



Laying the foundation  
for a vibrant economy  
and healthy environment

# Discovery Clean Water Alliance



## Pretreatment Regulations







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## **Section 1**

# **GENERAL PROVISIONS**



## SECTION 1 - **GENERAL PROVISIONS**

### 1.A **Purpose and Policy**

These Regulations set forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for the Discovery Clean Water Alliance (Alliance) to comply with all applicable State and Federal laws, including Chapter 173-216 Washington Administrative Code, the Clean Water Act (33 United States Code, Section 1251 et seq.), and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of these Regulations are:

- i. To protect the POTW from potential harm by establishing clear standards and requirements for pretreatment of non-domestic waste. Harm to be prevented includes causing Interference or otherwise harming the POTW; causing Pass Through, or otherwise harming the receiving environment; or causing the POTW to respond to a Discharge based on a real or perceived threat;
- ii. To protect POTW staff who may be affected by Wastewater and sludge in the course of their employment and to protect the general public;
- iii. To promote reuse and recycling of Industrial Wastewater by Industrial Users;
- iv. To provide high-quality end products, such as reclaimed water and biosolids from the POTW, for beneficial use;
- v. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW, as economically feasible; and
- vi. To enable the Alliance to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

These Regulations shall apply to all Persons connected (or believed connected) to the POTW. The Regulations compel the production of information; authorize the issuance of Control Documents, including Wastewater Discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

The provisions of these Regulations shall be revised or amended from time to time, consistent with the purpose and policy stated in Section 1.A, to conform to changes in the State and Federal water quality laws and regulations.

### 1.B **Administration**

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of these Regulations. Any powers granted to or duties imposed upon the Director may be delegated by

the Director to other Alliance or Member personnel. The Director is authorized to adopt implementing procedures consistent with these Regulations.

### 1.C **Abbreviations**

The following abbreviations, when used in these Regulations, shall have the designated meanings:

AKART – All Known, Available, and Reasonable Methods of Prevention, Control, and Treatment

ASPP – Accidental Spill Prevention Plan

BOD – Biochemical Oxygen Demand

BMPs – Best Management Practices

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

EPA – U.S. Environmental Protection Agency

GI – Grease Interceptor

gpd – gallons per day

IU – Industrial User

LEL – Lower Explosive Limit

mg/L – milligrams per liter

MIU – Minor Industrial User

NAICS – North American Industry Classification System

NOV – Notice of Violation

NDCIU – Non-Discharging Categorical Industrial User

NPDES – National Pollutant Discharge Elimination System

POTW – Publicly Owned Treatment Works

RCRA – Resource Conservation and Recovery Act

RCW – Revised Code of Washington

SIC – Standard Industrial Classification

SIU – Significant Industrial User

TSS – Total Suspended Solids

U.S.C. – United States Code

WAC – Washington Administrative Code

### 1.D **Definitions**

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

Act or “the Act”. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq.

Administrative Lead. The Member of the Alliance that administers and manages the overall affairs of the Alliance, other than transmission and treatment operations, and including without limitation the administration of these Regulations. If the Alliance undertakes administrative responsibilities

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itself, using its own staff, then as used in these Regulations the term “Administrative Lead” means the chief executive officer or executive director of the Alliance.

AKART. All known, available, and reasonable methods of prevention, control, and treatment. AKART represents the most current methodology that may reasonably be required for preventing, controlling, or abating the Pollutants associated with a Discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term Best Management Practices is a subset of the AKART requirement.

Alliance. The Discovery Clean Water Alliance and the Administrative Lead when administering these Regulations on behalf of the Alliance.

Approval Authority. Ecology’s Water Quality Program Manager.

Authorized Representative of the User.

- i. If the User is a corporation, regardless of form:
  1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other individual or Person who performs similar policy or decision-making functions for the corporation; or
  2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- ii. If the User is a partnership or sole proprietorship, regardless of form: a general partner or proprietor, respectively.
- iii. If the User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- iv. The individuals described above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director.

Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.A(A) and (B) of these Regulations and 40 CFR Part 403.5(a)(1) and (b). BMPs may 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.

Bypass. The intentional diversion of waste streams from any portion of an Industrial User's Pretreatment Facility.

Categorical Pretreatment Standard. Any regulation containing Pollutant Discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Categorical Industrial User or CIU. An Industrial User subject to a Categorical Pretreatment Standard.

Contracting Municipal Wastewater Utility. A county, city, town, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state and any Indian tribe recognized as such by the United States government authorized by law to provide a system of sewers for the collection, transmission, or treatment of Wastewater that has entered into an agreement with the Alliance that provides for Alliance acceptance of some or all of that entity's Wastewater.

Control Authority. The Alliance.

Control Document. A Wastewater Discharge permit or any other formal written Wastewater Discharge authorization or prohibition issued by the Director.

Composite Sample. A representative composite of samples of a waste stream taken throughout the period of a calendar day or equivalent representative 24-hour period when Discharges are produced by a regulated activity. Composite samplers must interface with a flow metering device to produce a representative flow proportionate composite sample unless the Director has determined that flow proportionate samples are not required or the analyte is not amenable to composite sampling (pH, temperature, oil, etc.).

Daily Maximum Limit. The maximum allowable Discharge of a Pollutant over a calendar day or equivalent representative 24-hour period. Where daily limits are expressed in units of mass, the daily Discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily Discharge is the Composite Sample value, or flow

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weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the sample value if samples are composited prior to analysis.

Director. The chief executive officer or executive director of the Alliance or the chief executive officer, executive director or general manager of the Administrative Lead, as the case may be, or the designee of the Director, including without limitation any designated officer, employee or other representative of the Alliance or any Member or Contracting Municipal Wastewater Utility, who is charged with certain duties and responsibilities by these Regulations.

Discharge or Indirect Discharge. The introduction of Pollutants into the POTW from any User or non-domestic source subject to these Regulations or other State or Federal regulations.

Domestic User. Any Person who contributes, causes, or allows the contribution of Wastewater to the Alliance POTW that the Alliance determines is of similar volume and/or chemical make-up to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include kitchen wastes, human wastes, and housekeeping cleaning materials in volumes and/or concentrations normally discharged from these classes of Users and typically include up to 100 gallons per capita per day, 240 mg/L of BOD, and 300 mg/L of TSS.

Ecology. The State Department of Ecology.

EPA. The United States Environmental Protection Agency or, where appropriate, the director of the Region 10 Water Division, or other duly authorized official.

Existing Source. Any source of Discharges subject to Categorical Pretreatment Standards and discharging prior to the promulgation of those Standards or otherwise not meeting the definition of a New Source.

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

Grease Interceptor (GI). A pretreatment device designed to separate and collect fats, oils, grease, and solids and prevent these Pollutants from entering the sanitary sewer. Grease interceptors may be either hydromechanical grease interceptors (HGIs) or gravity grease interceptors (GGIs) and shall meet the requirements of Sections 3.A and 3.B.

Industrial Waste. Any non-domestic waste, including without limitation, solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, health service, educational institution, business, laboratory, research establishment or facility, or from the development, recovery, or processing of natural resources.

Industrial Wastewater. Wastewater, non-domestic Wastewater, process Wastewater or any liquid waste stream resulting from any industrial, manufacturing, trade, or business process; or from the development, recovery, or processing of natural resources.



Instantaneous Limit. The maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of a discrete sample. For analytes for which Users must take a Grab Sample for compliance purposes, this standard is the same as the Daily Maximum Limit. For all other Pollutants, the instantaneous limit shall be twice the Daily Maximum Limit. For analytes for which Users must take a Composite Sample for compliance purposes, this standard is twice the Daily Maximum Limit.

Interference. A Discharge that alone or in conjunction with a Discharge or Discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts the POTW's biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the Alliance's NPDES permit or of the prevention of sewage biosolids use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act. A Discharge from a User which causes a blockage resulting in a Discharge at a point not authorized under the NPDES permit(s) is included in the definition of Interference.

Local Limits. Effluent limitations developed for Users by the Director to specifically protect the POTW from the potential of Pass Through, Interference, and the beneficial use of biosolids. Such limits shall be based on the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic Wastewater.

Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Member. Any original governmental agency of the Alliance (the City of Ridgefield, the City of Battle Ground, Clark County, Clark Regional Wastewater District) and any additional municipal corporations that may later join the Alliance.

Minor Industrial User or MIU. Any Industrial User that does not otherwise qualify as a Significant Industrial User of the POTW and is identified by the Director as having the potential to Discharge Wastewater that, when taken into account with the Wastewaters of other Industrial Users, may have a significant impact on the POTW; or is classified as such by the Director.

Monthly Average. The arithmetic means of the effluent sample results collected during a calendar month or specified 30-day period. Where Composite Samples are required, Grab Samples taken for process control or by the Control Authority are not to be included in a Monthly Average.

New Source.

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- i. Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Categorical Pretreatment Standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:
  1. The building, structure, facility, or installation is constructed at a site at which no other source is located;
  2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
  3. The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- ii. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- iii. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
  1. Begun, or caused to begin, as part of a continuous onsite construction program:
    - a. Any placement, assembly, or installation of facilities or equipment; or
    - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
  2. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts, which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

NDCIU. Non-discharging categorical industrial user. Any Person that generates Wastewater subject to a Categorical Pretreatment Standard that does not Discharge those Wastewaters

subject to the Categorical Pretreatment Standard to the POTW. NDCIUs are considered a potential source of Indirect Discharge.

Non-Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Non-Contact Cooling Water may contain protective additives.

Pass Through. A Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the Alliance's NPDES permit(s), including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, regardless of form; or their legal representatives, agents, or assigns. This definition includes all federal, State, and local governmental entities.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in standard units. pH is an expression of the intensity of the alkaline or acid condition of a liquid. The pH may range from 0 to 14, where 0 is most acid and 14 most alkaline.

Pollutant. Any substance, either liquid, gaseous, solid or radioactive, discharged to the POTW which, if discharged directly, would alter the chemical, physical, thermal, biological or radiological properties of waters of the State. This includes any Discharge likely to create a nuisance or render such waters harmful, detrimental or injurious to any beneficial uses, terrestrial or aquatic life, or to public health, safety or welfare, and includes any dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and Industrial Wastes, and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, Carbonaceous Oxygen Demand, toxicity, or odor).

Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except not by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment Standard.

Pretreatment Facility. Wastewater treatment equipment, unit, device, facility or portions thereof designed for providing Pretreatment of Wastewater.

Pretreatment Requirement. Any substantive or procedural requirement related to Pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standard or Standard. A Discharge prohibition (Section 2.A), Categorical Pretreatment Standard (Section 2.B), State Pretreatment Standard (Section 2.C), Local Limit

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(Section 2.D), and site-specific limit based on potential detrimental effects to the POTW, including without limitation, for vapor toxicity, explosion, or sewer corrosion.

POTW. Publicly owned treatment works. A treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the Alliance or any Member. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastes of a liquid nature and any conveyances which convey Wastewater to a Treatment Plant, including Alliance owned Regional Assets and Member owned collection systems.

Regional Assets. Alliance owned assets, as defined in the Alliance Interlocal Formation Agreement.

Septage. Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences, including wastes from chemical toilets, campers, trailers, or cesspools.

Sewage. Human excrement and gray water from household showers, toilets, kitchens, clothes and dish washing, and related Domestic User activities.

### Significant Industrial User or SIU:

- i. Except as provided in paragraph (ii) of this definition, a Significant Industrial User is:
  1. A User subject to Categorical Pretreatment Standards; or
  2. A User that:
    - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process Wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater);
    - b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the Treatment Plant; or
    - c. Is designated as such by the Alliance on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.
- ii. Upon a finding that a User meeting the above criteria for a Significant Industrial User is not a Categorical Industrial User and has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the Alliance may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such User should not be considered a Significant Industrial User.

Slug Load or Slug Discharge. Any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions. This includes Discharges at a flow rate or concentration which could cause a violation of the prohibited Discharge Standards of Section 2.A of these Regulations.

Standard. Is the same as Pretreatment Standard.

State. The State of Washington.

Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and which is removable by laboratory filtering.

User or Industrial User. Any Person that does not qualify as a Domestic User and is a source, or potential source, of Indirect Discharge.

Wastewater. Any combination of liquid and water-carried Industrial Wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

## **Section 2**

# **GENERAL SEWER USE REQUIREMENTS**



### SECTION 2 - GENERAL SEWER USE REQUIREMENTS

#### 2.A Prohibited Discharge Standards

- i. General Prohibitions. No User or Domestic User shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users and Domestic Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Pretreatment Requirements.
- ii. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW any of the following Pollutants, substances, or Wastewater:
  1. Pollutants which either alone or by interaction may create a fire or explosive hazard in the POTW, a public nuisance or hazard to life, or prevent entry into the sewers for their maintenance and repair or are in any way injurious to the operation of the system or operating personnel. This includes waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR Part 261.21, and Wastewater causing any single reading over ten percent (10%) of the lower explosive limit based on an explosivity meter reading at the point of Discharge into the POTW or at any point in the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphthalene, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromides, carbides, hydrides, sulfides, and any other substance that the Alliance, the State, or the EPA has notified the User is a fire hazard or hazard to the POTW.
  2. Wastewater having a pH less than 5.5 or more than 10.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel. Discharges outside this pH range may be authorized by a permit issued by the Alliance pursuant to a finding that the system is specifically designed to accommodate a Discharge of that pH.
  3. Solid or viscous substances in amounts which may cause obstruction to the flow in the sanitary sewer or other Interference with the operation of the sanitary sewer system or POTW. In no case shall solids greater than 1/4 inch (0.64 cm) in any dimension be discharged. Specifically prohibited substances in amounts that produce Interference include, but are not limited to: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.



4. Pollutants, including oxygen-demanding Pollutants (BOD, etc.), released in a Discharge at a flow rate and/or Pollutant concentration which, either singly or by interaction with other Pollutants, will cause Interference with the POTW.
5. Wastewater having a temperature which will interfere with the biological activity in the POTW, has detrimental effects on the collection system, or prevents entry into the sanitary sewer. In no case shall Wastewater be discharged which causes the Wastewater temperature at the Treatment Plant to exceed 104 degrees F (40 degrees C).
6. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
7. Septage
8. Trucked or hauled Pollutants, except at Discharge points designated by the Alliance and when specifically and expressly approved by the Director.
9. The following are prohibited unless approved in writing by the Director under extraordinary circumstances, such as lack of direct Discharge alternatives due to combined sewer service or need to augment Sewage flows due to septic conditions (as required under WAC 173-216-060):
  - a. Non-Contact Cooling Water in significant volumes;
  - b. Storm Water, or other direct inflow sources;
  - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the POTW; and
  - d. Surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and unpolluted water, unless specifically authorized by the Director.
10. Noxious or malodorous liquids, gases, solids, or other Wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sanitary sewers for maintenance or repair.
11. Chlorine, bleach or other oxidants in quantities that cause Interference to the POTW.

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12. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the Treatment Plant's effluent.
13. Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director, and in compliance with applicable federal or State regulations.
14. Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.
15. Medical Wastes, except as specifically authorized by the Director.
16. Wastewater causing, alone or in conjunction with other sources, the Treatment Plant's effluent to fail a toxicity test.
17. Detergents, surface-active agents, or other substances in amounts that may cause excessive foaming in the POTW.
18. Any fats, oils, or greases, including but not limited to petroleum oil, nonbiodegradable cutting oil, or products of mineral oil, animal or vegetable origin in amounts that may cause obstructions or maintenance problems in the sanitary sewer system or in the POTW, or Total Petroleum Hydrocarbon (non-polar oil and grease) concentrations that exceed fifty (50) mg/L.
19. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permit(s).
20. Any dangerous, extremely hazardous, or hazardous wastes as defined in rules or regulations published by Ecology or by EPA, except as specifically approved by the Director.
21. Any persistent pesticide and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA) as amended.
22. Any Wastewater containing toxic Pollutants in sufficient quantity, either singly or by interaction, to injure or create Interference with any Wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in Categorical Pretreatment Standards, or State or local Pretreatment Standards.
23. Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or which causes Interference with the reclamation process. In no case shall a substance be discharged to the POTW that will cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section

405 of the Act; or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act; or with the Clean Air Act, the Toxic Substances Control Act, or State Pretreatment Standards applicable to the sludge management method being used.

24. Any Slug Load, or any Pollutant, including oxygen demanding Pollutants, released in a single extraordinary Discharge episode or in such volume or strength as to cause Interference to the POTW; or released with a flow rate exceeding the permitted peak flow, or ten percent (10%) of the capacity of the available trunk sewer, whichever is greater.
25. Wastewater that may cause a measurable or detectable decrease in WWTP effluent Ultraviolet Transmittance.
26. Antifreeze or a coolant solution used in a vehicle or motorized equipment, except as specifically approved by the Director.
27. An enzyme, chemical, or other agent that allows fat, oil, grease, or a solid to Pass Through a Pretreatment Facility.
28. Wastewater that contains, or has contained, glutaraldehyde or ortho-phthalaldehyde unless it has been completely de-activated with sodium bisulfite or sodium hydroxide, has a pH of between 5.5 and 10 standard units, and does not contain any drain clogging solids. The User shall contact the Director for review and obtain approval prior to Discharge.

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

## **2.B National Categorical Pretreatment Standards**

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference.

- i. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Director may impose equivalent concentration or mass limits in accordance with Section 2.B(v) and Section 2.B(vi) and 40 CFR Part 403.6(c).
- ii. Upon promulgation of a Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal standard, if more stringent, shall supersede the Local Limit imposed in these Regulations. If the Local Limit imposed in these Regulations is more stringent than the Federal standard, then the Local Limit shall supersede the Federal limit.

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- iii. When Categorical Pretreatment Standards are expressed in terms of a mass of Pollutant which may be discharged per unit of production, the Director may either impose limits based on mass or equivalent effluent concentrations. The User must supply appropriate actual or projected long-term production rates for the unit of production specified in order to facilitate this process pursuant to 40 Part CFR 403.6(c)(2).
- iv. The Director may allow Wastewater subject to a Categorical Pretreatment Standard to be mixed with other Wastewaters prior to treatment. In such cases, the User shall identify all categorical wastestreams and provide sufficient information on each non-categorical wastestream to determine whether it should be considered dilute for each Pollutant. Absent information showing that non-categorical wastestreams contain the Pollutant in question at levels above that of the supply water, such wastestreams shall be considered dilute. In such situations, the Director shall apply the combined wastestream formula as found at 40 CFR Part 403.6(e) to determine appropriate limits.
- v. When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, an Industrial User may request that the limits be converted to equivalent mass limits. The Alliance may establish equivalent mass limits if the Industrial User meets all of the conditions set forth below.
  1. To be eligible for equivalent mass limits, the Industrial User must submit information with its permit application or permit modification request which:
    - a. Shows it has a Pretreatment system which has consistently met all applicable Pretreatment Standards and maintained compliance without using dilution;
    - b. Describes the water conserving practices and technologies it employs, or will employ, to substantially reduce water use during the term of its permit;
    - c. Includes the facility's actual average daily flow rate for all waste streams from continuous effluent flow metering;
    - d. Determines an appropriate unit of production, and provides the present and long-term average production rates for this unit of production;
    - e. Shows that long-term average flow and production are representative of current operating conditions;
    - f. Shows that its daily flow rates, production levels, or Pollutant levels do not vary so much that equivalent mass limits would be inappropriate; and
    - g. Shows the daily and Monthly Average Pollutant allocations currently provided based on the proposed unit of production.

2. An Industrial User subject to equivalent mass limits must:
  - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - b. Continue to record the facility's flow by continuous effluent flow monitoring;
  - c. Continue to record the facility's production rates;
  - d. Notify the Director if production rates are expected to vary by more than twenty (20) percent from the baseline production rates submitted according to Section 2.B(v)(1)(d). The Director may reassess and revise equivalent limits as necessary to reflect changed conditions; and
  - e. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Section 2.B(v)(1)(b) so long as it Discharges under an equivalent mass limit.
3. Equivalent mass limits:
  - a. Will not exceed the product of the actual average daily flow from regulated process(es) of the User and the applicable concentration-based daily maximum and Monthly Average standards (and the appropriate unit conversion factor);
  - b. May be reassessed and the permit revised upon notification of a revised production rate, as necessary to reflect changed conditions at the facility; and
  - c. May be retained in subsequent permits if the User's production basis and other information submitted in Section 2.B(v)(1) is verified in their reapplication. The User must also be in compliance with Section 13.C regarding the prohibition of Bypass.
- vi. The Director may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414 (organic chemicals), 419 (petroleum refining), and 455 (pesticide formulating, packaging, and repackaging) to concentration limits in permits for such Users. In such cases, the Director will document the basis and the determination that dilution is not being substituted for treatment in the permit fact sheet.
- vii. The Director is obliged under Federal regulations to make the documentation of how any equivalent limits were derived (concentration to mass limits or vice versa) publicly available.

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- viii. Once incorporated into its permit, the User must comply with the equivalent limits in lieu of the Categorical Pretreatment Standards from which they were derived.
- ix. The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.
- x. Users subject to permits with equivalent mass or concentration limits calculated from a production-based standard shall notify the Director if production will significantly change. This notification is required within two (2) business days after the User has a reasonable basis to know that production will significantly change in the next calendar month. Users who fail to notify the Director of such anticipated changes must meet the more stringent of the equivalent limits or the User's prior limits.

### 2.C State Pretreatment Standards

State Pretreatment Standards and requirements, located at Chapter 173-216 WAC, were developed under authority of the State Water Pollution Control Act, Chapter 90.48 RCW and are hereby incorporated by reference. The version incorporated is the version current as of the date of the latest revision or version of these Regulations. All waste materials discharged from a commercial or industrial operation into the POTW must satisfy the provisions of Chapter 173-216 WAC. In addition to more stringent prohibitions, the provisions described in Section 2.C(i) through Section 2.C(x) are unique to the State and are required by these Regulations for Discharges to a POTW.

- i. Any User who constructs or modifies or proposes to construct or modify pretreatment facilities must first comply with the regulations for submission of plans and reports for construction of Wastewater facilities, Chapter 173-240 WAC. Users shall request approval for such plans through the Alliance. Prior to constructing or modifying pretreatment facilities, plans and reports as required by Chapter 173-240 WAC must be approved by the Alliance.
- ii. Users shall apply to the Director for a permit at least one hundred twenty (120) days prior to the intended Discharge of any Pollutants (Section 4.D) other than Sewage or Wastewater which the Director has determined is similar in character and strength to normal domestic Wastewater with no potential to adversely affect the POTW.
- iii. All Significant Industrial Users must apply for and obtain a Wastewater Discharge permit prior to Discharge.
- iv. All Users shall apply AKART to waste Discharges to the waters of the State.
- v. Discharge restrictions of Chapter 173-303 WAC (Dangerous Waste) shall apply to all Users. Specific written approval from the Alliance and Ecology is required prior to the Discharge of Dangerous Wastes.

- vi. Claims of confidentiality shall be submitted according to WAC 173-216-080. Information which may not be held confidential includes the: name and address of applicant, description of proposal, the proposed receiving water, receiving water quality, and effluent data. Claims shall be reviewed based on the standards of WAC 173-216-080, Chapter 42.56 RCW, Chapter 173-03 WAC, and RCW 43.21A.160.
- vii. Persons applying for a new permit or a permit renewal or modification which allows a new or increased Pollutant loading shall publish notice for each application in the format provided by the Alliance. Such notices shall fulfill the requirements of WAC 173-216-090. These requirements include publishing:
  - 1. The name and address of the applicant and facility/activity to be permitted;
  - 2. A brief description of the activities or operations which result in the Discharge;
  - 3. Whether any tentative determination has been reached with respect to allowing the Discharge;
  - 4. The address and phone number of the office of the Director where Persons can obtain additional information;
  - 5. The dates of the comment period (which shall be at least 30 days); and
  - 6. How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
- viii. The Director may require the applicant to also mail this notice to Persons who have expressed an interest in being notified, to state agencies and local governments with a regulatory interest, and to post the notice on the premises. If the Director determines there is sufficient public interest the Alliance shall hold a public meeting following the rules of WAC 173-216-100. The Director may assume responsibility for public notice requirements for any Person and may waive this requirement for any User not classified as a CIU, SIU, or MIU by the Director.
- ix. Permit terms shall include, wherever applicable, the requirement to apply AKART.
- x. All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC, except for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, and turbidity must otherwise be accredited, it shall be accredited for these parameters as well.

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### 2.D Local Limits

- i. The Director may establish and periodically modify Local Limits pursuant to 40 CFR Part 403.5(c) based upon the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic Wastewater using a method approved by the Approval Authority.
- ii. Unless the Director determines that the public health or safety require an earlier implementation, any modification the Director establishes to the Local Limits in Table 2.D-1 shall not go into effect until thirty (30) days after reasonable notice of the changes is provided to the public and Persons known to the Alliance who may Discharge Wastewater containing analytes subject to such Local Limits.
- iii. The Pollutant limits in Table 2.D-1 are established to protect against Pass Through and Interference and reflect the application of reasonable treatment technology. No Significant Industrial User or Categorical Industrial User shall Discharge Wastewater in excess of the Daily Maximum Limits shown in Table 2.D-1 unless authorized in writing by the Director. The Director may also apply the Pollutant limits in Table 2.D-1 to other Users through the issuance of a Control Document.
- iv. The Local Limits shown in Table 2.D-1 apply at the point where the Wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Director may impose mass limits in addition to, or in place of, concentration-based limits in accordance with Section 2.B.
- v. Significant Industrial Users and Categorical Industrial Users shall also be subject to Instantaneous Limits (as determined by a Grab Sample) equal to twice the daily maximum concentration limit identified in Table 2.D-1 for any Pollutant for which a Composite Sample is required in a permit. This provision is not applicable to SIUs and CIUs without the permit requirement to collect a Composite ample for the analyte in question.

**Table 2.D-1: Initial Local Limits (Subject to Director Modification)**

<b>Analyte</b>	<b>Daily Maximum Concentration Limit (mg/L)</b>	<b>Instantaneous Concentration Limit (mg/L)</b>
Arsenic	0.53	1.06
Cadmium	0.28	0.56
Chromium	4.05	5.00
Copper	3.59	7.18
Cyanide	0.89	1.78
Lead	1.13	2.26
Mercury	0.09	0.18
Molybdenum	0.57	1.14
Nickel	3.77	7.54
Selenium	0.68	1.00



<b>Analyte</b>	<b>Daily Maximum Concentration Limit (mg/L)</b>	<b>Instantaneous Concentration Limit (mg/L)</b>
Silver	0.68	1.36
Zinc	3.58	7.16

- vi. No User shall Discharge Wastewater in excess of the Daily Maximum Limits shown in Table 2.D-2 unless authorized in writing by the Director. The standard limits in Table 2.D-2 apply at the point where the Wastewater is discharged to the POTW.

**Table 2.D-2: Standard Limits**

<b>Analyte</b>	<b>Daily Maximum Concentration Limit</b>
Hydrocarbon based oil and grease	50 mg/L
Minimum pH	5.5 standard units
Maximum pH	10.0 standard units

- vii. A High Strength User is any User who, in any given month, discharges Wastewater found to contain a Monthly Average of more than fifty (50) pounds per day of Biochemical Oxygen Demand and fifty (50) pounds per day of Total Suspended Solids. High Strength Users shall be subject to charges as determined by the Director and as amended and under the authority of these Regulations up to any maximum loading limit.
- viii. The Director shall use the individual permit process to establish ceiling limits for compatible Pollutants and appropriate Discharge limits for all other Pollutants not listed in Section 2.D. This includes Pollutants subject to regulation under RCRA, volatile or semi-volatile organic compounds, halogenated or brominated compounds, poly-aromatic hydrocarbons, polymers, surfactants, pesticide active ingredients, and any other Pollutant identified by the Director.
- ix. The Director may establish and require Best Management Practices for any category of User or type of industrial process which creates a non-domestic waste stream. Such requirements may be applied either in lieu of or in addition to the Local Limits of Section 2.D. BMPs may also include alternative limits which may be applied at the end of a specific process or treatment step instead of at the combined effluent.
- x. Where a User is subject to a Categorical Pretreatment Standard and a Local Limit for a given Pollutant, the more stringent provision shall control.

## 2.E Right of Revision

The Alliance reserves the right to establish, by subsequent resolution or regulation, or in Wastewater Discharge permits or other Control Documents, more stringent standards, or requirements for any Discharges to the POTW.

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## Pretreatment Regulations

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### 2.F Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limit unless expressly authorized by an applicable Pretreatment Standard or requirement. The Director may impose mass limitations on Users where deemed appropriate to safeguard against the use of dilution to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of mass limitations is appropriate.



## **Section 3**

# **PRETREATMENT OF WASTEWATER**



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## Pretreatment Regulations

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### SECTION 3 - PRETREATMENT OF WASTEWATER

#### 3.A Pretreatment Facilities

Users shall provide Wastewater Pretreatment as necessary to comply with these Regulations and shall achieve compliance with the Pretreatment Standards set out in these Regulations within the time limitations specified by EPA, the State, or the Director, whichever is more stringent. Any Pretreatment Facilities necessary for compliance shall be provided, operated, and maintained at the User's expense, and satisfy State requirements for review and approval of Plans for Wastewater Facilities as described in Section 2.C. Such plans (Engineering Report, Plans and Specifications, and Operation and Maintenance Manuals) shall be submitted [as required by Chapter 173-240 WAC] to the Alliance for review and approval prior to construction. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such Pretreatment Facilities as necessary to produce a Discharge acceptable to the Alliance under the provisions of these Regulations.

#### 3.B Additional Pretreatment Measures

- i. The Director may immediately and effectively halt or prevent any Discharge of Pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of Persons. In such cases, the Director will provide the User advance notice if possible but shall not delay a response to imminent endangerment.
- ii. The Director may halt or prevent any Discharge to the POTW which presents or may present an endangerment to the environment, or which threatens to interfere with the operation of the POTW. In such cases, the Director shall attempt to provide not only notice to the affected User(s), but the opportunity to respond.
- iii. Any User causing the Director to exercise the emergency authorities provided for under Section 3.B(i) and Section 3.B(ii) shall be responsible for reimbursement of all related costs to the Alliance.
- iv. The Director may require Users to reduce or curtail certain Discharges to the POTW, designate that certain Wastewater be discharged only into specific sewers, relocate and/or consolidate points of Discharge, separate Sewage waste streams from Industrial Waste streams, and take all other measures to protect the POTW and determine the User's compliance with the requirements of these Regulations.
- v. The Director, based on the determination that such facilities or devices are necessary for implementation of Pretreatment Requirements, may require any User to install and maintain, on their property and at their expense, Pretreatment Facilities, devices and equipment that may include, but not be limited to, any of the following:
  1. A sample taking facility accessible to the Director;
  2. A suitable storage and/or flow equalization tank;

3. A Grease Interceptor, solids separator, or oil/water separator;
4. An approved hazardous gas detection meter;
5. An amalgam separator and/or a silver recovery unit; or
6. Other Pretreatment Facilities, devices, equipment, and/or units as may be necessary to treat Industrial Wastewater prior to entering the POTW.

Users installing any Pretreatment Facility or device shall ensure they are of the type and capacity approved by the Director and conform to any separate requirements established by the Alliance. Users shall locate Pretreatment Facilities or devices in areas easily accessible for cleaning and inspection by representatives of the Director. Users shall maintain Pretreatment Facilities or devices at all times to provide acceptable treatment of Wastewater and to maintain compliance with Pretreatment Standards and requirements. Users are responsible for all periodic inspection, cleaning, maintenance, and repair of such facilities.

- vi. Food Service Users. Users who prepare and/or serve food or otherwise have potential to Discharge fats, oils, or grease into the POTW shall be required to install Grease Interceptors located outside the building. The Director may approve the installation of Grease Interceptors inside the building on a case-by-case basis under special circumstances. Users may be required to retrofit Grease Interceptors that were constructed prior to the adoption of these Regulations.
- vi. GI Design. GIs shall be designed, sized, constructed, and installed in accordance with Alliance standards and the Uniform Plumbing Code (UPC). All fixtures, equipment, and drain lines located in a facility's food preparation and cleanup areas shall be connected to a GI, unless specifically approved by the Director. The following types of equipment or fixtures have been identified as potential sources of fats, oils and grease and shall be connected to a GI per Director or manufacturer's instructions: pre-rinse and/or pre-wash sinks or sinks in dishwashing areas; two or three compartment sinks; wok stoves; self-cleaning stove ventilation/exhaust hood; kitchen floor drains; floor drains; floor sinks; mop sinks; food prep sinks; and hand sinks. Dishwashers may only be directed to GIs per Director or manufacturer instructions. Dishwashers or other fixtures discharging emulsifying agents, such as detergents, should be located such that their potential to adversely impact the GI operation is minimized. All drain lines shall have permanently fixed screens with maximum 1/4-inch openings to prevent the pass-through of larger solids. Commercial food grinders and garbage disposals are not allowed. No sanitary waste shall be conveyed to the GI. A monitoring manhole shall be included on all GI installations.
- vii. GI Installation. GIs shall be installed such that they are easily accessible for inspection, cleaning, and the removal of fats, oils, grease and solid material. An accessible GI shall meet the following minimum criteria: the edge of the GI shall be flush with any edge of

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## Pretreatment Regulations

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an overhead obstruction; and the overhead clearance shall be at least equal to the overall depth of the GI. GI access covers should be located such that the influent and effluent sanitary tee and compartment walls are accessible at all times for proper cleaning and inspection.

- viii. **Cleaning and Maintenance.** The Director shall be authorized to establish routine maintenance schedules of Pretreatment Facilities or devices for the purpose of inspection, maintaining effective treatment and Pollutant removal, and reducing Pollutant loadings to the POTW. The Alliance shall be allowed access to Pretreatment Facilities or devices for the purpose of inspection and/or to verify compliance with these Regulations. Waste removed from a Pretreatment Facility or device shall not be disposed of in the POTW. A record of disposal may be required to be maintained or submitted for review by the Alliance. The use of hot water, enzymes, bacteria, chemicals, or other agents for the purpose of causing the contents of a Pretreatment Facility or device to be discharged into the POTW is prohibited.

### 3.C Accidental Discharge/Slug Discharge Control Plans

The Director may require any User to develop and implement an Accidental Discharge/Slug Discharge Control Plan and take other actions the Director believes are necessary to control Discharges which may be caused by spills or periodic non-routine activities. Accidental Discharge/Slug Discharge Control Plans shall include at least the following:

- i. A description of all Discharge practices, including any non-routine batch Discharges such as from cleaning, replenishment, or disposal;
- ii. A description of all stored chemicals, disclosing all ingredients in formulations which could violate a Discharge prohibition if discharged to the POTW;
- iii. The procedures for immediately notifying the Director of any accidental Discharge or Slug Discharge, as required by Section 6.F of these Regulations; and
- iv. The procedures that will be taken to prevent the occurrence or adverse impact from any accidental or Slug Discharge. Such procedures shall address the inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (including solvents), and/or measures and equipment for emergency response.

Users shall notify the Director immediately upon the occurrence of any accidental Discharge or Slug Discharge of substances regulated by these Regulations. The notification shall include location of Discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the Alliance on account thereof under these Regulation, State or Federal law.



Within five (5) 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 to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to Person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability that may be imposed under these Regulations or other applicable law.

### **3.D Hauled Wastewater**

- i. Certain non-domestic wastes may be introduced into the POTW at locations designated by the Director, and at such times as are established by the Director. No Septage may be discharged. The hauler of approved wastes shall be responsible for ensuring such wastes comply with all Discharge prohibitions (Section 2) and other applicable Alliance requirements. The Director may require haulers to obtain Wastewater Discharge permits, other Control Documents, and/or provide a manifest at the time of Discharge identifying the customer's name, address, volume, and other information from each customer.
- ii. Fees for the Discharge of hauled waste may be established as part of the fee system as authorized in Section 16 as amended.
- iii. Haulers proposing to Discharge site remediation Wastewater shall comply with applicable Pretreatment Standards and requirements of these Regulations and policies and guidelines as established by the Director. Haulers proposing to Discharge site remediation Wastewater may be subject to fees based upon volume, treatability, handling, and administration.
- iv. The Director shall require the hauler, and may also require the generator, of non-domestic waste to obtain a Wastewater Discharge permit or other Control Document. The Director may also prohibit the disposal of any or all hauled Industrial Waste. The Discharge of hauled Industrial Waste is subject to all applicable Pretreatment Standards and requirements of these Regulations and policies and guidelines as established by the Director.
- v. Industrial Waste haulers may Discharge loads only at locations designated by the Director and with the prior consent of the Director. The Director may collect, or require the hauler to collect, samples of each hauled load to ensure compliance with applicable Standards and halt the Discharge at any point in order to take or require additional samples or hold the load pending analysis. The Director may require the Industrial Waste hauler to provide a waste analysis of any load prior to Discharge, to characterize the waste, or to certify that the waste does not meet the definition of a hazardous waste under Chapter 173-303 WAC.
- vi. Industrial Waste haulers may be required to provide a waste-tracking form for each load as determined necessary by the Director. The waste-tracking form may be required to include the following information:

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1. Name and address of the Industrial Waste hauler;
2. Truck and driver identification;
3. Names and addresses of the sources of waste;
4. Type of industry, volume, brief description, known characteristics and presumed constituents of waste;
5. Any wastes which are designated hazardous wastes under RCRA; and
6. Any other information deemed necessary by the Director.



## **Section 4**

# **WASTEWATER DISCHARGE PERMITS**



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### SECTION 4 - WASTEWATER DISCHARGE PERMITS

#### 4.A Industrial User Surveys

The Alliance is obligated under Federal law to identify and locate all possible Users which might be subject to the Pretreatment Standards, and to identify the character and volume of Pollutants discharged by such Users. To satisfy this requirement, any possible User of the POTW must, upon request of the Director, periodically complete an Industrial User survey form. Users of the POTW shall fully disclose the information requested and sign the completed form in accordance with Section 4.F. Proper completion of survey requirements is a condition of initial and continued Discharge to the POTW. Users failing to fully comply with survey requirements within a timeframe specified by the Alliance shall be subject to all enforcement measures authorized under these Regulations including termination of service. The Director is authorized to prepare several forms for this purpose and require completion of the particular form which the Director determines appropriate to provide the information needed to categorize each User. The Director shall be authorized to categorize each User, provide written notice of a User's categorization and what it means, and revise this categorization at any time.

#### 4.B Wastewater Discharge Permit Requirement

- i. No Significant Industrial User shall Discharge Wastewater into the POTW without first obtaining an individual Wastewater Discharge permit from the Director. A Significant Industrial User that has filed a timely application pursuant to Section 4.C of these Regulations may continue to Discharge unless and until notified otherwise by the Director.
- ii. The Director may require all other Users to obtain a Wastewater Discharge permit, Control Document, or implement Best Management Practices as necessary to carry out the purposes of these Regulations. For example, a Control Document may be required solely for flow equalization or for a NDCIU.
- iii. Any failure to complete the required survey form, apply for and obtain a required permit or other Control Document, or violate the terms and conditions of a Wastewater Discharge permit or Control Document shall be deemed a violation of these Regulations and subject the User to the sanctions set out in Section 10 through Section 12 of these Regulations. Obtaining a Wastewater Discharge permit or other Control Document does 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.

#### 4.C Wastewater Discharge Permitting: Existing Connections

- i. Any User required to obtain a Wastewater Discharge permit under these Regulations who was discharging Wastewater into the POTW prior to the effective date of these Regulations may be required to apply to the Director for a Wastewater Discharge permit in accordance with Section 4.E. In such event, the User shall not cause or allow Discharges to the POTW to continue two hundred seventy (270) days following the effective date of these Regulations except in accordance with a Wastewater Discharge permit issued by the

Director. The timeframes provided in this Section may be extended at the Director's discretion. The Director may authorize Significant Industrial Users that are already permitted by Ecology to continue discharging to the POTW pursuant to such permit by reissuing such permit under a new permit number and cover page identifying the Alliance as the issuer and administrator of the permit.

- ii. Any User with an existing Wastewater Discharge approval proposing to make a change in an existing waste Discharge, which 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 Wastewater Discharge approval thirty (30) days prior to making the change. Substantial changes may include, but are not limited to, a twenty percent (20%) 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 alteration of a sample site.

#### **4.D Wastewater Discharge Permitting: New Connections**

Persons wishing to Discharge Industrial Wastewater must first complete either a survey form (if they do not expect a permit is needed) or a permit application. Any User identified by the Director through the survey as potentially needing a permit must file a permit application. Applications for Wastewater Discharge permits, in accordance with Section 4.E of these Regulations, must be filed at least one hundred twenty (120) days prior to the desired date of Discharge, and the Discharge permit obtained prior to commencing Discharge.

#### **4.E Wastewater Discharge Permit Application Contents**

- i. All Users required to obtain a Wastewater Discharge permit must apply using a form provided by the Director. Users must supply the Director the following information as part of the permit application if relevant to the Users operation unless waived by the Director.
  1. Identifying information.
    - a. The name and physical address of the facility, the names of the operator/facility manager and owner, and the name and address of the point of contact; and
    - b. A description of activities, facilities, and plant production processes on the premises.
  2. A list of any environmental control permits held by or for the facility.
  3. A description of operations and facilities including:

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- a. A brief description of the operations, average rate of production, and industrial classification (SIC or NAICS codes) of the operation(s) conducted on site;
  - b. The number and type of employees, and proposed or actual hours of operation;
  - c. The type, amount, rate of production, and process used for each product produced;
  - d. The type and amount of raw materials used (average and maximum rates);
  - e. The raw materials and chemicals to be routinely stored at the facility (including products in rail cars and tank trucks located on site);
  - f. The types of wastes generated on a routine and periodic basis;
  - g. The times and durations when wastes will be discharged;
  - h. A schematic process diagram showing each process step, waste stream, treatment step, internal recycle, and point of Discharge to the POTW. This diagram should identify which streams are subject to Categorical Pretreatment Standards;
  - i. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge;
  - j. The sampling locations and provisions for monitoring Discharges; and
  - k. Copies of plans and reports for Wastewater facilities as required under Chapter 173-240 WAC (Engineering Report, Plans and Specifications, and an Operations and Maintenance Manual).
4. Flow data: The average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream. Information shall be complete enough to allow use of the combined wastestream formula per Section 2.B(iv) and 40 CFR Part 403.6(e) where applicable.
- a. Significant Industrial Users that are subject to Categorical Pretreatment Standards shall submit information showing the measured average daily flow and maximum daily flow, in gallons per day, to the POTW from each of the following:
    - (i) Regulated or manufacturing process streams; and



- (ii) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).
  - b. Significant Industrial Users that are not subject to Categorical Pretreatment Standards shall submit information showing the measured average daily flow and maximum daily flow, in gallons per day, to the POTW from each of the following:
    - (i) Total process flow, Treatment Plant flow, total plant flow, or individual manufacturing process flow as required by the Director. The Director may allow verifiable estimates of these flows where justified by cost or feasibility considerations.
- 5. Pollutant Data:
  - a. The Categorical Pretreatment Standards applicable to each regulated process;
  - b. The results of sampling and analysis identifying the nature and concentration, (and mass where required by the Standard or the Director), of regulated Pollutants in the Discharge from each regulated process; and
  - c. The estimated peak instantaneous, daily maximum, and long-term average Discharge concentrations (and mass) based on the sampling results.
- 6. Sampling data to show samples are:
  - a. Representative of daily operations;
  - b. Taken just downstream from Pretreatment Facilities if such exist, or just downstream of the regulated process(es) if no Pretreatment Facilities exist;
  - c. Collected as required by Section 6.K of these Regulations; and
  - d. Analyzed according to Section 6.J of these Regulations.
- 7. Information confirming BMPs. Where Standards specify a BMP or pollution prevention alternative, the User must include the information needed by the Director or the applicable Standard to determine whether BMPs are (or will be) implemented.
- 8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a Pollutant neither present nor expected to be present in the Discharge must include new sampling showing (continued) absence of the Pollutant in the raw Wastewater and satisfying Section 6.D(x).

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9. Any other information deemed necessary by the Director to prepare a Discharge permit.
- ii. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. The Alliance and the Director shall be held harmless for delays caused by returned applications.

### 4.F Application and Survey Signatories and Certifications

- i. All Wastewater Discharge permit applications and reports shall be signed by an Authorized Representative of the User and contain the certification statement in Section 6.N(i).
- ii. All survey forms shall be signed by an Authorized Representative of the User and may contain the certification statement in Section 6.N(i).
- iii. Users shall submit a new authorization if the designation of an Authorized Representative of the User is no longer accurate. This includes when a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company. The User must submit the new authorization to the Alliance prior to or with any reports to be signed by the new Authorized Representative of the User.

### 4.G Wastewater Discharge Permit Decisions

After receipt of a complete Wastewater Discharge permit application, the Director will determine whether or not to issue a Wastewater Discharge permit. The Director may deny any application for a Wastewater Discharge permit or require additional safeguards (including the installation of Pretreatment Facilities or plant or process modifications), or reports (including plans under Chapter 173-240 WAC), or information as a condition for approval. For Users not meeting the criteria of Significant Industrial Users, the Director may also waive or defer a permit, or allow Discharges in the interim while a permit is being prepared.

As a condition of an approval, the Director may require the User to install Pretreatment Facilities or make plant or process modifications as deemed necessary by the Director to meet the requirements of these Regulations and applicable Federal and state standards. Such facilities or modifications shall be designed, installed, constructed, operated, and maintained at the User's expense in accordance with the provisions of these Regulations, and in accordance with the rules and regulations of all local and governmental agencies. If additional pretreatment and/or operation and maintenance will be required to meet the applicable Pretreatment Standards, the User shall submit a proposed schedule with the shortest feasible timeline (not to exceed 3 years), to be reviewed and approved by the Director, by which the User will provide such additional pretreatment and/or operation and maintenance. The schedule shall conform to the requirements of Section 6.A(iii)(4) of these Regulations. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 6.A(iii)(4) of these Regulations.



## **Section 5**

# **WASTEWATER DISCHARGE PERMIT ISSUANCE**



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### SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE

#### 5.A Wastewater Discharge Permit Duration

The Director may issue a Wastewater Discharge permit for a period of up to five (5) years from its effective date. Each Wastewater Discharge permit will indicate its expiration date.

#### 5.B Wastewater Discharge Permit Contents

Wastewater Discharge permits will include conditions the Director deems reasonably necessary to carry out the goals of the Pretreatment Program (Section 1.A), Federal and State regulations, and the requirements of these Regulations.

- i. Significant Industrial User and Categorical Industrial User Wastewater Discharge permits will contain the information specified in Section 5.B(i)(1) through Section 5.B(i)(10). Other User control mechanisms may contain, as determined by the Director, the information specified in Section 5.B(i)(1) through Section 5.B(i)(10).
  1. The permit issuance date, expiration date, and effective date.
  2. A statement that the Wastewater Discharge permit is nontransferable without prior notification to the Alliance in accordance with Section 5.E of these Regulations, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge permit.
  3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards and requirements to apply AKART (see Section 2.C(ix)).
  4. The Pollutants to be monitored and specific monitoring and reporting requirements. This includes the sampling location(s), sampling frequencies, and sample types consistent with Federal and State law and these Regulations, and the requirement that monitoring data be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC.
  5. Requirements to submit certain reports (as reflected in Section 6), including submittal and approval of plans, reports and manuals as required by Chapter 173-240 WAC, and to provide various notifications, keep records, and if required, implement Best Management Practices.
  6. The process to be used to request a waiver from monitoring for a Pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.D(x), or a specific waived Pollutant in the case of an individual permit.
  7. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, any applicable compliance schedule, falsification of

reports or tampering with sampling equipment. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

8. Requirements to control Slug Discharges, including to develop, update, and implement Slug Discharge control plans (see Section 3.C for required content) where the Director determines such plans are important to preventing accidental, unanticipated, or non-routine Discharges.
  9. Any monitoring, which has been conditionally waived by the Director according to Section 6.D(x) but which automatically applies at any time the requirements of the conditional waiver are not met.
  10. Requirement for immediate notification to the Director where self-monitoring results indicate noncompliance.
  11. Requirement to immediately take action to stop, contain, and cleanup a Bypass, Slug Discharge, or any other unauthorized Discharge, immediately notify the Alliance, and submit a written report to the Alliance within 30 days of the occurrence, as required by Chapter 173-216 WAC.
  12. Permit reapplication requirements
  13. Permit modification requirements, as described in Section 5.D.
  14. Permit revocation provisions, as described in Section 5.F.
- ii. Wastewater Discharge permits may contain, but need not be limited to, the following additional conditions:
1. Pretreatment Facilities and measures required by Section 3.A and Section 3.B of these Regulations;
  2. Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;
  3. Requirements to install pretreatment technology, pollution controls, or to construct appropriate containment devices to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works, ground, or Storm Water;
  4. Requirements to develop and implement of waste minimization plans to reduce the amount of Pollutants discharged to the POTW;
  5. Requirements to pay charges or fees for Discharge to the POTW including high strength charges;

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6. Requirements to install, maintain, and properly operate inspection, sampling, and Pretreatment Facilities and equipment, including flow measurement devices;
7. Notice that compliance with the Wastewater Discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge permit; and
8. Other conditions as deemed appropriate by the Director to ensure compliance with these Regulations, and State and Federal laws, rules, and regulations.

### 5.C Permit Issuance Process

- i. Public Notice: Users shall follow the procedures for public notice found in Section 2.C(vii) and Section 2.C(vii). The Director shall consider and respond to public input as appropriate prior to issuance of a permit. The Director will arrange a public meeting pursuant to WAC 173-216-100 if there is sufficient interest.
- ii. Permit Appeals: Any Person, including the User, may petition the Director to reconsider the terms of a Wastewater Discharge permit within thirty (30) days of the date of its issuance.
  1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
  2. In its petition, the appealing party must indicate the Wastewater Discharge permit provisions objected to, the reasons for this objection, and the alternative condition(s), if any, it seeks to place in the Wastewater Discharge permit.
  3. The effectiveness of the Wastewater Discharge permit shall not be stayed pending the appeal.
  4. If the Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a Wastewater Discharge permit, not to issue a Wastewater Discharge permit, or not to modify a Wastewater Discharge permit shall be considered final administrative actions for purposes of judicial review.
  5. Aggrieved parties seeking judicial review of the final administrative Wastewater Discharge permit decision must do so by filing a complaint with the Superior Court of Clark County within thirty (30) days of final agency action and properly served upon the Alliance.



#### **5.D Wastewater Discharge Permit Modification**

The Director may modify a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, any of the following reasons:

- i. To incorporate any new or revised Federal, State, or local Pretreatment Standards or requirements including new or revised Local Limits;
- ii. To address new or changed operations, processes, production rates, waste streams, or changes in water volume or character;
- iii. To reflect conditions at the POTW requiring an authorized Discharge to be reduced or curtailed. Such requirements may be either temporary or permanent;
- iv. Based on information that indicates a permitted Discharge poses a threat to the Alliance's POTW or staff, the receiving waters, or to violate a prohibition of these Regulations;
- v. To address violations of any terms or conditions of the Wastewater Discharge permit;
- vi. To address misrepresentations or failure to fully disclose all relevant facts in the Wastewater Discharge permit application or in any required report;
- vii. To incorporate revisions based on a variance from Categorical Pretreatment Standards approved pursuant to 40 CFR Part 403.13;
- viii. To correct typographical or other errors in the Wastewater Discharge permit; or
- ix. To reflect a transfer of the facility ownership or operation to a new owner or operator as required under Section 5.E.

#### **5.E Wastewater Discharge Permit Transfer**

Wastewater Discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the Wastewater Discharge permit transfer. Failure to provide advance notice of a transfer renders the Wastewater Discharge permit void as of the date of facility transfer. The notice to the Director must include a written certification by the new owner or operator which:

- i. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
- ii. Identifies the specific date on which the transfer is to occur; and
- iii. Acknowledges full responsibility for complying with the existing Wastewater Discharge permit.

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Provided that the notice required above occurs and that there were no significant changes to the manufacturing operation or Wastewater Discharge, the new owner will be considered an existing connection per Section 4.C and be covered by the existing limits and requirements in the previous owner's Discharge approval.

### 5.F Wastewater Discharge Permit Revocation

The Director may revoke a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, when a User has:

- i. Failed to notify the Director of significant changes to the Wastewater prior to the changed Discharge;
- ii. Failed to provide prior notification to the Director of changed conditions pursuant to Section 6.E of these Regulations;
- iii. Misrepresented or failed to fully disclose all relevant facts in the Wastewater Discharge permit application;
- iv. Falsified self-monitoring reports or tampered with monitoring equipment;
- v. Refused to allow the Director timely access to the facility premises and records;
- vi. Failed to meet effluent limitations or permit conditions;
- vii. Failed to pay applicable fines or sewer charges;
- viii. Failed to meet compliance schedule deadline dates;
- ix. Failed to complete a Wastewater survey or Wastewater Discharge permit application;
- x. Failed to provide advance notice of the transfer of business ownership;
- xi. Violated any Pretreatment Standard or requirement, or any terms of the Wastewater Discharge permit or these Regulations;
- xii. Ceased operations; or
- xiii. Transferred business ownership.

Wastewater Discharge permits issued to a User are void upon the effective date of the new Wastewater Discharge permit issued to that User.

### **5.G Wastewater Discharge Permit Reissuance**

A User with a Wastewater Discharge permit due to expire shall apply for Wastewater Discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.E of these Regulations, a minimum of one hundred twenty (120) days prior to the expiration of the User's existing Wastewater Discharge permit. A User, whose existing permit or Control Document has expired, and has submitted its re-application in the time period specified herein, shall be deemed to have an effective permit or Control Document until the Director issues or denies the new permit or Control Document. The Director may waive the time limit for submittal of a reissuance application, for good cause shown.

### **5.H Regulation of Wastewater Received from Other Jurisdictions**

- i. In the event a User outside the Alliance sanitary sewer service area (as identified in the most current sanitary sewer Master Plan or as otherwise defined by the Director) proposes to Discharge Wastewater into the Alliance's POTW, the Alliance shall enter into an agreement with the applicable Contracting Municipal Wastewater Utility. Such agreement shall affix responsibilities in an enforceable manner to ensure that the Pretreatment Program is fully and equitably administered in all Contracting Municipal Wastewater Utilities. Any such agreement or modification to such an agreement shall be reviewed by the Alliance's legal counsel and shall be submitted, together with the opinion that it is legally sufficient, to the Approval Authority and processed as a minor program modification.
- ii. Prior to entering into an agreement required by Section 5.H(i), above, the Director shall request the following information from the Contracting Municipal Wastewater Utility:
  1. A description of the quality and volume of Wastewater discharged to the POTW by the Contracting Municipal Wastewater Utility;
  2. An inventory of all Users located within the Contracting Municipal Wastewater Utility that are discharging to the POTW; and
  3. Such other information as the Director may deem necessary.
- iii. An agreement provided for under Section 5.H(i) shall contain the following provisions:
  1. Requirements for the Contracting Municipal Wastewater Utility to adopt a sewer use ordinance or resolution or Pretreatment ordinance or resolution which establishes Pretreatment Standards and Pretreatment Requirements as stringent as in these Regulations (Section 2). The Ordinance provisions and limits must be revised to conform within 3 months to any future revisions of the Alliance's Regulations;

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2. Requirements for the Contracting Municipal Wastewater Utility to submit a revised User inventory on at least an annual basis, and reinforce requirements to obtain a permit prior to Discharge;
3. A clear division of responsibilities for implementing each pretreatment related activity under these Regulations or in the Alliance's National Pollutant Discharge Elimination System (NPDES) permit(s). Such tasks include reinforcing prohibitions, locating Users, issuing Wastewater Discharge permits, conducting inspections, sampling, evaluating compliance, initiating enforcement, and reporting compliance. Any activities which will be conducted jointly by the Contracting Municipal Wastewater Utility and the Director must also be identified;
4. Requirements for the Contracting Municipal Wastewater Utility to provide the Director access to all information that the Contracting Municipal Wastewater Utility obtains as part of its pretreatment activities;
5. The nature, quality (e.g. conventional and toxic Pollutant concentrations), and volume (peak and average flow rates) the Contracting Municipal Wastewater Utility is allowed to Discharge to the Alliance. How and where compliance will be measured, how fees for service and surcharges will be established, and how additional loading capacity, if needed, will be negotiated;
6. Provisions ensuring that the Director may enter and inspect Users located within the Contracting Municipal Wastewater Utility's jurisdictional boundaries to confirm that the Pretreatment Program is being properly administered and Users are properly categorized; and
7. Provisions for addressing any breach of the terms of the inter-local agreement.



## **Section 6**

# **REPORTING REQUIREMENTS**



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### SECTION 6 - REPORTING REQUIREMENTS

#### 6.A Baseline Monitoring Reports

- i. When Categorical Pretreatment Standards for an industry category are published (promulgated), Users that perform that process and either currently Discharge or are scheduled to Discharge Wastewater from the process to the POTW, must submit a baseline monitoring report to the Director. This report must contain the information listed in Section 6.A(iii). The report is due within one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, unless the final administrative decision on a category determination comes later.
- ii. Users that wish to begin discharging Wastewater to the POTW from operations subject to Categorical Pretreatment Standards after EPA has published the Standards (called New Sources), shall submit a baseline monitoring report to the Director containing the information listed in Section 6.A(iii). However, for New Sources, the report must be provided at least one hundred twenty (120) days before desiring to Discharge. New Sources shall describe the method of pretreatment they intend to use to meet applicable Categorical Pretreatment Standards. Because monitoring data will not be available for proposed facilities, New Sources instead must provide estimates of the anticipated flow rates and quantity of Pollutants to be discharged.
- iii. The baseline monitoring report shall include the following information:
  1. All information required in Section 4.E(i)(1) through Section 4.E(i)(8).
  2. Additional conditions for Existing Sources measuring Pollutants.
    - a. Users shall take a minimum of one representative sample to compile the data for the baseline monitoring report.
    - b. Users shall take samples immediately downstream from Pretreatment Facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If the User mixes other Wastewaters with the regulated Wastewater prior to pretreatment, the User must provide the flows and concentrations necessary to apply the combined wastestream formula of Section 2.B(iii) and 40 CFR Part 403.6(e). Where the User wants an alternate concentration or mass limit, and it is allowed by Federal rules at 40 CFR Part 403.6(e), the User shall propose the adjusted limit and provide supporting data to the Control Authority.
    - c. Sampling and analysis shall be performed in accordance with Section 6.K (sample collection), and Section 6.J (sample analysis).



- d. The Director may allow the report to use only historical data if the data is good enough to allow the evaluation of whether (and which) industrial pretreatment measures are needed.
  - e. The baseline monitoring report shall indicate the time, date, and place of sampling, methods of analysis. The User shall certify that the sampling and analysis presented is representative of normal work cycles and expected Pollutant Discharges to the POTW.
3. Compliance Certification. A statement, reviewed by the Authorized Representative of the User and certified by a qualified professional experienced in the design, construction, and operation of Pretreatment Facilities indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment steps are required to meet the Pretreatment Standards and requirements.
4. Compliance Schedule. While New Sources must install the treatment required to meet the Pretreatment Standards prior to operation, Existing Sources may be granted a compliance schedule where they must provide additional pretreatment and/or O&M to meet the Pretreatment Standards. In such cases, the User shall propose the shortest schedule by which they can provide the additional pretreatment and/or O&M. The completion date which the User proposes in this schedule may not be later than the compliance date established for the applicable Pretreatment Standard. Any compliance schedule authorized pursuant to this Section must also meet the requirements set out in Section 6.B of these Regulations.
5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.N(i) of these Regulations and signed by an Authorized Representative of the User.

#### **6.B Compliance Schedule Progress Reports**

The following conditions shall apply to compliance schedules proposed by Existing Sources according to Section 6.A(iii)(4) of these Regulations and incorporated into permits:

- i. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- ii. No increment referred to above shall exceed nine (9) months;

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- iii. The User shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- iv. In no event shall more than nine (9) months elapse between such progress reports to the Director.

### 6.C Reports on Compliance with Categorical Pretreatment Standards Deadline

Both Existing Sources and New Sources must submit a report on whether compliance has been initially achieved. For Existing Sources, the report is due ninety (90) days after the date applicable Categorical Pretreatment Standards give as the final compliance date. For a New Source, the report is due ninety (90) days after starting to Discharge to the POTW.

In both cases, the report must contain the information described in Section 4.E(i)(3) through Section 4.E(i)(6). For Existing Sources, it must also contain the compliance certification of Section 6.A(iii)(3) and, if needed, the compliance schedule described in Section 6.A(iii)(4). Users subject to equivalent mass or concentration limits, as allowed by Section 2.B, must include a reasonable measure of their long-term production rate. Other Users subject to Standards based on a unit of production (or other measure of operation) must include their actual production during the sampling period. All compliance reports must be signed and certified in accordance with Section 6.N(i) of these Regulations.

### 6.D Periodic Compliance Reports

- i. The Director may specify the necessary minimum sampling and reporting frequencies and include applicable requirements in permits. Significant Industrial Users (SIUs) must:
  - 1. Report at least twice a year, in June and December unless otherwise specified;
  - 2. Report the flows and concentrations for the reporting period of regulated Pollutants in all Discharges subject to Pretreatment Standards;
  - 3. Report average and maximum daily flows for the reporting period and identify where flow estimates are used; and
  - 4. Include the documentation needed to show compliance with applicable BMPs, pollution prevention alternatives, maintenance, treatment, or record keeping requirements.
- ii. Users must sign and certify all periodic compliance reports in accordance with Section 6.N(i) of these Regulations.
- iii. Users must take Wastewater samples which are representative of their range of Discharge conditions and of any Discharge not disclosed in their permit application. Users must

properly operate, clean, and maintain sampling and flow metering facilities and devices and ensure they function properly. The Director may not allow User claims that sampling results are unrepresentative due to a User's failure to meet this requirement.

- iv. Users subject to the reporting requirements in this Section must report any additional monitoring which might determine compliance with permit requirements. This includes any additional monitoring of regulated Pollutant at their respective effluent monitoring locations using procedures prescribed in Section 6.K of these Regulations. In such cases, the results of this monitoring shall be included in periodic monitoring reports.
- v. If a User sampled and analyzed more frequently than was required by the Director or by these Regulations, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the Discharge during the reporting period.
- vi. Any User subject to equivalent mass or concentration limits established by the Director or by unit production limits specified in the applicable Categorical Pretreatment Standards, shall report production data as outlined in Section 2.B.v of these Regulations.
- vii. Zero Discharge Users shall submit periodic reports as required by the Director stating that no Industrial Wastewater has been discharged to the POTW.
- viii. If the Director calculated limits to factor out dilution flows or nonregulated flows, the User will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.
- ix. Flows shall be reported on the basis of actual measurement; provided, however, that the Director may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that an actual measurement is not feasible.
- x. The Director may authorize a Categorical Industrial User to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard when it is not present in raw Wastewater provided that:
  - 1. The CIU submits a request for the waiver with their permit application or reapplication;
  - 2. The CIU analyzes a sample (or samples) representative of all Wastewater from all processes before any treatment and includes all results with the request;
  - 3. The CIU demonstrates through source water and untreated process water sample results that the Pollutant never exceeds intake water levels. (Pollutants simply reduced by treatment to background levels are ineligible for the waiver.);

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4. The CIU shows, where non-detectable sample results are returned as provided in subsection (b) or (c) above, that they used the method from 40 CFR Part 136 with the lowest detection level;
  5. The Authorized Representative of the User signs the request using the certification statement;
  6. The CIU includes in routine monitoring reports, a statement certifying that there has been no increase in the Pollutant in its waste stream due to activities of the Industrial User; and
  7. The CIU reports and immediately resumes the monitoring, which would otherwise have been required upon discovering that a waived Pollutant is present or expected to be present based on changes to the User's operations.
- xi. The Director will document the reasons supporting the waiver in the permit fact sheet, and keep any information submitted by the User and the fact sheet for three (3) years after the waiver expires. Monitoring waivers are valid after being incorporated in a User's permit. The waiver is in effect while the Permit is effective. The Director may cancel a monitoring waiver at any time for cause.

### 6.E Reports of Changed Conditions

Each User must notify the Director of any substantial changes to the User's operations or system which might alter the nature, quality, or volume of its Wastewater. This notification must be made at least thirty (30) days before the desired change and be sent to both the Control Authority (Director) and the receiving POTW if they are different. In such cases:

- i. The Director may require the User to submit any information needed to evaluate the changed condition. The Director may also require a new or revised Wastewater Discharge permit application under Section 4.E of these Regulations; and
- ii. The Director may issue, reissue, or modify a Wastewater Discharge permit applying the procedures of Section 5 of these Regulations in response to a User's notice under this Section.

### 6.F Reports of Potential Problems

- i. Any User which has any unusual Discharge that could cause problems to the POTW must immediately notify the Director by telephone of the incident. This notification shall include the location of the Discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the User to control and curtail the Discharge. Such Discharges may include spills, Slug Loads, accidental Discharges, or other Discharges of a non-routine, episodic nature. Problems to the POTW which require reporting under this Section include

violating Pretreatment Requirements, Pretreatment Standards, or other requirements of Section 2 of these Regulations such as vapor toxicity and explosivity limits.

- ii. Within five (5) days following such Discharge, the User shall submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to these Regulations.
- iii. Users required to submit an Accidental Discharge/Slug Discharge Control Plan (per Section 3.C) shall post notice in a prominent location advising employees who to call at the POTW to inform the Director of a potential problem Discharge (Section 6.F(i)). Users shall ensure that all employees who may cause or witness such a Discharge are advised of the emergency notification procedures.
- iv. All Users must immediately notify the Director of any changes at their facility which might increase their potential for a Slug Discharge. This includes increasing the volume of materials stored or located on site which, if discharged to the POTW, would cause problems. Users required to prepare an Accidental Discharge/Slug Discharge Control Plan under Section 3.C shall also modify their plans to include the new conditions prior to, or immediately after making such changes.

#### **6.G Reports from Unpermitted Users**

All Users not required to obtain a Wastewater Discharge permit shall provide appropriate reports to the Director as the Director may require. This may include, but not be limited to, periodically completing, and signing Industrial User Surveys, monitoring reports, and reports regarding compliance with Best Management Practices.

#### **6.H Notice of Violation/Repeat Sampling and Reporting**

If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The Director may waive the repeat sampling requirement where the Alliance has sampled the effluent for the Pollutant in question prior to the User obtaining sampling results.

#### **6.I Notification of the Discharge of Hazardous Waste**

- i. Any user that proposes to Discharge any volume of hazardous waste as defined in 40 CFR 261 (listed or characteristic wastes) or dangerous waste as defined Chapter 173-303 WAC, or any facility that proposes to Discharge any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), is required to provide a request in writing to

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the Director. Discharging such waste without the Director's approval as provided herein is prohibited. The request shall be provided with the initial Wastewater Discharge approval application and repeated with each subsequent reapplication.

- ii. Any User who Discharges any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, or Chapter 173-303 WAC must also comply with the following requirements:
  1. Notify the Director, the EPA Region 10 Office of Air, Waste, and Toxics Director, and State hazardous waste authorities, in writing, of the Discharge. Maintain a copy of this notification and include it in all subsequent permit applications or re-applications under these Regulations.
  2. Include the following information in the notification:
    - a. The name of the hazardous waste as found in 40 CFR Part 261;
    - b. The EPA hazardous waste number; and
    - c. The type of Discharge (continuous, batch, or other).
  3. If the Discharge totals more than two hundred twenty (220) pounds of hazardous waste in any month, also provide:
    - a. The hazardous constituents contained in the wastes;
    - b. An estimate of the mass and concentration of hazardous constituents in the wastestream discharged during that calendar month; and
    - c. An estimate of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
  4. This notice shall be repeated for new or increased Discharges of substances subject to this reporting requirement.
  5. All notifications must take place prior to discharging a substance for which these reporting requirements apply. If this is not possible, the notice must be provided as soon after Discharge as practical and describe why prior notice was not possible.
  6. Users must provide notifications under this paragraph only once to EPA and the State for each hazardous waste discharged. However, all of the information of these notices shall be repeated in each new permit application submitted under these Regulations.

7. This requirement does not relieve the User from requirements to provide other notifications, such as of changed conditions under Section 4.E of these Regulations, or applicable permit conditions, permit application requirements, and prohibitions.
  8. Pollutants that are reported under the reporting requirements for Categorical Industrial Users in baseline monitoring, final and periodic compliance reports are not subject to the notification requirements in this Section.
- v. Users must report all Discharges of more than thirty-three (33) pounds per month of substances which, if otherwise disposed of, would be hazardous wastes. Users must also report any Discharge of acutely hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e). Subsequent months during which the User Discharges more of a hazardous waste for which notice has already been provided do not require another notification to EPA or the State but must be reported to the Director.
  - vi. If new regulations under RCRA describe additional hazardous characteristics or substances as a hazardous waste, the User must provide notifications under paragraphs A, if required by paragraph B within ninety (90) days of the effective date of such regulations.
  - vii. For any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical and shall describe that program and reductions obtained through its implementation.
  - viii. This provision does not create a right to Discharge any substance not otherwise permitted to be discharged by these Regulations, a permit issued thereunder, or any applicable Federal or State law.

### 6.J Analytical Requirements

All Pollutant sampling and analyses required under these Regulations shall conform to the most current version of 40 CFR Part 136, unless otherwise approved by the Director or specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for a Pollutant, or the Director determines that the 40 CFR Part 136 sampling and analytical techniques are inconsistent with the goal of the sampling, the Director may specify an analytical method. If neither case applies, Users shall use validated analytical methods or applicable sampling and analytical procedures approved by EPA.

### 6.K Sample Collection

Users must ensure all samples they collect to satisfy sampling requirements under these Regulations are representative of the range of conditions occurring during the reporting period. Users must also ensure that, when specified, samples are collected during the specific period.

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- i. Users must use properly cleaned sample containers appropriate for the sample analysis and sample collection and preservation protocols specified in 40 CFR Part 136 and appropriate EPA guidance.
- ii. Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using Grab Sample collection techniques.
- iii. For certain Pollutants, Users may composite multiple Grab Samples taken over a 24-hour period. Users may composite Grab Samples for cyanide, total phenols, and sulfides either in the laboratory or in the field and may composite Grab Samples for volatile organics and oil & grease in the laboratory prior to analysis.
- iv. For all other Pollutants, Users must employ 24-hour flow-proportional composite samplers unless the Director authorizes or requires an alternative sample collection method.
- v. The Director may authorize Composite Samples for parameters unaffected by the compositing procedures, as appropriate.
- vi. The Director may require Grab Samples either in lieu of or in addition to composite sampling to show compliance with instantaneous Discharge limits.
- vii. In all cases, Users must take care to ensure the samples are representative of their Wastewater Discharges.
- viii. Users sampling to complete baseline monitoring and ninety (90) day compliance reports required by Section 6.C and Section 6.A, must satisfy some specific requirements. These reports require at least four (4) Grab Samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. Users may Composite Samples prior to analysis if allowed in Section 6.K(iii). Where historical sampling data exists; the Director may also authorize fewer samples.
- ix. For periodic compliance reports, (Section 6.D), the Director may specify the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements.
- x. Samples should be taken immediately downstream from Pretreatment Facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the Director and/or contained in the User's Wastewater Discharge permit. For Categorical Industrial Users, if other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment the User shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable Categorical Pretreatment Standards. For other SIUs, for which the Director has adjusted its Local Limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted Pretreatment Standards.



- xi. All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges from the user. If a user sampled and analyzed more frequently than what was required in its Wastewater Discharge approval, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the Discharge as part of its self-monitoring report.
- xii. Where a treated regulated process waste stream is combined prior to treatment with Wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream for the purpose of determining compliance with applicable Pretreatment Standards. If the industrial user chooses to monitor the segregated process waste stream, it shall apply the applicable Categorical Pretreatment Standard. If the user chooses to monitor the combined waste stream, it shall apply an alternative Discharge limit calculated using the combined waste stream formula as provided in 40 CFR 403.6(e). The industrial user may change monitoring points only after receiving approval from the Director. The Director shall ensure that any change in an industrial user's monitoring point(s) will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable requirements.

#### **6.L Date of Receipt of Reports**

The Director will credit written reports as having been submitted on the date of the post mark when mailed via certified mail through the United States Postal Service. Reports delivered in any other manner will be credited as having been submitted on the business day received.

#### **6.M Record Keeping**

Users subject to reporting requirements of these Regulations shall retain the below records for all monitoring required by these Regulations and for any additional monitoring which could be used to satisfy minimum monitoring requirements. Users must make these records available for inspection and copying at the location of the Discharge. Users must similarly maintain documentation associated with any Best Management Practices required under authority of Section 2.D(ix). Monitoring records shall include at least:

- i. The time, date, and place of sampling;
- ii. The sampling and preservation methods used;
- iii. The individual taking the sample, and individuals with control of the sample prior to analysis;
- iv. The individual performing the analyses and the date the analysis was completed;
- v. The analytical techniques or methods used; and

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- vi. The results of analysis.

Users are encouraged to retain quality control and quality assurance information provided by the laboratory and submit this information in routine reporting. This information also has value in the event that the sample data is called into question. For analytes for which the State requires use of a certified/accredited laboratory, Users must maintain the scope of accreditation for laboratories performing any analyses for them.

Users shall maintain the above records for the latest of at least three (3) years, until any litigation concerning the User or the Alliance is complete, or for longer periods when the User has been specifically notified of a longer retention period by the Director.

### 6.N Certification Statements

- i. The following certification statement must be signed by an Authorized Representative of the User and included when submitting any of the following:
  - 1. A permit (re)application in accordance with Section 4.F;
  - 2. A baseline monitoring report under Section 6.A;
  - 3. A report on compliance with the Categorical Pretreatment Standard deadlines under Section 6.C; or
  - 4. A periodic compliance report required by Section 6.D(i) through Section 6.D(iv).

"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."

- ii. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.D(x) must also include the following certification statement in each report. This statement certifies that there has been no increase in the pollutant in its wastestream due to activities of the User:

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

belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s) in the wastewater due to the activities at the facility since filing of the last periodic report under Section 6.D(i).

**6.O Electronic Reporting**

- i. The Alliance accepts electronic documents and signatures using a system compliant with 40 CFR Part 3 (Cross-Media Electronic Reporting). Users that send electronic documents and signatures to the Alliance to satisfy the requirements of these Regulations must comply with the requirements of the Alliance reporting system.

## **Section 7**

# **COMPLIANCE MONITORING**



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### SECTION 7 - COMPLIANCE MONITORING

#### 7.A Right of Entry: Inspection and Sampling

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

- i. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- ii. The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- iii. Users shall provide full access to the Director to use any monitoring facilities and utilities available or required in accordance with Section 3.A and Section 3.B(v) through Section 3.B(vi) to confirm that the Standards or treatment required for Discharge to the POTW are being met.
- iv. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.
- v. Any unreasonable delay in allowing the Director full access to the User's premises and Wastewater operations shall be a violation of these Regulations.

#### 7.B Search Warrants

The Director may seek issuance of an administrative search warrant from the Superior Court of Clark County. Such warrants may be secured when:

- i. The Director has been refused access or is unable to locate a representative who can authorize access to a building, structure, or property, or any part thereof, and has probable cause that a violation of these Regulations is occurring on the premises;
- ii. The Director has been denied access to inspect and/or sample as part of a routine inspection and sampling program of the Alliance designed to verify compliance with these Regulations or any permit or order issued hereunder; or
- iii. The Director has cause to believe there is imminent endangerment of the overall public health, safety and welfare of the community by an activity on the premises.



## **Section 8**

**CONFIDENTIAL INFORMATION**





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### SECTION 8 - **CONFIDENTIAL INFORMATION**

#### 8.A **Confidential Information**

Except as provided below, information submitted to demonstrate compliance with Pretreatment Standards and requirements will be available to the public. Users may have certain information, however, withheld as confidential if the following process is followed.

- i. When a User submits information to the Director, or provides information to inspectors, Users may request that specific information be maintained as confidential. Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable State or Federal laws.
- ii. Upon receipt of such statement of confidentiality, the information shall be filed separately and marked that the information shall not be disclosed except as provided for under this Section.
- iii. Upon receipt of a public records request for information a User claims to be exempt from disclosure, the Director shall within five (5) business days of receipt notify the User of the public disclosure request and inform such User in writing that the information will be disclosed unless the User obtains a court order directing that the information not be disclosed within no less than ten (10) days of receipt of providing notice of the request to the User. The Director shall include a copy of the written notification to the User in the initial response to the public records request required under State law.
- iv. Unless the court orders the withholding of the information claimed to be confidential or the information is otherwise determined exempt from disclosure, the Director shall provide such information to the Person making the public records request.
- v. All other information submitted to the Director and obtained from the Director's oversight shall be available to the public subject to applicable Alliance public records policies.
- vi. Information held as confidential may not be withheld from governmental agencies for uses related to the NPDES program or Pretreatment Program, or in enforcement proceedings involving the Person furnishing the report.
- vii. Federal rules prevent Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR Part 2.302 from being recognized as confidential information.



## **Section 9**

# **PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE**



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### SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

#### 9.A Publication of Users in Significant Non-Compliance

- i. PUBLISHING: The Director must annually publish a list of the Users which, at any time during the previous twelve (12) months, were in Significant Non-Compliance with applicable Pretreatment Standards and requirements. The list will be published in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW.
- ii. DEFINITION: The term Significant Non-Compliance means:
  1. Any violation of a Pretreatment Standard or requirement including numerical limits, narrative Standards, and prohibitions, that the Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.
  2. Any Discharge that has caused imminent endangerment to the public or to the environment or has resulted in the Director's exercise of its emergency authority to halt or prevent such a Discharge.
  3. Any violation(s), including of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.
  4. Chronic violations of Wastewater Discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same Pollutant parameter taken during a rolling six (6) month period exceed, by any magnitude, a numeric Pretreatment Standard or requirement, including Instantaneous Limits of Section 2.D.
  5. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of Wastewater measurements taken for each Pollutant parameter during a rolling six (6) month period equal or exceed the product of the numeric Pretreatment Standard or requirement, (including Instantaneous Limits, as defined by Section 2.D), multiplied by the applicable criteria. Applicable criteria are 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH.
  6. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

7. Failure to provide any required report within forty-five (45) days after the due date. This includes initial and periodic monitoring reports, and reports on initial compliance and on meeting compliance schedules.
  8. Failure to accurately report non-compliance.
- iii. **APPLICABILITY:** The criteria in Section 9.A(ii)(1) through Section 9.A(ii)(3) are applicable to all Users, whereas the criteria in Section 9.A(ii)(4) through Section 9.A(ii)(8) are only applicable to Significant Industrial Users and Categorical Industrial Users.

## **Section 10**

# **ADMINISTRATIVE ENFORCEMENT REMEDIES**





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### SECTION 10 - **ADMINISTRATIVE ENFORCEMENT REMEDIES**

#### 10.A **Procedures**

The Director shall establish enforcement procedures consistent with the provisions of these Regulations. The Director shall adopt an Enforcement Response Plan consistent with the requirements of State law. Such Plan shall ensure that the application of remedies provided for in Section 10 through Section 12 of these Regulations is appropriate to the violation, and consistent with the treatment of other Users. Any Person may review or obtain a copy in accordance with applicable Alliance public records policies of the Enforcement Response Plan by contacting the Director or the Alliance. In response to non-compliance with any requirement of these Regulations, the Director shall apply its Enforcement Response Plan, which shall be incorporated into the enforcement procedures.

#### 10.B **Notification of Violation**

The Director may serve a written Notice of Violation on any User that the Director finds has violated, or continues to violate, any provision of these Regulations, including terms or requirements of a permit, order, or a Pretreatment Standard or requirement. Users shall, in response to a Notice of Violation, provide the Director a written explanation of the violation, its cause, and a corrective action plan within fourteen (14) calendar days of the receiving this notice. Users submitting plans to correct non-compliance must include the specific actions they will take to correct ongoing and prevent future violations at the soonest practicable date. The Director's acceptance of a plan does not relieve a User of liability for any violations. The Director may also take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

#### 10.C **Consent Orders**

The Director may enter into a consent order or other voluntary agreement to memorialize agreements with Users violating any requirement of these Regulations. Such agreements must include the specific action(s) required and date(s) they are to be completed to correct the non-compliance. Such documents must be constructed in a judicially enforceable manner and have the same force and effect as Administrative Orders issued pursuant to Section 10.E and Section 10.F of these Regulations.

#### 10.D **Compliance Review Meeting**

The Director may order a User that has violated or continues to violate any provision of these Regulations, a Wastewater Discharge permit, order, Pretreatment Standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the meeting. Such notice may be served on any Authorized Representative of the User. A compliance review meeting shall not be a bar against, or prerequisite for, taking any other action against the User.

### **10.E Compliance Orders**

The Director may issue a compliance order to any User which has violated any provision of these Regulations including a requirement of a permit, order, or a Pretreatment Standard or requirement. The compliance order may direct that the User come into compliance within a specified time, install and properly operate adequate treatment facilities or devices, or take such measures as the Director finds are reasonably necessary. These measures may include additional self-monitoring and management practices designed to minimize the amount of Pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or requirement, or relieve a User of liability for any violation, including a continuing violation. If the User does not come into compliance within the time provided, sanitary sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

### **10.F Cease and Desist Orders**

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

- i. Immediately comply with all requirements; and
- ii. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

### **10.G Administrative Fines**

- i. When the Director finds that a User has violated, or continues to violate, any provision of these Regulations, a Wastewater Discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Director may fine such User in an amount not to exceed ten thousand dollars (\$10,000). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average Discharge limits, fines may be assessed for each day during the period of violation.
- ii. The Director may add the costs of any emergency response, additional monitoring, investigation, and administrative costs related to the non-compliance and the Director's response to the situation to the amount of the fine.
- iii. The Director will consider the economic benefit enjoyed by a User as a result of the non-compliance in cases where there appears to have been a monetary benefit from not complying. In such cases, the Director shall ensure that fines, to the maximum amounts allowable, exceed the benefit to the User from the non-compliance.

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- iv. Unpaid charges, fines, and penalties shall, at thirty (30) days past the due date, be assessed an additional penalty at a rate established by the Alliance, and interest shall accrue thereafter at a rate established by the Alliance. After thirty (30) days the Alliance, on its own behalf or as an authorized agent of a Member, shall be authorized to file a lien against the User's property for unpaid charges, fines, and penalties.
- v. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within fifteen (15) working days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the User's appeal is successful, the Director shall rebate the difference between the initial and final penalty amounts to the User.
- vi. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

### 10.H Emergency Suspensions

The Director may immediately suspend a User's Discharge (or threatened Discharge) when the Discharge reasonably appears to present a substantial danger to the health or welfare of Persons. In such cases, the Director will first provide informal notice to the User. The Director may also immediately suspend a User's Discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- i. Any User notified of a suspension of any Discharge shall immediately stop or eliminate the Discharge. If a User fails to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary to protect the public and its interest in the POTW. Remedies available to the Director include immediately severing the sanitary sewer connection, at the Users expense, turning off pump stations downstream of the User, and partnering with law enforcement. The Director may not allow the User to recommence its Discharge until the User has demonstrated to the satisfaction of the Director that the situation warranting the suspension has been properly addressed and any proposed termination proceeding has been resolved.
- ii. Any User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Users shall submit this report to the Director prior to the date of any compliance review meeting or termination hearing under Section 10.D and Section 10.I, respectively, of these Regulations.

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

## 10.I Termination of Discharge

Any User who violates any of the following conditions is subject to having the privilege of discharging to the POTW withdrawn:

- i. Discharge of non-domestic Wastewater without a permit or other Control Document, including:
  1. Where the appropriate permit or Control Document has not been requested;
  2. Where the appropriate permit or Control Document has not yet been issued; or
  3. Where the permit or Control Document has been denied or revoked based on the provisions of Section 5.F (Permit Revocation) of these Regulations.
- ii. Violation of permit or other Control Document terms and conditions including:
  1. Exceeding any permit or Control Document limit;
  2. Failing to meet other Pretreatment Standards or requirements;
  3. Violating any prohibition; or
  4. Failing to properly monitor and report Discharges or changed conditions.
- iii. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling (whether subject to a permit or not).
- iv. Violation of the Pretreatment Standards and requirements in Section 2 of these Regulations, including failure to satisfy Industrial User Survey requirements.

When the Director determines this remedy is necessary and appropriate to fulfill the intentions of these Regulations, such User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under Section 10.D of these Regulations why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

## **Section 11**

# **JUDICIAL ENFORCEMENT REMEDIES**



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### SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

#### 11.A Injunctive Relief

The Director may seek injunctive relief when a User has violated, or continues to violate a provision of these Regulations, including a Pretreatment Standard or requirement, or a permit or order issued hereunder. In such cases, the Director may petition the Superior Court of Clark County for temporary or permanent injunctive relief, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge permit, Control Document, order, or other requirement imposed by these Regulations on activities of the User. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

#### 11.B Civil Penalties

- i. A User which has violated, or continues to violate a provision of these Regulations, including a Pretreatment Standard or requirement, or a permit or order issued hereunder shall be liable to the Alliance for a maximum civil penalty of ten thousand dollars (\$10,000) per violation, per day. In the case of a monthly or other long-term average Discharge limit, penalties shall accrue for each day during the period of the violation. Any such assessment, penalty, or charges shall constitute a lien against the individual User's property.
- ii. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with any emergency response, enforcement activities, additional monitoring and oversight, and costs of any actual damages to the Alliance.
- iii. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, any other action the Director may take to resolve non-compliance by a User.
- iv. A User's failure to pay such civil penalties shall constitute a violation of these Regulations and be grounds for termination of sanitary sewer utility services and revocation of the Wastewater Discharge permit or other Control Document or mechanism.

#### 11.C Criminal Prosecution

- i. A User who willfully or negligently violates any provision of these Regulations, a Wastewater Discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000) per violation, per day, or imprisonment for not more than one year, or both.
- ii. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than ten thousand dollars (\$10,000), per violation,



per day, or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other criminal charges or judicial remedies, including remedies for causing personal injury, endangerment, or destruction of public property available under State law.

- iii. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to these Regulations, Wastewater Discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these Regulations shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000) per violation, per day, or imprisonment for not more than one (1) year, or both.
- iv. In the event of a second conviction, a User shall be punished by a fine of not more than ten thousand dollars (\$10,000) per violation, per day, or imprisonment for not more than one (1) year, or both.

#### **11.D Remedies Nonexclusive**

The remedies provided for in these Regulations are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Alliance's Enforcement Response Plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

## **Section 12**

# **SUPPLEMENTAL ENFORCEMENT ACTION**



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### SECTION 12 - **SUPPLEMENTAL ENFORCEMENT ACTION**

#### 12.A **Supplemental Penalties**

- i. The Director may assess a penalty of one hundred dollars (\$100) to any User for each day that a report required by these Regulations, a permit or order issued hereunder is late. The Director's actions to collect late reporting penalties shall not limit the Director's authority to initiate any other enforcement action. Users desiring to dispute such fines must follow the procedures in Section 10.G(v) of these Regulations.
- ii. The Director may assess a penalty of one hundred dollars (\$100) for each day that a User or establishment where fats, oils and grease may be introduced into the POTW is not in compliance with the routine maintenance schedule as authorized in Section 3.B(viii). The Director's actions to collect penalties for non-compliance per this Section shall not limit the Director's authority to initiate any other enforcement action. Users desiring to dispute such fines must follow the procedures in Section 10.G(v) of these Regulations.

#### 12.B **Performance Bonds**

The Director may require a satisfactory bond, payable to the Alliance, in a sum not to exceed a value determined by the Director as necessary to assure the User will achieve consistent compliance with these Regulations. The Director may require this bond as an enforcement response or as a prerequisite to issue or reissue a Wastewater Discharge permit. Any User who has failed to comply with any provision of these Regulations, a previous permit or order issued hereunder, or any other Pretreatment Standard or requirement may be subject to this requirement. This bond may also be required of any category of User which has led to public burdens in the past regardless of the compliance history of the particular User. The Alliance may use this bond to pay any fees, costs, or penalties assessed to the User whenever the Users account is in arrears for over thirty (30) days. This includes the costs of cleanup of the site if the User goes out of business, sells the business to a Person that does not first assume the bond, or goes bankrupt. Users may petition the Director to convert their performance bond to a requirement to provide Liability Insurance, or to forego any such safeguard based on their performance. A User may petition no more frequently than once in any twelve (12) month period.

#### 12.C **Liability Insurance**

The Director may require any User to provide insurance if they previously failed to comply with any provision of these Regulations, a previous permit, or order issued hereunder, or any other Pretreatment Standard or requirement. The Director may also require Users in businesses which historically have left a public burden to clean up pollution to obtain this insurance, regardless of their compliance history. In such cases, Users must provide proof that the insurance is sufficient to cover any liabilities incurred under these Regulations, including the cost of damages to the POTW and the environment caused by the User. The Director may require Users to provide the proof of such insurance either in response to non-compliance or prior to issuing or reissuing a Wastewater Discharge permit.

#### **12.D Payment of Outstanding Fees and Penalties**

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

#### **12.E Public Nuisances**

A violation of any provision of these Regulations or a permit or order issued hereunder, or any other Pretreatment Standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any Person(s) creating a public nuisance shall be subject to the provisions of applicable law governing such nuisances, including reimbursing the Alliance for any costs incurred in removing, abating, or remedying said nuisance.

#### **12.F Contractor Listing**

Users which have not achieved compliance with applicable Pretreatment Standards and requirements may not be eligible to receive a contractual award for the sale of goods or services to the Alliance. Existing contracts for the sale of goods or services to the Alliance held by a User found to be in Significant Non-Compliance with Pretreatment Standards or requirements may be terminated at the discretion of the Director.

## **Section 13**

# **AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**



### SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

#### 13.A Upset

- i. For the purposes of this Section, the word "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include non-compliance to the extent caused by operational error, improperly designed Pretreatment Facilities, inadequate Pretreatment Facilities, lack of preventive maintenance, or careless or improper operation.
- ii. An upset shall constitute an affirmative defense to punitive actions in response to non-compliance with Categorical Pretreatment Standards (Section 2.B), but not Local Limits (Section 2.D), when the requirements of Section 13.A(iii) are met.
- iii. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  1. An upset occurred and the User can identify the cause(s) of the upset.
  2. The facility was at the time being operated in a prudent and workman-like manner and was in compliance with applicable operation and maintenance procedures.
  3. Where the upset involved reduction, loss, or failure of its Pretreatment Facility (e.g. a power failure), the User controlled production of all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards until the facility was restored or an alternative method of treatment was provided.
  4. The User submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset. When initially provided orally, the User must have provided a written report within five (5) days that includes:
    - a. A description of the Indirect Discharge and cause of non-compliance;
    - b. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
    - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- iv. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.



- v. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with Categorical Pretreatment Standards.

### 13.B Prohibited Discharge Standards

A User will have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 2.A(i) and Section 2.A(ii)(3) through Section 2.A(ii)(7) of these Regulations in certain cases. The User must be able to prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- i. A Local Limit exists for each Pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- ii. No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the Alliance was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

### 13.C Bypass

- i. For the purposes of this Section, severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production
- ii. A User may be authorized to allow a Bypass to occur if it does not cause Pretreatment Standards or Pretreatment Requirements to be violated and is for essential maintenance to assure efficient operation.
- iii. Any other Bypass must meet the following requirements:
  - 1. Users knowing in advance of the need for a Bypass must submit prior notice to the Director, at least ten (10) days before the Bypass whenever possible; and
  - 2. Users must notify the Director of any unanticipated Bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours of becoming aware of the Bypass. Users must provide a written follow-up report within five (5) days. The Director may waive the written report if the oral report was timely and complete. Unless waived, the written report must contain:
    - a. A description of the Bypass (volume, Pollutants, etc.);
    - b. What caused the Bypass;

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- c. When, specifically, the Bypass started and ended;
  - d. When the Bypass is expected to stop (if ongoing); and
  - e. What steps the User has taken or plans to take to reduce, eliminate, and prevent the Bypass from reoccurring.
- iv. Bypass is prohibited, and the Director may take an enforcement action against a User for a Bypass, unless:
  - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 2. There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - 3. The User submitted notices as required under Section 13.C(iii).
- v. The Director may approve an anticipated Bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed in Section 13.C(v).



## **Section 14**

# **ADMINISTRATIVE HEARING**



## SECTION 14 - **ADMINISTRATIVE HEARING**

### 14.A **Right to Administrative Hearing**

- i. Any affected User shall have the right to an administrative hearing to appeal the Director's determination to take any of the following actions:
  1. Issue or deny a User's a Wastewater Discharge permit or other Control Document;
  2. Impose particular conditions or requirements in a User's Wastewater Discharge permit or other Control Document;
  3. Suspend a User's Wastewater services or Wastewater Discharge permit or other Control Document pursuant to Section 10.H of these Regulations
  4. Terminate the User's Wastewater services or Wastewater Discharge permit or other Control Document pursuant to Section 10.I of these Regulations;
  5. Modify the User's Wastewater Discharge permit or other Control Document pursuant to Section 5.D of these Regulations;
  6. Issue a Notice of Violation pursuant to Section 10.B of these Regulations;
  7. Require annual publication pursuant to Section 9.A of these Regulations;
  8. Issue a compliance order pursuant to Section 10.E of these Regulations;
  9. Impose administrative penalties pursuant to Section 10.G of these Regulations;
  10. Impose civil penalties pursuant to Section 11.B of these Regulations;
  11. Assess damages and costs against the User pursuant to Section 11.B(ii) of these Regulations;
  12. Impose any other discretionary action upon the User, or deny any discretionary action requested of the Director by the User, if such action or omission directly affects the User; or
  13. Take any other action with respect to the User which requires the opportunity for hearing by State law or constitutional right.

### 14.B **Request for Administrative Hearing**

- i. A hearing pursuant to this Section shall be requested by the User, in writing to the Director within fifteen (15) business days of the User's actual notice of the Director's action or

- determination from which the User seeks appeal. Failure to request such hearing within this period shall constitute a waiver of the right to administrative hearing, unless the Director determines that good cause exists for the delay.
- ii. Any request for administrative hearing shall adequately identify the affected User, the Director's action or determination from which the User seeks appeal, and the basis or reasons for the appeal.
  - iii. The Director shall respond to all requests for administrative hearing within fifteen (15) business days of receipt of request from the User, or five (5) business days if the User is contesting suspension of Wastewater services, permit, or other Control Document.
  - iv. The Director may deny a request for hearing if the request is untimely, the action contested is not subject to appeal, or if the Director determines in good faith that the request is incomplete or additional information is needed to identify the User, determine the particular action or decision appealed, or determine the basis or reasons for appeal. If the request is denied, the Director shall state the basis for the denial in the Director's response.
  - v. If the request for hearing is granted, the Director shall set a date for hearing no sooner than ten (10) days or later than thirty (30) days from the date of the Director's response to the request. The Director may extend the date for hearing upon good cause for delay and timely notice to the User.
  - vi. The Director's response granting an administrative hearing shall notify the User of the following items:
    1. The names and addresses of all parties to whom notice has been sent;
    2. The mailing address and telephone number of the department or office designated to represent the Director, typically the Alliance Attorney's Office;
    3. The official file or reference number and name of the proceeding;
    4. The name, title, mailing address, and telephone number of the appointed hearings officer, if known;
    5. A brief statement of the time, location, and nature of the administrative hearing;
    6. A statement that the hearing is provided pursuant to this Section under the authority conferred upon the Director by Section 1.B of these Regulations;
    7. A reference to the particular Sections of these Regulations, State law, or Federal law upon which the Director intends to rely;
    8. A short statement of the factual or legal matters asserted by the Director, if known; and

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9. A statement that a party who fails to attend or participate in the scheduled hearing may be found in default.

### 14.C Hearings Officer

- i. The Hearings Officer for an administrative hearing under this Section shall be the Director or the Director's designate.
- ii. A Person that has served as an investigator, prosecutor, or advocate in an adjudicative proceeding, or in its pre-adjudicative stage, or one who is subject to the authority, direction, or discretion of such a Person, may not serve as a Hearings Officer in the same proceeding.

### 14.D Petition for Disqualification

- i. Any party to the hearing may present a written petition for disqualification of a designated Hearings Officer. A Hearings Officer shall be subject to disqualification for actual bias, prejudice, interest, or any other cause sufficient to disqualify a judge under State law. Such petition shall particularly describe the basis or reasons asserted for disqualification, and must be submitted to the designated Hearings Officer within ten (10) days of official notice of the Hearings Officer's identity, or within five (5) days of actual knowledge of the basis for disqualification, whichever is longer. Failure to timely submit a petition for disqualification shall result in a waiver of that party's objection to the Hearings Officer. Petition for disqualification must be submitted at least two (2) days prior to hearing date.
- ii. The Hearings Officer shall consider and decide such petition within ten (10) days and issue a written order stating facts and reasons for the determination made.
- iii. The time for hearing set pursuant to Section 14.B shall be stayed pending determination of a petition for disqualification.

### 14.E Pleadings, Briefs, Motions, Service

The Hearings Officer shall allow all parties, at appropriate stages of the proceeding, to submit and respond to written and oral pleadings, motions, petitions and objections. A party that submits written pleadings, briefs, petitions, or other documents to the Hearings Officer shall deliver a copy in advance to all other parties. The Hearings Officer may refuse to consider written pleadings, motions, petitions, and other documents which have not been delivered to other parties.

### 14.F Default

- i. When a party fails to attend or participate in a hearing pursuant to this Section, the Hearings Officer may issue an order of default disposing of the matter in favor of the opposing party.



- ii. Within seven (7) days of issuance of order of default, the party against whom the order has been issued may petition the Hearings Officer, in writing, to repeal the order of default and set a new date for hearing. Upon good cause shown by the defaulting party, and a finding by the Hearings Officer, on the record, that repeal of the order of default is required in the administration of justice, such repeal of the order of default may be granted and the hearing re-set.

#### **14.G Continuance**

- i. Upon the written or oral motion of any party, or on his or her own accord, the Hearings Officer may grant a continuance of the date set for hearing for any good cause. Upon request for continuance, the party requesting continuance shall advise all other parties of the request. The Hearings Officer shall afford all other parties an opportunity to address a request for continuance before granting such motion. If contested, the Hearings Officer shall determine in his or her discretion whether good cause has been presented, taking into due consideration the orderly and efficient administration of such hearings.
- ii. Upon order of continuance, the Hearings Officer shall determine a new date for hearing not to exceed thirty (30) days from the date of the previously arranged hearing, and shall advise all parties of the new date and time for hearing, and new location, if applicable.
- iii. The time limits for hearing otherwise established by this Section shall be deemed to be waived by all parties upon issuance of an order of continuance.

#### **14.H Procedure at Hearing**

- i. The Hearings Officer shall preside over and regulate the course of proceedings at the hearing.
- ii. To the extent necessary to make an informed and rational decision, the Hearings Officer shall allow all parties the opportunity to present evidence and argument, conduct cross-examination, and submit rebuttal evidence.
- iii. Upon finding that the rights of the parties will not be prejudiced, the Hearings Officer may allow all or part of the hearing to be conducted by telephone, or other electronic means.
- iv. The formal rules of evidence shall not apply to the presentation of evidence at the hearing. The Hearings Officer shall allow evidence if, in the judgment of the Hearings Officer, the evidence is of the kind upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Upon the motion of any party, or upon his or her own accord, the Hearings Officer may exclude the presentation of evidence that the Hearings Officer determines is not relevant, cumulative, prejudicial, or excludable on the basis of constitutional or State law.

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- v. All testimony of witnesses shall be made under oath or affirmation and the Hearings Officer is authorized by these Regulations to administer such oath or affirmation as set forth in RCW 5.28.010-060.
- vi. The Hearings Officer may take administrative notice of: any fact judicially cognizable; technical or scientific facts within the Director's specialized knowledge; officially published laws and regulations of the Alliance, the State, the United States, or any other state; and any codes or standards that have been adopted by the Alliance, an agency of the United States, the State, or any other state, or by a nationally recognized organization or association.

Parties shall be notified of any such information which the Hearings Officer takes administrative notice and shall have the opportunity to address and/or contest the facts or materials so noticed prior to issuance of a final order.

### 14.I Record of Proceedings

- i. The Hearings Officer shall cause the hearing to be recorded in a method chosen by the Director. The Director shall not be required to prepare a transcript, unless required to do so by other provision of law.
- ii. Any party may make arrangements to record the hearing through any means of choice, provided that the party arranges and pays for the expenses of recording, and provided further that the chosen recording means does not cause distraction or disruption.
- iii. Upon issuance of a Final Order, the Director shall maintain the record of hearing for a period of ninety (90) days, for the purposes of judicial review.

### 14.J Public Access

Administrative hearings pursuant to this Section shall be generally open to public observation, unless required to be private by State law or constitutional provision, or if the User requests confidentiality and establishes that evidence to be presented at the hearing is protected from public disclosure under the standards set forth in Section 8 of these Regulations. The Hearings Officer may order the hearing to be closed upon other good cause shown by the parties, such as undue distraction or disruption.

### 14.K Ex Parte Communications

- i. Once designated, the Hearings Officer shall not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any elected official, officer, employee or other representative of any Member of the Alliance who has specific knowledge of the matter, or with any other Person who has a direct or indirect interest in the outcome of the hearing, without notice and opportunity for all parties to participate, except as otherwise provided in this Part.

- ii. The Hearings Officer may receive aid and advice from the Alliance Attorney's Office, provided that the Hearings Officer initiates the communication, the particular employee providing advice has not and/or will not represent the Director at the hearing, and provided further that any such communications are limited to the resolution of legal issues requiring specialized knowledge or resources.
- iii. The Hearings Officer may communicate with employees or consultants of the Alliance or its Members who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.
- iv. Persons with whom the Hearings Officer may not communicate regarding any issue in the hearing under the provisions of Section 14.K(i) shall not initiate communication with the Hearings Officer, without notice and opportunity for all parties to participate, unless necessary to procedural aspects of maintaining an orderly process.
- v. Nothing in this Section shall prohibit the parties from communicating with the Hearings Officer when specifically authorized or required to do so by these Regulations or State law.
- vi. A Hearings Officer who receives or initiates prohibited communications shall notify all parties and identify the party making the communication, or to whom the communication was made, and place on the record the substance of all prohibited communications. Any party may submit a written rebuttal statement to the Hearings Officer in response to a prohibited communication, and such statement shall be placed on the record, provided that the rebuttal is submitted within ten (10) days of the party's notice of the prohibited communication, and further that notice of the rebuttal is provided to all other parties. Such prohibited statements and rebuttals included on the record shall not be considered evidence in the Hearings Officer's determination and may form the basis for a petition for disqualification of the Hearings Officer.

#### **14.L Issuance of Final Order**

- i. The Hearings Officer shall issue a written Final Order within fifteen (15) business days of conclusion of the hearing. The Hearings Officer may extend the time for Final Order upon notice to the parties and upon good cause, including but not limited to: excessive evidence or testimony, factual or legal complexities requiring additional investigation or research, or time conflict with other prearranged matters. The Hearings Officer shall be reasonably diligent in issuing Final Orders within the timelines specified in this Section.
- ii. The Final Order shall include the following elements:
  - 1. A statement of findings and conclusions, and the reasons and basis therefor, on all material issues of fact, law, or discretion presented on the record;
  - 2. The remedy, sanction, or other action determined to be applicable;

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3. Any specific findings substantially based upon the credibility or demeanor of witnesses and the reasons therefor; and
  4. A statement advising the parties of the right to seek judicial review in Clark County Superior Court by filing the appropriate petition within thirty (30) days of issuance of the Final Order.
- iii. Findings of fact shall be based exclusively upon the evidence contained in the record of the hearing and shall be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs.
  - iv. The Hearings Officer may rely upon any specialized knowledge of the Alliance or its Members in evaluating evidence.
  - v. The Hearings Officer may allow the parties time after conclusion of the hearing to submit memos, briefs, or proposed orders. A party submitting a memo, brief, or proposed order shall provide notice of the submittal to all other parties and comply with the provisions of Section 14.E of these Regulations.
  - vi. The Hearings Officer may accept and issue, or incorporate into the Final Order, any stipulated agreement made between the parties, provided the Hearings Officer determines that such stipulated agreement does not offend the administration of justice.
  - vii. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under these Regulations.



## **Section 15**

# **JUDICIAL REVIEW**



**SECTION 15 - JUDICIAL REVIEW**

**15.A Final Action**

- i. An administrative hearing, where provided by these Regulations, shall be a prerequisite to judicial review of the Director's determination, action, or omission under this Part. A User shall not be deemed to have exhausted administrative remedies unless such hearing is timely requested and conducted or denied.
- ii. A Final Order issued by a Hearings Officer pursuant to Section 14 of these Regulations, or the Director's refusal to grant a request for administrative hearing, shall constitute final agency action for purposes of administrative review.
- iii. Except to the extent that these Regulations or another statute provides otherwise, the record resulting from any administrative hearing shall constitute the exclusive basis for agency action in judicial review of the administrative hearing.
- iv. Unless otherwise provided by law, petition for judicial review of final agency action shall be submitted to Clark County Superior Court within thirty (30) days of final agency action and properly served upon the Discovery Clean Water Alliance.





## **Section 16**

# **WASTEWATER TREATMENT RATES**



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### SECTION 16 - WASTEWATER TREATMENT CHARGES AND FEES

#### 16.A Pretreatment Charges and Fees

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

- i. Fees for Wastewater Discharge permit applications including the cost of processing such applications;
- ii. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's Discharge, and reviewing monitoring reports submitted by Users;
- iii. Fees for reviewing and responding to accidental Discharge procedures and construction;
- iv. Fees for filing appeals;
- v. Fees to recover administrative and legal costs (not included in Section 16.A(ii)) associated with the enforcement activity taken by the Director to address User non-compliance; and
- vi. Other fees as the Alliance may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by these Regulations and are separate from all other fees, fines, and penalties chargeable by the Alliance.

#### 16.B High Strength User Charges and Fees

Users meeting the definition of a High Strength User as defined in Section 2.D(vii) of these Regulations shall be subject to appropriate charges and fees as determined by the Director.

- i. A monthly sanitary sewer charge for flow is levied on each High Strength User discharging directly to the POTW. This charge is at a rate as determined by the Director and is based upon the measured volume of total Wastewater discharged to the POTW or metered water consumption.
- ii. Rates for strength of Industrial Wastewater from High Strength Users are established for each pound of BOD and each pound of suspended solids as determined by the Director.
- iii. Industrial Wastewater samples taken for the purpose of determining charges are to be taken by the Director or as otherwise determined by the Director. The samples taken shall be Composite Samples. Charges shall apply as specified in Section 16.B(ii), as determined on the basis of at least one twenty-four (24) hour flow proportioned or timed sample analysis to be obtained twice per month and such analyses averaged for each month; provided, a new average for strength of Industrial Wastewater may be computed, regardless of previous averages, when changes in preliminary treatment or industrial process changes have been made which are expected to significantly change the average strength of the Wastewater.

- iv. Sampling procedures and methods to determine the mean Wastewater strength for the purpose of determining charges shall be conducted by or under the direction of the Director. Samples shall involve a twenty-four (24) hour flow-proportioning or timed sampling device, where feasible, and be in accordance with methods as prescribed in Section 6.J and Section 6.K of these Regulations. Sampling shall be conducted at sampling manholes or other locations adjudged by the Director to be suitable points from which samples would be representative, either singly or with other samples, of the Industrial Wastewater to be sampled. Samples shall be analyzed by an accredited laboratory as required by Chapter 173-50 WAC.

## **Section 17**

# **MISCELLANEOUS PROVISIONS**



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### SECTION 17 - MISCELLANEOUS PROVISIONS

#### 17.A Severability

If any provision, paragraph, word, or Section of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

#### 17.B Conflict

All other resolutions or regulations, or parts thereof, inconsistent or conflicting with any part of these Regulations are hereby repealed to the extent of such inconsistency or conflict.