does not release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.
 - c. **Final notice.** Upon determination that a violation has taken or is taking place, the director may issue a final notice to the violating party. Final notice places the user on notice that further violations, or failing to complete a requirement within a designated time, shall result in assessment

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- of monetary penalties. Issuance of final notice shall not be a prerequisite to taking any other action, including assessment of monetary penalties, against the user.
- d. **Monetary penalties.** For each failure or violation hereunder, the person responsible shall be liable for a maximum civil penalty of ten thousand dollars per violation per day, but not less than one hundred dollars per violation per day. Issuance of a monetary penalty shall not be a prerequisite for taking any other action against the user. In addition to monetary penalties, the director may recover expenses incurred by the County associated with enforcement activities, including, but not limited to: any additional treatment costs; additional operational costs; costs incurred by the County from tracking down violators; any penalties, fines, or other costs levied against the County for violation of state and federal permits resulting from the noncompliant discharges; and any other costs, including expert, legal, or administrative costs or the withholding of any grant money, incurred by the County or the local public agency, to the extent permitted by law. In addition to any monetary penalty, that reflects the gravity of the violation, a calculated amount based on the industrial user's economic benefit of noncompliance may be recovered by the director.
 - e. **Post-violation inspections and sampling.** Upon determination that a violation has taken place, the director may require post-violation inspections and sampling of an industrial user as defined in K.C.C. 28.82.370. Costs for post-violation inspection and monitoring, as set forth in this section, shall be in addition to other fees, penalties, and costs for damages set forth in this section.
 - f. **Cease discharge notice.** Upon determination that a violation has taken or is taking place, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - (1) Immediately comply with all requirements; and
 - (2) Take appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge, or both. Issuance of a cease discharge notice shall not be a prerequisite for taking any other action against the user.
 - g. **Emergency suspensions.** The director may immediately suspend a user's discharge, after informal notice to the user, whenever the suspension is necessary in order to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the metropolitan sewerage system, including, but not limited to, maintaining compliance with the County's NPDES permit and biosolids quality requirements, or that presents or may present a danger to the environment.
 - h. **Termination of discharge.** In addition to other provisions of this section, any user that violates the following conditions is subject to discharge termination: violation of waste discharge permit or written discharge authorization conditions; failure to accurately report wastewater constituents and characteristics of discharge; failure to report significant changes in operations or wastewater volume, constituents, and characteristics before discharge; refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling, as provided in this section; and violation of the limitations established in this section.
 - i. **Remedies non-exclusive.** The penalties and enforcement provisions in this section are not exclusive remedies. The director is authorized to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is authorized to take more than one enforcement action against any noncompliant user. Enforcement actions may be taken concurrently.

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- j. **Criminal prosecution.** Where criminal enforcement action is considered in a particular case, that case may be referred to state or federal authorities.
- 3. **Damage.** Any person causing structural damage to a public sewer or treatment facility or causing resource damage to receiving water quality or biosolids by discharges not in compliance with this section and the requirements of any permit or written discharge authorization, shall be liable for any damage in addition to monetary penalties.
- 4. **Supplemental environmental projects.** In accordance with this section, where the enforcement remedy is the assessment of a substantial monetary penalty, where in certain instances projects or activities remediating adverse public health conditions or environmental consequences of the violations may be included in the enforcement action, and where the size of the final assessed penalty may reflect the commitment of the user to undertake environmentally beneficial expenditures, the director may approve a supplemental environmental project other than those required to correct the underlying violation to be undertaken by the user in exchange for a reduction in the amount of the assessed monetary penalty. All supplemental projects must improve the injured environment or reduce the total risk burden posed to public health or the environment by the identified violation. Any supplemental environmental project must be shown to be of equal monetary value to the amount of reduction in the assessed monetary penalty. The director shall establish rules by which consideration and acceptance of a supplemental environmental project are determined. The rules shall be based upon categories of potential supplemental environmental projects including but not limited to: pollution prevention projects, pollution reduction projects, environmental restoration projects, environmental auditing projects, and environmental public awareness projects. The rules shall also provide for public involvement in the acceptance of any project and in establishing the benefit of any project to the performance of the metropolitan water pollution abatement function by the County. Categories of potential supplemental environmental projects, except for public awareness projects, may be considered if there is an appropriate relationship or “nexus” between the nature of the violation and the environmental benefits to be derived from the type of supplemental project. A supplemental environmental project cannot be used to resolve violations at a facility other than the facility or facilities that are the subject of the enforcement action. Under no circumstances will a user be given additional time to correct the violation and return to compliance in exchange for the conduct of a supplemental environmental project.
- 5. **Affirmative defenses.** The County does not allow for the affirmative defense of an enforcement action brought for noncompliance with applicable pretreatment standards based on conditions of “upset” or “bypass.” For the purpose of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with discharge standards because of factors beyond the reasonable control of the user. For the purpose of this section, “bypass” means the intentional diversion of waste streams from any portion of a user’s treatment facility. The diversion or bypass of any discharge from any pretreatment facility utilized to maintain compliance with applicable pretreatment standards is prohibited except where unavoidable to prevent loss of life or severe property damage. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass.

P. **Implementation**

The director is authorized and directed to promulgate such rules, regulations, and guidelines as the director deems necessary to carry out the purposes or provisions of this section, to ensure the department’s compliance with the requirements of any federal or state law or administrative regulation relating to water pollution and any changes or amendments thereto and to ensure the department performs the metropolitan water pollution abatement function under chapter 35.58 RCW. Nothing herein shall prevent

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the director from seeking judicial or governmental agency assistance to implement the policies and requirements of this section. The rule-making process followed by the director shall provide for public participation. Before the adoption of any rule, the director shall notify users and the general public of the proposed rule. Notification will include but need not be limited to: newsletters, public hearings, or legal notices published in area newspapers.

Q. **Delegation of responsibility**

The director is authorized to delegate responsibility to participant local agencies where the participant agency has requested the delegation and where the director has approved its plans and procedures for implementation of the delegated responsibility.

Section 28.84.100 **Appeal procedure**

The following shall govern appeals from decisions of the director related to permits, discharge authorizations, violations, and penalties under K.C.C. 28.84.050 and 28.84.060.

- A. Any person aggrieved by a decision of the director shall, before filing an appeal to the hearing examiner, request that the director reconsider the decision. The request must be made within 15 calendar days of the date of the decision. The request shall state the decision to be appealed, the grounds for the appeal and the relief sought. The director shall promptly issue a final decision, which shall be appealable only as provided in K.C.C. 20.22.080.
- B. The examiner shall hear the appeal, determine whether the decision of the director was consistent with K.C.C. 28.84.050 or 28.84.060, as applicable, this chapter and rules and regulations promulgated by the director and promptly issue a final decision; and
- C. Appeals of the examiner's final decision shall be to the superior court or the state Pollution Control Hearings Board, as provided by law.