

## **Chapter 13.08 SEWER AND PRETREATMENT**

### Sections:

#### **13.08.005 Authority**

This chapter is adopted under the City's authority to own, operate, regulate, and charge for sewerage systems, including but not limited to Chapter 35.67 RCW, Chapter 90.48 RCW, Chapter 173-216 WAC, and 40 CFR Part 403.

#### **13.08.010 Purpose and policy.**

This chapter governs connections to, use of, and discharges into the City of Stevenson sanitary sewer system and publicly owned treatment works (POTW). The chapter is intended to: Establish standards for the collection of sewage and wastewater in areas served by the City; prevent discharges that could damage the system, interfere with treatment, pass through the treatment plant, harm the environment, or threaten public health and safety; support the City's pretreatment program and NPDES compliance; promote lawful reuse and recycling where appropriate; and fairly allocate the costs of operating, maintaining, and improving the POTW.

#### **13.08.020 Applicability.**

This chapter applies to all property within the City and to each person who connects to, uses, or discharges to the City sanitary sewer system or POTW. Each user must comply with this chapter's connection, pretreatment, monitoring, reporting, fee, appeal, and enforcement requirements.

#### **13.08.030 Administration.**

Except as otherwise provided, the Director administers, implements, and enforces this chapter. The Director may delegate duties under this chapter to qualified City personnel.

#### **13.08.040 Abbreviations.**

The following abbreviations, when used in this chapter, shall have the designated meanings:

AKART - All known, available, and reasonable treatment

BOD - Biochemical Oxygen Demand

BMP - Best Management Practice

CFR - Code of Federal Regulations

CIU - Categorical Industrial User

EPA - U.S. Environmental Protection Agency

gpd - gallons per day

mg/l - milligrams per liter

NOEC - No observable detrimental effect

NPDES - National Pollutant Discharge Elimination System

NSCIU - Non-Significant Categorical Industrial User

OSS – On-site septic system

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIU - Significant Industrial User

TSS - Total Suspended Solids

U.S.C. - United States Code

### **13.08.050 Definitions.**

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

1. "ASTM specification." All references to the form ASTM mean the Standard Specifications or Methods of the American Society for Testing Materials of the serial designation indicated by the number and, unless otherwise stated, refer to the latest adopted revision of such specifications or method.
2. "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 on.
3. "Approval authority." The Washington State Department of Ecology, Water Quality Program Manager.
4. "Authorized or duly authorized representative of the user."
  - a. If the user is a corporation:
    - i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - ii. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - c. 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.
  - d. The individuals described in paragraphs 1 through 3, 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 city.
5. "Available public sewer." Available public sewer means a public sewer main, lateral, or service connection abuts, fronts, or is located in a street, alley, easement, or right-of-way serving the lot, and the lot can connect without extension of a public sewer main. Service may be by gravity or approved private pumping facilities.
6. "Biochemical oxygen demand or BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
7. "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in SMC 13.08.210(A) and (B) [40CFR 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.
8. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
  9. "Building sewer" means the extension from the building drain to the property line or right-of-way line for connection with the public sewer service connection.
  10. "Categorical pretreatment standard" or "categorical 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.
  11. "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.
  12. "City." The city of Stevenson.
  13. "Combined sewer" means a sewer receiving both surface runoff and sewage.
  14. "Composite sample." A representative composite of samples of a waste stream taken throughout the period of a day when discharges are produced by a regulated activity. "Time proportionate" samplers shall be used, unless there is capability to interface with a flow metering device to produce a representative "flow proportionate" composite sample.
  15. "Connection" or "connect" means construction of sewer line, which could include building sewer and service connection, connecting a structure or structures on a lot to a public sewer.
  16. "County health official." The Skamania County health officer, Skamania County public health department, or any authorized designee responsible for administering or enforcing county or state requirements for on-site sewage systems, public health, sanitation, or wastewater disposal.
  17. "Daily concentration." The concentration obtained through analysis of a composite sample of all discharges over a day (or 24-hour period) or the average of all discrete samples taken over such period.
  18. "Daily limit (maximum daily limit)." The maximum allowable discharge of a pollutant over a calendar day or equivalent 24-hour period. Where daily limits are expressed in units of mass, compliance is the product of the Daily Concentration and the flow over the same period.
  19. "Development" means activity upon the land consisting of construction or alteration of structures or buildings. Development includes approvals issued by the city that binds land to specific patterns of use, including but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development does not include temporary uses or structures on wheels.
  20. "Director." The city of Stevenson public works Director, or designee.
  21. "Dwelling." A building, structure, or portion thereof designed or used for residential occupancy and providing complete independent living facilities for one household, including permanent provisions for living, sleeping, eating, cooking, and sanitation. The term includes a dwelling unit, single-family residence, accessory dwelling unit, and each separate unit in a two-family or multi-family development.
  22. "Ecology." The Washington State Department of Ecology, who is also the control authority for purposes of the federal pretreatment program.
  23. "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division Director, the regional administrator, or other duly authorized official.
  24. "Existing source." Any source of discharges subject to categorical standards and discharging prior to the promulgation of those standards or otherwise not meeting the definition of a "new source" in this section.

25. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
26. "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 15 minutes.
27. "Indirect discharge" or "discharge." The introduction of pollutants into the POTW from any nondomestic source subject to this chapter or other state or federal regulations.
28. "Industrial wastes" means the liquid wastes from industrial processes as distinct from sewage from other sources.
29. "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 standard. For all other pollutants the instantaneous limit shall be twice the daily limit.
30. "Interference." A discharge which causes (either by itself or in combination with other discharges) a violation of the city's NPDES permit or prevents the intended sewage sludge use or disposal by inhibiting or disrupting the POTW, including its collection systems, pump stations, and wastewater and sludge treatment processes. For example, a discharge from a user which causes a blockage resulting in a discharge at a point not authorized under the city's NPDES permit.
31. "Health officer." The local health officer appointed under Washington law, or the health officer's authorized representative, having jurisdiction over public health, sanitation, on-site sewage systems, and related wastewater disposal requirements affecting property within the City.
32. "Local limits." Effluent limitation developed for users by the Director to specifically protect the POTW from the potential of pass through, Interference, and intended biosolids uses. 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. See SMC 13.08.240 for a full list of local limits.
33. "Lot." A fractional part of divided lands having fixed boundaries and being of sufficient area and dimensions to meet relevant zoning requirements. "Lot" also is any identifiable parcel of unsubdivided land with established boundaries set forth in a deed or other form of conveyance. The term includes "tract" and "parcel" and excludes the term "tax parcel".
34. "Lot Line." Any line bounding a lot as defined herein.
35. "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.
36. "Monthly average." The arithmetic mean of the effluent sample results collected during a calendar month or specified 30-day period. Where the city has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the city are not to be included in a monthly average.
37. "Monthly average limit." The limit to be applied to the monthly average to determine compliance with the requirements of this chapter (see SMC 13.08.240 for listing).
38. "Multi-Family Development." Any lot on which 3 or more dwellings are located or intended to be located.
39. "Natural outlet" means any outlet into a water-course, pond, ditch, lake or other body of surface or groundwater.
40. "New source."
  - a. A facility whose construction began after categorical pretreatment standards applicable to its operations were proposed and with a real or potential discharge provided the facility is: A) constructed at a site at which no other source is located; B) totally replaces the process or

production equipment that generate regulated process waste streams at an existing source; or C) the new processes are substantially independent of an existing source at the same site.

- b. Construction at an existing source does not make the source a new source if the construction merely alters, partially replaces, or adds to existing process or production equipment.
- c. Construction of a new source is considered to have begun when the owner or operator either began significant site preparation work including earthwork or removal of structures to allow the new facilities or equipment, began constructing a facility or emplacing equipment, or entered into a binding contract to purchase necessary facilities or equipment within a reasonable time prior to operation.

Users must provide documentation sufficient to conclusively substantiate any existing source claim with their initial permit application. Once categorized as a new source, users may not assert "existing source" status in subsequent permit renewals.

- 41. "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.
- 42. "On-site sewage system" or "OSS". An integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, and/or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component.
- 43. "Owner." The record owner of a lot or other person holding legal or equitable title to real property, including a purchaser under a real estate contract. For purposes of notice, billing, connection, lien, and enforcement under this chapter, "owner" also includes the owner's authorized agent, personal representative, trustee, successor, or assign, and any person responsible for the premises under written agreement or applicable law.
- 44. "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 city's NPDES permit, including an increase in the magnitude or duration of a violation.
- 45. "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.
- 46. "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.
- 47. "Pollutant." 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).
- 48. "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. Dilution is not considered pretreatment.
- 49. "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user other than a pretreatment standard such as the proper operation of pretreatment devices, record keeping, and reporting.
- 50. "Pretreatment standards" or "standards." Discharge prohibitions (SMC 13.08.210), categorical pretreatment standards (SMC 13.08.220), state pretreatment standards (SMC 13.08.230), local limits (SMC 13.08.240), and site-specific limits based on potential for vapor toxicity, explosion, sewer corrosion, or other detrimental effects to the POTW.

51. "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of foods that have been shredded to such degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
52. "Public sewer" means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
53. "Publicly owned treatment works" or "POTW." A treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the City. 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.
54. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.
55. "Septic tank waste." Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences. The Director may also consider wastes from other holding tanks such as boat blackwater, bilge water, cesspools, and treatment lagoons to be septic tank waste so long as they are absent chemicals which might inhibit biological activity.
56. "Service connection" means a public sewer which has been constructed to the property line or right-of-way from a public sewer lateral or main for the sole purpose of providing a connection for the building sewer.
57. "Served by the sewerage system." A lot is served by the sewerage system when the lot is connected to the City sanitary sewer system or when an available public sewer exists for the lot and the City is ready, willing, and able to provide sewer service upon the owner's completion of required private-side connection work and payment of applicable rates, fees, and charges.
58. "Sewage." Human excrement and gray water (e.g., water from household showers, toilets, kitchens, clothes and dish washing, and related domestic activities).
59. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
60. "Sewage works" means all city-owned facilities for collecting, pumping, treating and disposing of sewage.
61. "Sewer" means a pipe or conduit for carrying wastewater.
62. "Single-Family Development." Any lot on which one dwelling is located or intended to be located.
63. "Significant industrial user" or "SIU". Except as provided in paragraphs (3) and (4) of this section, a Significant Industrial User is:
- a. A user subject to categorical pretreatment standards; or
  - b. A user that:
    - i. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
    - ii. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - iii. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  - c. The City may determine that a user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically

included in the pretreatment standard) and the following conditions are met:

- i. The user, prior to city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- ii. The user annually submits the certification statement required in SMC 13.08.695(B) [see 40CR 403.12(q)], together with any additional information necessary to support the certification statement; and
- iii. The user never discharges any untreated concentrated wastewater.
- iv. Upon a finding that a user meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City 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.

64. "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 SMC 13.08.210.

65. "Standard user." A user that is not subject to a categorical pretreatment standard or categorical standard.

66. "Storm sewer" or "storm drain" means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

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

68. "Suspended solids." 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.

69. "Two-Family Development." Any lot on which 2 dwellings are located or intended to be located. This includes developments involving accessory dwelling units.

70. "User" or "industrial user." A source of indirect discharge.

71. "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

72. "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

73. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

### **13.08.060 Certain facilities prohibited.**

Except as allowed by this chapter and applicable county or state health requirements, a person may not construct, install, use, or maintain an on-site sewage system or other facility for the disposal of sewage or industrial waste. This section does not apply to an existing, operating and OSS previously approved by the Health officer.

### 13.08.070 Connection with public sewer required.

- A. Compliance required. The owner of any lot that generates sewage or industrial waste within the City must provide lawful wastewater disposal at the owner's expense and must comply with Table 13.08.070-1. Any lot owner with an existing, operational and functioning OSS, previously approved by the public Health official, is exempt from compliance with this chapter. The City may request information and/or documents which evidence the existing OSS is functioning as designed and approved by the public Health official.

| <b>Table 13.08.070-1: Sewage and Wastewater Disposal Connection Requirements</b>                                                            |                                                                                           |                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>New Development</b>                                                                                                                      | <b>Public Sewer Available</b>                                                             | <b>Public Sewer Not Available</b>                                                                                                                                        |
| 1. Commercial or Industrial                                                                                                                 | Connect to public sewer                                                                   | Extend and connect to public sewer, unless the appropriate public Health official approves and permits an OSS to service sewer discharge within the proposed development |
| 2. Subdivision Resulting in 5 or more Lots                                                                                                  | Connect to public sewer                                                                   | Extend and connect to public sewer, unless the appropriate public Health official approves and permits an OSS to service sewer discharge within the proposed development |
| 3. Short Subdivision – 4 or fewer lots                                                                                                      | Connect to public sewer, or install public sewer improvements necessary to serve all lots | Install OSS approved by the local Health officer; other alternative system which meets all federal, state, and local health regulations                                  |
| 4. Multi-Family                                                                                                                             | Connect to public sewer                                                                   | Extend and connect to public sewer, unless the appropriate public Health official approves and permits an OSS to service sewer discharge within the proposed development |
|                                                                                                                                             |                                                                                           |                                                                                                                                                                          |
|                                                                                                                                             |                                                                                           |                                                                                                                                                                          |
| 5. Single-Family or Two-Family                                                                                                              | Connect to public sewer                                                                   | Install OSS approved by the local Health officer; other alternative system which meets all federal, state, and local health regulations                                  |
|                                                                                                                                             |                                                                                           |                                                                                                                                                                          |
| <b>Existing Development</b>                                                                                                                 | <b>Public Sewer Available</b>                                                             | <b>Public Sewer Not Available</b>                                                                                                                                        |
| Alteration of any existing development that necessitates the replacement, expansion, extension, resizing, or relocation of an existing OSS. | Connect to public sewer                                                                   | Continue use of existing OSS only if approved by the local Health officer; otherwise repair, replace, or install OSS as approved by the local Health officer             |
| If the OSS has failed and confirmed by the public Health official and the lot owner is unable to repair for any reason                      | Connect to public sewer if connection is otherwise required by this chapter               | Continue use of existing OSS, subject to applicable state and local health                                                                                               |



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| <p>1 For any short subdivision or subdivision approved after the effective date of this ordinance, the City may require the applicant to demonstrate how public sewer service can be made available to all lots within the land division, including the location of future sewer mains, laterals, easements, and connection points.</p> <p>2 When public sewer becomes available to any lot within a land division approved after the effective date of this chapter, sewer shall be deemed available to all lots within that land division if the approved land division, recorded plat, utility plan, easement, or required improvements provide or require a practicable means of sewer service to such lots.</p> <p>3 Nothing in this table authorizes the installation, repair, replacement, expansion, extension, or continued use of an OSS without approval from the local health officer or other agency with jurisdiction.</p> <p>4 Any requirement to extend public sewer as a condition of land division approval shall be based on applicable City standards, adopted utility plans, public health and safety considerations, and the extent to which the extension or improvement is reasonably necessary as a result of the proposed development or land division.</p> |  |              |

B. Exceptions. The following exceptions are permitted to the requirements of Table 13.08.070-1: Sewage and Wastewater Disposal Connection Requirements:

1. Any lot to which public sewer is not available has the option to extend and connect to public sewer at the lot owner's expense.
2. Lots granted relief after appeal under SMC 13.08.078.

C. OSS Failure – Mandatory Connection to Available Public Sewer. In accordance with RCW 35.67.190, if a lot is served by, or has previously been served by, an OSS, and the OSS, based on inspection by the local Health officer has determined the existing OSS has failed, has been decommissioned, is subject to red-tag by the Health officer, or no longer operational, the lot owner shall connect the lot and all structures requiring sanitary sewer service to the public sewer system when sewer is available to the lot as defined in this chapter. When public sewer is available, connection to the public sewer system shall be required in lieu of replacing, expanding, extending, resizing, relocating, or otherwise continuing use of the OSS, except for temporary emergency measures expressly authorized by the local Health officer to abate an immediate public health or safety condition pending connection. Upon connection, the owner shall abandon or decommission the OSS in accordance with applicable state and local health regulations. Failure to connect as required by this subsection constitutes a violation of this chapter and is subject to enforcement, penalties, and charges as provided herein.

### **13.08.072 Public Sewer Availability—Notification, Response.**

- A. Notice. When connection to the public sewer is required under Table 13.08.070-1, the Director must send written notice to the lot owner. The notice must identify the property, state the connection requirement, explain any available exceptions, incentives, and appeal rights, and describe any penalty for failure to connect.
- B. Owner response. Within the applicable response period in SMC 13.08.074, the lot owner must respond on a City form stating how the owner will comply and whether the owner seeks any available incentives or appeal the requirement in subsection A..
- C. Connection work. Required connections must be made by gravity or approved pumping facilities, in compliance with this chapter and the Stevenson Engineering Standards, at no expense to the City unless the City separately agrees in writing.

### **13.08.074 Public Sewer Available—Connection Incentive.**

- A. As an incentive to lot owners who are not currently connected to the sewer and where sewer is available or becomes available to the lot as defined in this chapter, those individual lot owners may request a waiver of the wastewater system development charges to connect to the available sewer. The City shall waive the wastewater system development charge for an owner who connects to the available public sewer **within 365-days after** the effective date of this chapter (“incentive period”). This incentive is applicable to those existing lots where the sewer is currently available for connection, but are not connected at the time of the passage of this chapter. The incentive lapses following the incentive period.
- B. The incentive is intended to encourage timely connection, reduce risks from continued OSS use, reduce administrative burden, and support housing affordability.
- C. Should public sewer become available to a lot owner after the passage of this chapter, the lot owner effected by the sewer extension shall have 365-days after notice of the available sewer to connect to the available public sewer in consideration for the City’s wavier of the wastewater system development charge. The incentive lapses following the incentive period.
- D. The Council reserves the right to extend, modify, or terminate the incentive period by resolution or ordinance.

### **13.08.075 General Notice and Service.**

Unless a different procedure is stated, notices under this chapter may be served by personal delivery, first-class mail, certified mail, or any other method reasonably calculated to provide actual notice. A notice must identify the property or use, state the action required, identify the deadline for compliance, describe available appeal rights, and provide City contact information.

### **13.08.076 Failure to Connect—Penalty, billing, lien, and collection.**

- A. If the lot owner fails to connect when required by this chapter, the City may impose a failure-to-connect penalty as authorized by RCW 35.67.190. The penalty amount must be established by Council resolution or ordinance and may not exceed the charge that would apply if the lot were connected. The penalty amount will be assessed in those instances of a clear and direct violation of this chapter.
- B. The City shall first provide written notice to the lot owner of the violation and provide a 90-day right to respond and/or cure the connection issue as set forth in SMC 13.08.078. If the lot owner contests the notice of violation, the City shall not impose a penalty or lien until any appeal rights are exhausted as provided in SMC 13.08.078.
- C. The decision of the Council on an appeal or objection under this section shall be the City’s final decision. Any appeal of the Council’s final decision requiring connection to the public sewer system shall be filed in Skamania County Superior Court pursuant to the Land Use Petition Act, Chapter 36.70C RCW, including the time limits and service requirements in RCW 36.70C.040. Failure to timely file and serve a land use petition within twenty-one (21) days of issuance of the Council’s final decision shall bar judicial review to the extent provided by Chapter 36.70C RCW.
- D. The penalty begins with the first full billing cycle after the applicable response period expires, unless the owner has filed a timely appeal.
- E. Failure-to-connect penalties, delinquent sewer charges, connection charges, interest, and other amounts authorized by this chapter may be billed, collected, certified, and secured by lien as sewer utility charges under RCW 35.67.200 through RCW 35.67.290.
- F. Delinquent amounts accrue interest and penalties as established by ordinance or resolution.
- G. Nothing in this section limits the City’s authority to enforce this chapter, collect rates, charges, penalties, or pursue any other remedy authorized by law.

### 13.08.078 Appeal of Notice Requiring Sewer Connection.

- A. **Appeal Authorized.** A lot owner may appeal a City notice requiring connection to the public sewer system by filing written objections with the Director within **30 days** after the date of the notice. The written appeal shall state the specific basis for the objection and identify the relief requested.

Except where immediate action is required to protect public health, safety, water quality, or to comply with an order or requirement of the local health officer, the City shall not impose City penalties for failure to connect while a timely appeal is pending. The filing of an appeal does not stay, waive, modify, or excuse any independent requirement imposed by Skamania County, the local Health officer, the Washington State Department of Health, or any other agency with jurisdiction over a failed or failing OSS.

The City Council shall hear the appeal not less than 10 days and not more than 45 days after receipt of a complete appeal, unless the appellant agrees to a later hearing date. The City shall provide at least seven days' written notice of the hearing. The Council's decision shall be final City action, subject to judicial review as provided by law, including, where applicable, Chapter 7.16 RCW or Chapter 36.70C RCW.

- B. **Scope of Relief.** The City Council may grant only City-side relief consistent with this chapter and applicable state and county health requirements. Available relief may include:

1. Extending the time for connection;
2. Approving a phased connection schedule;
3. Modifying or reducing City penalties for failure to connect;
4. Extending the period for any City connection incentive, if applicable;
5. Allowing temporary measures necessary to protect public health and safety pending connection, if approved by the City and the local health officer; or
6. Granting relief from a requirement to extend public sewer where extension is not necessary to serve the lot, or where an alternative agreement adequately protects the City's sewer planning and utility interests.

The Council may not grant relief that allows the continued use, repair, replacement, expansion, extension, resizing, relocation, or redevelopment of a failed OSS when public sewer is available to the lot and connection is required under this chapter. Whether an OSS has failed shall be determined by the appropriate public Health officer.

- C. **Review Criteria.** In deciding an appeal, the City Council may consider the following factors, to the extent applicable:

1. Whether public sewer is available to the lot as defined in this chapter;
2. Whether the lot is served by an OSS that has failed to serve the existing or proposed use;
3. Whether connection is required to protect public health, safety, groundwater, surface water, or potable water supplies;
4. Whether the length of the required sewer extension, topography, need for pumping facilities, or other site-specific conditions create an extraordinary connection burden;
5. Whether the cost of connection creates a financial hardship. For purposes of this subsection, "financial hardship" means an unrecoverable cost equal to or exceeding 5 percent of the county-assessed market value of the building and building site;
6. Whether the lot owner has requested and been denied a latecomer reimbursement agreement where extension of public sewer is necessary;
7. Whether the lot owner is willing to enter into a utility local improvement district no-protest agreement, sewer extension agreement, latecomer agreement, covenant, or other agreement acceptable to the City

to pay a proportionate share of future sewer improvements;

8. Whether the lot is owner-occupied or used for nonprofit purposes;

9. Whether the existing or proposed use or density of development on the lot is consistent with adopted City plans, zoning, and utility planning;

10. Whether the OSS has been inspected by a qualified professional or the local health officer and found to be functioning, properly sized, and in suitable condition; provided, this factor shall not support relief where the OSS has failed or public sewer connection is otherwise required by this chapter or by a health authority; and

11. Whether there is evidence of water quality degradation, sewage surfacing, nuisance conditions, or risk to a nearby potable water well, groundwater, shoreline, or watercourse.

- D. **Recording of Agreements.** When the Council's decision is conditioned upon an agreement, covenant, no-protest agreement, latecomer agreement, sewer extension agreement, or other obligation by the lot owner, the lot owner shall record the fully executed agreement with the Skamania County Auditor's Office, at the owner's expense, in a form approved by the City.
- E. **No Waiver of Health Requirements.** Nothing in this section authorizes the City, the Director, or the City Council to waive, reverse, stay, or modify any independent county, state, or local health requirement. Relief under this section is limited to City connection timing, City penalties, City incentives, City fees, City extension requirements, or City utility agreements, and only to the extent such relief is consistent with this chapter and applicable law
- F. Appeal authorized. A lot owner may appeal a City notice requiring connection by filing written objections with the Director within 90 days after the notice. The City will not enforce the connection requirement while a timely appeal is pending. The City Council must hear the appeal not less than 10 and not more than 45 days after receipt and must give at least seven days' written notice of the hearing. The Council may grant relief based on the criteria in subsection D. The Council's decision is final, subject only to review as provided by law.
- G. Relief Available. The City Council may, at its sole discretion, grant or deny relief upon appeal. Available relief includes but is not limited to exempting development from a requirement to extend public sewer, extending the period when the connection incentive is available, and reducing the penalty for failure to connect.
- H. Review Criteria. Factors for City Council consideration of appeals may include and are not limited to:
1. Whether or not the length of the building sewer or sizing of pumping facilities necessary to connect to public sewer present a financial hardship for the appellant. For the purposes of this subsection, "financial hardship" means an unrecoverable cost equal to or exceeding 5 percent of the county assessed market value of the building and building site.
  2. Whether or not the appellant has requested and been denied a latecomer reimbursement agreement for the cost of extending public sewer, provided extension is necessary.
  3. Whether or not the lot owner is willing to enter into a ULID no-protest or other agreement to pay a proportionate share of future extension of the public sewer system.
  4. Whether or not development on the lot is owner-occupied or used for nonprofit purposes.
  5. Whether or not the use or density of development on the lot is consistent with adopted city plans.
  6. Whether or not the OSS has been inspected and found to be of suitable size and condition.
  7. Whether or not there is evidence of water quality degradation in a nearby potable water well or watercourse.
- I. Recording. When the decision of the City Council is contingent on an agreement by the lot owner, the lot owner shall record fully executed agreements with the Skamania County Auditor's Office.
- J. Nothing in this section authorizes the City to waive, reverse, stay, or modify an independent county or

state health requirement. The Director may grant only City-side relief from City connection timing, City penalties, City incentives, or City fees when the criteria in this section are met.

**13.08.080 Connection with public sewer—Permit.**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director.

**13.08.090 Connection with public sewer—Building sewers.**

- A. If an existing building cannot be served by gravity and connection is required under SMC 13.08.070, the owner must install approved pumping facilities to discharge to the sanitary sewer. The owner is responsible for all operation, maintenance, repair, and replacement of private pumping facilities, at no expense to the City.
- B. Old building sewers may be used in connection with new buildings, or new building sewers only when they are found to meet all requirements of the Stevenson Engineering Standards.

**13.08.100 Industrial user surveys.**

The City must identify users that may be subject to pretreatment requirements and determine the character and volume of pollutants discharged by those users. Upon request, a user with a non-domestic discharge must complete an industrial user survey on a City form. Completion of the survey is a condition of initial and continued discharge to the public sewer system. A user that fails to submit a complete survey within 30 days after request is subject to enforcement under this chapter, including termination of service. The Director may categorize or recategorize users and must provide written notice of the categorization.

**13.08.140 On-Site Sewage System—Compliance with state standards required.**

- A. The type, capacities, location and layout of an on-site sewage system shall comply with all recommendations and requirements of county or state health officials.
- B. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**13.08.150 Private system—Connection with public sewer required when—Abandonment of private facilities.**

At such time as a lot connects to the public sewer system, any existing septic tanks, cesspools and similar private sewage disposal facilities not utilized in an approved pumping facility shall be abandoned according to the requirements of county or state health officials.

**13.08.160 On-Site Sewage System—Permitting, Inspection, and Maintenance requirements.**

- A. Where a public sewer system is not available under the provisions of SMC 13.08.070, the building sewer shall be connected to a private on-site sewage system.
- B. Before commencement of construction, expansion, replacement, or repair of an on-site sewage system the owner shall first obtain a written permit signed by the Director. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Director. The appropriate permit and plan check fee shall be paid to the city at the time the application is filed.
- C. A permit for a private on-site sewage system shall not become effective until the installation is completed to the satisfaction of the Director. They shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Director when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Director.

- D. The owner shall operate and maintain private sewage disposal or pumping facilities in a sanitary manner at all times, at no expense to the city.
- E. The lot owner of any lot with an operating OSS where public sewer is available must provide the City with an inspection report as to the condition and functionality of the OSS at least every five (5) years. Nothing in this section is to limit compliance with Washington Administrative Code Chapter 246-272A. The owner is responsible for all testing and evaluation costs. City receipt of an inspection report does not replace any county or state health permit, inspection, or approval.
- F. Continued use of an OSS is allowed only as expressly provided in this chapter and does not create a vested right to avoid connection to public sewer when connection is required by this chapter, county, or state health requirements, or other applicable law.

### **13.08.170 Provisions not to limit additional requirements.**

This chapter does not limit any additional requirement imposed by county or state health officials.

### **13.08.210 Prohibited discharge standards.**

- A. General Prohibitions. No 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 of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW 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 261.21.
  2. Wastewater having a pH less than 5.0 or more than 11.0, 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 city 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 sewer or other interference with the operation of the system. In no case shall solids greater than one-quarter inch (0.64 cm) in any dimension be discharged.
  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 system, has detrimental effects on the collection system, or prevents entry into the sewer. In no case shall wastewater be discharged which causes the wastewater temperature at the treatment plant to exceed 104 degrees F (40 C).
  6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
  7. 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.
  8. Trucked or hauled pollutants.
  9. The following are prohibited unless approved 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 173-216-050)

- a. Non-contact cooling water in significant volumes.
  - b. Stormwater, 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 system.
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 sewers for maintenance or repair.
  11. 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, thereby violating the city's NPDES permit.
  12. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
  13. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director.
  14. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  15. Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
  16. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
  17. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
  18. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 300 mg/l, or total petroleum hydrocarbon concentrations of no more than 100 mg/l.
  19. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent or any single reading over 20 percent of the lower explosive limit based on an explosivity meter reading.

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.

### **13.08.220 National categorical pretreatment standards.**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471 are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, Ecology may impose equivalent concentration or mass limits in accordance with SMC 13.08.220.D and 13.08.220.E (see 40 CFR 403.6(c)).
- B. When categorical pretreatment standards are expressed in terms of a mass of pollutant which may be discharged per unit of production, Ecology 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. (See 40 CFR 403.6(c)(2))
- C. Ecology may permit wastewater subject to a categorical pretreatment standard to be mixed with other wastewaters prior to treatment. In such cases, the user shall identify, in their permit application, 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, Ecology shall apply the combined wastestream formula as found at 40 CFR 403.6(e) to determine appropriate limits.

- D. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that Ecology convert the limits to equivalent mass limits. Ecology 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.
    - 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 Ecology if production rates are expected to vary by more than 20 percent from the baseline production rates submitted according to SMC 13.08.220(D)(1)(d). Ecology may reassess and revise equivalent limits as necessary to reflect changed conditions.
    - e. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to SMC 13.08.220(D)(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 SMC 13.08.220(D)(1) is verified in their reapplication. The user must also be in compliance with SMC 13.08.953 regarding the prohibition of bypass.
- E. Ecology 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.
- F. Ecology must make the documentation of how any equivalent limits were derived (concentration to



mass limits or vice versa) publicly available.

- G. Once incorporated into its permit, the user must comply with the equivalent limits in lieu of the categorical standards from which they were derived.
- H. The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.
- I. 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 business days after the user has a reasonable basis to know that 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.

### **13.08.230 State pretreatment standards.**

Washington State pretreatment standards and requirements, located at Chapter 173-216 WAC, were developed under authority of the Water Pollution Control Act, Chapter 90.48 RCW and are hereby incorporated. The version incorporated is the version current as of the date of the latest revision or version of this chapter, or amendment thereto. 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 some slightly more stringent prohibitions, (merged with SMC 13.08.210), the following provisions unique to Washington State are required by this chapter for discharges to a POTW:

- A. Any person who constructs or modifies or proposes to construct or modify wastewater treatment facilities must first comply with the regulations for submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC. Sources of non-domestic discharges shall request approval for such plans through the Department of Ecology. To ensure conformance with this requirement, proof of the approval of such plans and one copy of each approved plan shall be provided to the Director before commencing any such construction or modification.
- B. Users shall apply to Ecology for a permit at least 60 days prior to the intended discharge of any pollutants other than domestic wastewater 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. (173- 216-050(1)). Users shall provide proof of compliance with this requirement together with a duplicate permit application to the Director prior to commencing the new or changed discharge.
- C. All significant industrial users must apply for and obtain a permit from ecology prior to discharge.
- D. All users shall apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state (AKART). The Director may determine individually or categorically what represents AKART for a user or category of users. (173-216-050(3)).
- E. Discharge restrictions of Chapter 173-303 WAC (Dangerous Waste) shall apply to all Users. (Prohibited discharge standards have been merged with Federal prohibitions in SMC 13.08.210).
- F. Claims of confidentiality shall be submitted for all information which the user desires confidentiality according to procedures at 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 42.17 RCW, Chapter 173-03 WAC, and RCW 43.21A.160.
- G. 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 Ecology unless Ecology provides a written waiver of the requirement. 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 which 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),
  6. How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
- H. Ecology 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 Ecology determines there is sufficient public interest they shall hold a public meeting following the rules of WAC 173-216-100. The Director may require users not subject to Ecology permits to provide public notice for a contract, discharge authorization, coverage by local BMPs, food service establishment, or others regulated under authority of this chapter.
- I. Permit terms shall include, wherever applicable, the requirement to apply all known, available, and reasonable methods of prevention, control, and treatment.
- J. 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.

### **13.08.240 Local limits.**

- A. The Director may establish local limits pursuant to 40 CFR 403.5(c).
- B. The following pollutant limits are established to protect against pass through and interference and reflect the application of reasonable treatment technology. No person shall discharge wastewater in excess of the following daily maximum limits if the total mass discharged would exceed that contained in 1,000 gallons at the below limit (see column to the right of each pollutant concentration limit). The Director may require flow monitoring or determine appropriate flows to use in making this estimation.
- C. The below limits apply at the point where the wastewater is discharged to the POTW. Ecology may impose mass limits in addition to concentration-based limits.
- D. Users discharging BOD, TSS, or ammonia in excess of the concentration limits by more than the threshold amount must both receive authorization from the Director and pay applicable fees (usage, and impact fees) for this loading. Users in excess of this threshold amount shall be subject to the terms of the high strength surcharge program. They shall also be liable for capacity and treatment surcharges assessed by the Director under the authority of this chapter up to the "ceiling" loading limit established by written authorization of the Director.
- E. Users shall be subject to "instantaneous limits" (as determined by a grab sample) of equal to twice the below "daily maximum" concentrations for any pollutant for which a composite sample is required in a permit. This provision is inapplicable to users without permits, or without the permit requirement to collect a composite sample for the analyte in question.

#### **CONVENTIONAL SURCHARGE POLLUTANT LIMITS**

| Conc.    | Parameter:             | Threshold Amount: |
|----------|------------------------|-------------------|
| 300 mg/l | BOD <sub>5</sub>       | 2.5 lb/d          |
| 300 mg/l | total suspended solids | 2.5 lb/d          |
| 60 mg/l  | ammonia                | 0.5 lb/d          |

#### **PROTECTION OF SEWER LINE BLOCKAGE**

| Conc.    | Parameter:                                    | Threshold Amount: |
|----------|-----------------------------------------------|-------------------|
| 300 mg/l | Oil and grease of animal or vegetable origin* | Any amount        |

\*(Or compliance with the BMPs established by the Director for food service establishments as an alternative to numerical standards where such BMPs have been established and the user can document compliance with them, such as the grease trap program)

#### PROTECTION AGAINST CORROSION, PASS THROUGH, & INTERFERENCE

| Conc.                                                                                                                                     | Parameter:                                           | Threshold Amount: |
|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------|
| 50 mg/l                                                                                                                                   | hydrocarbon based oil/grease                         | Any amount        |
| 0.5 mg/l                                                                                                                                  | sulfides (H <sub>2</sub> S vapor toxicity threshold) | .004 lb/d         |
| 50.0 mg/l                                                                                                                                 | sulfates                                             | .004 lb/d         |
| 1,000 mg/l                                                                                                                                | total chloride                                       | 8 lb/d            |
| 5,000 mg/l                                                                                                                                | total dissolved solids                               | 40 lb/d           |
| 1,000 mg/l                                                                                                                                | total organic solvents (incl. alcohols)              | 8 lb/d            |
| 5.0 su                                                                                                                                    | Minimum pH in Standard Units                         |                   |
| 11.0 su                                                                                                                                   | Maximum pH in Standard Units                         |                   |
| 10% reduction in effluent UV transmissivity (per cm at 254 nm wavelength)                                                                 |                                                      |                   |
| 10% decrease in the maximum effluent concentration which has no observable detrimental effect (NOEC) in any whole effluent toxicity test. |                                                      |                   |

- F. The Director may use contracts to establish ceiling limits, monitoring and reporting requirements, and charges applicable to the discharge of compatible pollutants to the POTW.
- G. The Director may establish and require BMPs for any category of user or type of industrial process which creates a non-domestic waste stream for which Ecology has declined to issue an individual permit. Such requirements may be applied either in lieu of or in addition to the local limits of SMC 13.08.240. 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. Such BMPs shall be superseded by an Ecology permit should one be issued.
- H. The construction, maintenance and performance standard of any pretreatment facility must comply with current applicable codes, especially SMC 17.25.110 C(1)(b) regarding the emission of offensive odors.

#### **13.08.250 City's right of revision.**

The City may adopt or impose more stringent discharge standards or requirements by ordinance, permit, contract, or order when necessary to protect the POTW or comply with law.

#### **13.08.260 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.

#### **13.08.270 Grease, oil and sand traps/interceptors—Requirements.**

- A. The Director may require grease, oil, sand traps/interceptors, or grease-removal devices when necessary to control grease, flammable waste, sand, or other harmful substances. Required devices must be accessible for inspection and cleaning and must be maintained by the owner at the owner's expense.
- B. A device is in noncompliance when fats, oils, or grease reach 25 percent of the device's capacity, when fats, oils, or grease are observed leaving the device, or when the device is not properly maintained.
- C. Fines for noncompliance are:
  - 1. First violation: \$150.
  - 2. Second violation: \$350.
  - 3. Third violation: \$700.
  - 4. Fourth and subsequent violations: \$1,400 per violation.
- D. If a business violates three times within twelve consecutive months, they will be moved up two BOD strength categories. The business will stay in that category until they receive three consecutive passing inspections.
- E. If a business violates four times within twelve consecutive months, they will be moved to the highest BOD strength category. The business will stay in that category until they receive four consecutive passing inspections.

### **13.08.280 Establishment of the preferred pumper program.**

The Director may establish a preferred pumper program for grease trap and interceptor maintenance. Approved pumpers must clean devices on an approved schedule and submit maintenance reports to the City. Facilities using an approved pumper are subject to at least one City inspection per year; facilities that self-clean are subject to at least four inspections per year.

### **13.08.310 Pretreatment facilities.**

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in SMC 13.08.210 within the time limitations specified by EPA, the state, or the Director, whichever is more stringent. Any 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 SMC 13.08.230. Such plans (engineering report, plans and specifications, and operation and maintenance manuals) shall be submitted as required by Chapter 173-240 WAC to either the Director or the Department of Ecology for review, and users shall obtain and provide the approval to the Director prior to construction. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of complying with this chapter, local building codes, or from the requirement to modify such facilities if needed to meet their permit or produce a discharge acceptable to the city under the provisions of this chapter.

### **13.08.315 Deadline for compliance with applicable pretreatment requirements.**

- A. Existing sources covered by one or more categorical pretreatment standards shall comply with such standards within three years of the date the standard is effective unless the pretreatment standard includes a more stringent compliance schedule. Ecology shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for the user are more restrictive than EPA's categorical pretreatment standards.
- B. New sources and new users shall comply with applicable pretreatment standards within the shortest feasible time, but in no case shall time exceed 90 days from the beginning of discharge. Prior to commencing discharge, such users shall install and start-up all pollution control equipment required to meet applicable pretreatment standards.

### **13.08.320 Additional pretreatment measures.**

- A. The Director may require users to reduce or curtail certain discharges to the sewer, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and take all other measures to protect the POTW and determine the user's compliance with the requirements of this chapter. This includes the curtailment of any device used to dispose of what might otherwise be solid waste down the sewer by grinding.
- B. The Director, based on the determination that a device is necessary for implementation of pretreatment requirements, may require any user to install and maintain, on their property and at their expense the following devices:
  - 1. A sample taking facility accessible to the Director.
  - 2. A suitable storage and/or flow equalization tank.
  - 3. Grease, oil, and/or grit interceptors.
  - 4. An approved combustible gas detection meter.
  - 5. Flowmeter with 24-hour totalizer.
- C. Users installing any of the above devices shall ensure they are of the type and capacity identified in volume/chapter/section of the Stevenson Engineering Standards or otherwise approved by the Director, meet applicable building and plumbing codes, and conform to any separate requirements established by the city. Users shall locate units in areas easily accessible for cleaning and inspection by representatives of the Director. Users shall be responsible for all periodic inspection, cleaning, and repair of such devices.
- D. Retrofit of User Facilities. Users may be required to retrofit facilities which were constructed prior to the adoption of the ordinance codified in this chapter. The requirement to retrofit shall be on a case-by-case basis, as determined by the Director for compliance with city, state and federal regulations. The Director may require installation of grease interceptors, grease traps or other pretreatment facilities for those facilities that violate discharge prohibitions and supplemental limitations as set forth in this chapter. In all cases, existing food service users that have a Type 1 hood exhaust system shall be required to retrofit with an approved grease trap or interceptor that is sized in accordance with the current Uniform Plumbing Code and its appendices. In deciding whether to require a user to retrofit their facilities, the Director shall take into account all relevant circumstances, including but not limited to, the extent of potential harm caused by the discharge, the magnitude and duration of the discharge, economic detriment to the user, corrective actions by the user, the compliance history of the user, and any other relevant factors. Grease interceptor or grease trap size shall be determined in accordance with the Uniform Plumbing Code and any other requirements by the city as set forth herein at the time the user is notified that facility modifications are required. Sizing of grease traps or interceptors will be reviewed and may be modified at the request of the local sewer jurisdiction. All costs incurred in retrofitting a user's facility shall be the sole responsibility of the user.

### **13.08.330 Accidental discharge/slugs discharge control plans.**

The Director may require any User to develop and implement an accidental discharge/slugs 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. Where a user has an Ecology permit that requires such a plan, the user shall provide a copy to the Director and notify the Director as well as Ecology of any discharge required to be reported by that plan. Accidental discharge/slugs discharge control plans shall include at least the following:

- A. A description of all discharge practices, including any non-routine batch discharges such as from cleaning, replenishment, or disposal;
- B. A description of all stored chemicals, disclosing all ingredients in formulations which could violate a discharge prohibition if discharged to the sewer;
- C. The procedures for immediately notifying the Director of any accidental or slug discharge, as required by SMC 13.08.660; and

- D. 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.

#### **13.08.340 Public sewer construction—Permit required—Exception.**

No person shall construct, extend or connect to any public sewer without first obtaining a written permit from the city and paying all fees and connection charges and furnishing bonds as required in Sections 13.08.080 and 13.08.370. The provisions of this section and Sections 13.08.350 through 13.08.390 requiring permits shall not be construed to apply to contractors constructing sewers and appurtenances under contracts awarded and entered into by the city.

#### **13.08.350 Public sewer construction—Permit application requirements.**

The application for a permit for public sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable ordinances, rules and regulations of the city, prepared by a registered civil engineer showing all details of the proposed work based on an accurate survey of the ground. The application, together with the plans, profiles and specifications, shall be examined by an authorized representative of the city who shall within ten days approve them as filed or require them to be modified as they may deem necessary.

#### **13.08.360 Public sewer construction—Compliance with standards.**

All sewer plans, specifications, and construction must comply with the Stevenson Engineering Standards and any other standard adopted by the City.

#### **13.08.370 Public sewer construction—Bond requirements.**

Before the City issues a public sewer construction permit, the applicant must provide a performance bond or cash deposit in an amount equal to the total estimated cost of the work. The bond or deposit must secure compliance with the permit and guarantee correction of defective work or materials for one year after City acceptance.

#### **13.08.380 Public sewer construction—Reimbursement for certain extensions.**

Except as provided, the extension of the public sewerage facilities to serve any parcel or tract of land shall be done by and at the expense of the owner. The size of all sewer mains and other sewerage facilities shall be as required by the city. An installer of a sewer line who is required by the city to lay sewer pipe larger than that required for his own purposes, to accommodate other users, will be reimbursed by the city for the difference in cost between the size of line installed and that which would be required for his own use.

#### **13.08.390 Public sewer construction—Special reimbursement agreements.**

If special conditions justify a different reimbursement arrangement, the City may approve a written reimbursement agreement with the person constructing public sewer facilities. The agreement must be approved before the City issues the permit for the work.

#### **13.08.400 Damaging sewer works prohibited.**

No person, or persons, shall unlawfully, maliciously, willfully or, as the result of gross negligence on his or their part, break, damage, destroy, uncover, deface or tamper with any structure, facility, appurtenance or equipment which is a part of the sewage works.

#### **13.08.410 Wastewater discharge permit requirement.**

- A. No user categorized by the Director as a significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or, where applicable, a general permit from Ecology. An existing user newly categorized by the Director as a significant industrial user that has filed a timely application pursuant to SMC 13.08.420 with Ecology, and whose application has not been found deficient by Ecology, may continue to discharge unless and until notified otherwise by Ecology or the Director.
- B. The Director may require all other users to apply for a wastewater discharge permit from Ecology, to provide proof to the Director of having made this application, to meet the limits and requirements of this chapter, or to implement best management practices at the direction of the Director to carry out the purposes of this chapter. For example, a wastewater discharge permit may be required solely for flow equalization.
- C. Any failure to complete the required survey form, apply for and obtain a required permit, or violate the terms and conditions of a wastewater discharge permit, contract, local limit or BMP established by this chapter shall be deemed violations of this chapter and subject the wastewater discharge permittee to the sanctions set out in SMC 13.08.920 through 13.08.946. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with any other provision of this chapter including enrollment in and payment of surcharges for high strength waste and capacity charges.

#### **13.08.420 Wastewater discharge permitting—Existing connections.**

Within 180 days of notice by the city or Ecology that a state waste discharge permit is required for discharge, a user shall submit a state waste discharge permit application to the city for transmittal to Ecology; and by the earliest practicable date, the user shall submit a copy of the permit to the city.

#### **13.08.430 Wastewater discharge permitting—New connections.**

Persons wishing to discharge non-domestic 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 an SIU or otherwise require a state waste discharge permit must file a permit application with Ecology and provide proof of such application to the Director. Applications for wastewater discharge permits, in accordance with SMC 13.08.440, must be filed at least 90 days prior to the desired date of discharge, and the discharge permit obtained prior to commencing discharge unless Ecology provides written notification that they do not believe a state waste discharge permit is required.

#### **13.08.440 Wastewater discharge permit application contents.**

- A. All users required to obtain a wastewater discharge permit must apply using the form provided by Ecology. Users eligible for coverage under a general permit may request such coverage using an industry specific form if one has been developed (see SMC 13.08.450). Users for which Ecology has declined to issue a permit, but for which the Director believed need pretreatment controls, must supply the Director the following information that is relevant to the users operation.
  - 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.
    - b. A description of activities, facilities, and plant production processes on the premises;
  - 2. A list of any environmental control permits (for example, air emission permits) held by or for the facility.
  - 3. A description of operations and facilities including:

- a. A brief description of the operations, average rate of production, and industrial classification (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 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.
  - k. Whether plans for wastewater facilities under Chapter 173-240 WAC have been developed, and their approval status (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 SMC 13.08.220(C) (and 40 CFR 403.6(e)) where applicable.
  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.
    - 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 exists.
    - c. Collected as required by SMC 13.08.691.
    - d. Analyzed according to SMC 13.08.691.
  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 SMC 13.08.640(B).
  9. Any request to be covered by a general permit shall satisfy SMC 13.08.450 (below).
  10. Any other information deemed necessary by the Director to evaluate the situation and prepare a discharge permit.



- B. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. The Director shall be held harmless for delays caused by returned applications.

#### **13.08.450 General permits.**

- A. The Director may use general permits to control discharges to the POTW from all users that are not SIUs or otherwise permitted by Ecology. Significant users covered by a general permit will be those that the Director finds:
  - 1. Involve the same or substantially similar types of operations.
  - 2. Discharge the same types of wastes.
  - 3. Require the same effluent limitations or BMPs.
  - 4. Require the same or similar monitoring (or do not require monitoring).
  - 5. Are more appropriately controlled under a general permit.
  - 6. Are not subject to production-based standards, mass limits, or require use of the combined wastestream formula to calculate limits.
- B. To be covered by the general permit, the user must file a written request for coverage. The request must identify contact information, the general permit under which coverage is requesting, and whether any activities other than those for which the general permit were developed are generating wastewater at the facility. The user must also identify where any wastes covered by the general permit are discharged. If the general permit allows a monitoring waiver, the applicant must certify they are eligible for the waiver. The user must also provide any other information the Director has requested to properly evaluate the situation.
- C. The Director will retain the following for three years after the expiration of the general permit: A copy of the general permit, the fact sheet, each user's request for coverage, and the POTW's determination to extend coverage to each user.

#### **13.08.460 Application signatories and certifications.**

- A. All survey forms, wastewater discharge permit applications, and user reports must be signed by an authorized representative of the user and contain the certification statement in SMC 13.08.695(A).
- B. Users shall submit a new authorization if the designation of an authorized representative 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 prior to or with any reports to be signed by the new authorized representative.
- C. A facility determined to be a non-significant categorical industrial user by Ecology pursuant to SMC 13.08.140 (FF)(3) must annually submit the signed certification statement found at SMC 13.08.695(B).

#### **13.08.470 Wastewater discharge permit decisions.**

Any facility identified by the Director as potentially being a significant industrial user, must prepare a state waste discharge permit application, obtain the endorsement of the Director on that application, and submit this application to Ecology for disposition. The facility shall provide the Director any response received from Ecology. The Director will determine during this process whether or not to require a contract or impose any other local conditions as authorized by this chapter and may deny or condition any application for a wastewater discharge permit. In addition to conditions imposed by Ecology by letter or permit, the Director may require additional safeguards, reports (including plans under Chapter 173-240 WAC), information, or fees for extra strength or capacity as provided for by this chapter.

#### **13.08.510 Wastewater discharge permit duration.**

The Director may require any discharger to provide a copy of any application or reapplication of a state waste discharge permit whenever such documents are due to Ecology or have been submitted. Where a permit has not been required, or when it does not cover constituents of concern to the POTW, including flow and conventional pollutant strength and loadings, the Director may require a discharger to enter into a contract for services stipulating those conditions necessary to protect the POTW and fairly compensate the Director for wastewater services being provided to that person.

### **13.08.520 Wastewater discharge contract contents.**

Wastewater discharge contracts will include conditions the Director deems reasonably necessary to carry out the goals of the pretreatment program (SMC 13.08.110), federal and state regulations, and the requirements of this chapter.

- A. Wastewater discharge contracts may contain:
  - 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 city in accordance with SMC 13.08.550, 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 SMC 13.08.230(I)).
  - 4. The pollutants to be monitored, and specific monitoring requirements. This includes the sampling location(s), sampling frequencies, and sample types consistent with federal, state, and local law. (See SMC 13.08.230(J)).
  - 5. Requirements to submit certain reports (as reflected in SMC 13.08.610 through 13.08.695), provide various notifications, keep records, and implement best management practices,
  - 6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
  - 7. Requirements to control slug discharges, including to develop, update, and implement slug discharge control plans (find required content in SMC 13.08.330) where the Director determines such plans are important to preventing accidental, unanticipated, or non-routine discharges.
  - 8. Any monitoring which has been conditionally waived by the Director according to SMC 13.08.640(B) but which automatically applies at any time the requirements of the conditional waiver are not met.
  - 9. Reapplication or renewal requirements.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
  - 1. Pretreatment facilities and measures required by SMC 13.08.310, 13.08.320 and 13.08.926.
  - 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 stormwater.
  - 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, impact and capacity charges.
  - 6. Requirements to install and maintain inspection and sampling 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 this chapter, and state and federal laws, rules, and regulations.

### **13.08.530 Contract issuance process.**

- A. Public Notice. The Director may require users to follow the procedures for public notice found in SMC 13.08.230(G) and 13.08.230(H). The Director shall consider and respond to public input as appropriate prior to issuance of a permit. The Director will arrange a public meeting if there is sufficient interest, or may use community forums such as council meetings to fulfill the requirements for public involvement.
- B. Permit Appeals. Users must petition Ecology to challenge the terms of any state waste discharge permit. For any contract, users may petition the Director to reconsider the terms of a contract at any time after it is signed by the parties. Such a petition will not stay the terms of the contract.
  1. In its petition, the appealing party must indicate the wastewater discharge contract provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge contract.
  2. If the Director fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions as to whether to require an Ecology permit as a condition of discharge, or to require a wastewater discharge contract, to reconsider a wastewater discharge contract, or to modify a wastewater discharge contract shall be considered final administrative actions for purposes of judicial review.
  3. Aggrieved parties seeking judicial review of the final administrative wastewater discharge contract decision must do so by filing a complaint with the Superior Court of Skamania County within 30 days from the date of the later of Ecology or the Director's decision or Ecology or the Director's response to a request for reconsideration.

### **13.08.540 Wastewater discharge permit modification.**

The Director may require the user to apply to Ecology for a modification to its wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements including new or revised local limits.
- B. To address new or changed operations, processes, production rates, waste streams, or changes in water volume or character.
- C. To reflect conditions at the POTW requiring an authorized discharge to be reduced or curtailed. Such requirements may be either temporary or permanent.
- D. Based on information indicating that a permitted discharge poses a threat to the city's POTW or staff, the receiving waters, or to violate a prohibition of this chapter.
- E. To address violations of any terms or conditions of the wastewater discharge permit;
- F. To address misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report.
- G. To incorporate revisions based on a variance from categorical pretreatment standards approved pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the wastewater discharge permit.
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator as required under SMC 13.08.550.

### **13.08.550 Wastewater discharge permit transfer.**

Wastewater discharge permits may be transferred by Ecology to a new owner or operator consistent with the process described in the permit, and subject to at least 30 days advance notice to the Director and the Director approves the wastewater discharge permit transfer. Where the permittee also has a contract with the Director, they must negotiate that contract at this time. Failure to provide advance notice of a transfer renders the wastewater discharge contract 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:

- A. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes.
- B. Identifies the specific date on which the transfer is to occur. And
- C. Acknowledges full responsibility for complying with the existing wastewater discharge contract, and willingness to enter into such contract under the same terms.

### **13.08.560 Wastewater discharge permit revocation.**

The Director may revoke and require renegotiation of a wastewater discharge contract for good cause, including, but not limited to, when a user has:

- A. Failed to notify the Director of significant changes to the wastewater prior to the changed discharge.
- B. Failed to provide prior notification to the Director of changed conditions pursuant to SMC 13.08.650.
- C. Misrepresented or failed to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsified self-monitoring reports or tampered with monitoring equipment.
- E. Refused to allow the Director timely access to the facility premises and records.
- F. Failed to meet effluent limitations or permit conditions.
- G. Failed to pay applicable fines or sewer charges.
- H. Failed to meet compliance schedule deadline dates.
- I. Failed to complete a wastewater survey or wastewater discharge permit application.
- J. Failed to provide advance notice of the transfer of business ownership.
- K. Violated any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.
- L. Ceased operations; or
- M. Transferred business ownership.

Wastewater discharge contracts issued to a user are void upon the issuance of a new wastewater discharge contract to that user.

### **13.08.570 Wastewater discharge contract extension or reissuance.**

A user with an expiring wastewater discharge contract shall apply for a new or revised wastewater discharge contract by submitting a complete permit application, in accordance with SMC 13.08.450, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge contract.

### **13.08.610 Baseline monitoring reports.**

- A. Users subject to categorical standards who must submit a "baseline monitoring report" to Ecology must

submit a duplicate copy at the same time to the Director. This report must contain the information listed in paragraph B, below. Failure to provide this report to the Director, or to include the requisite content, shall be a violation of this chapter.

- B. The baseline monitoring report shall include the following information:
1. All information required in SMC 13.08.450(A)(1) through 13.08.450 (A)(7).
  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 SMC 13.08.220(C) and 40 CFR § 403.6(e). Where the user wants an alternate concentration or mass limit, and it is allowed by federal rules at § 403.6(e), the user shall propose the adjusted limit and provide supporting data to the control authority (Ecology or city).
    - c. Sampling and analysis shall be performed in accordance with SMC 13.08.691.
    - 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 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 user's authorized representative as defined in SMC 13.08.140(C) and certified by a qualified professional, such as a professional engineer 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 SMC 13.08.620.
  5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with SMC 13.08.695(A) and signed by an authorized representative as defined by SMC 13.08.140(C).

### **13.08.620 Compliance schedule progress reports.**

Where users subject to categorical standards qualify for a compliance schedule, they shall provide this schedule to the Director and Ecology. Compliance schedules proposed by Existing Sources according to SMC 13.08.610(C)(4) shall:

- A. 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);
- B. No increment referred to above shall exceed nine months;

- C. The user shall submit a progress report to the Director no later than 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
- D. In no event shall more than nine months elapse between such progress reports to the Director.

### **13.08.630 Reports on compliance with categorical pretreatment standard deadline.**

Both existing sources and new sources must submit a report to the Director and Ecology on whether compliance has been initially achieved. For existing sources, the report is due 90 days after the date applicable categorical standards give as the final compliance date. For a new source, the report is due 90 days after starting to discharge to the POTW.

In both cases, the report must contain the information described in SMC 13.08.450(A)(3) through 13.08.450(A)(6). For existing sources, it must also contain the compliance certification of 13.08.610(C)(3) and, if needed, the compliance schedule described in 13.08.610(C)(4). Users subject to equivalent mass or concentration limits, as allowed by SMC 13.08.220, 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 SMC 13.08.695(A).

### **13.08.640 Periodic compliance reports.**

- A. The Director may require any user to provide duplicate reports as required by Ecology. Where the Director develops BMPs for an industry sector, or issues a contract to regulate pollutants not covered by a state waste discharge permit, the Director may specify the necessary minimum sampling and reporting frequencies and include applicable requirements in contracts or BMPs. Significant industrial users (SIUs), except those recognized as "middle tier" users under SMC 13.08.640(C), must:
  - 1. Report at least twice a year, in June and December unless otherwise specified.
  - 2. Report the flows and concentrations 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.
  - 4. Include the documentation needed to show compliance with applicable BMPs, pollution prevention alternatives, maintenance, treatment, or record keeping requirements.
- B. Users must sign and certify all periodic compliance reports in accordance with SMC 13.08.695(A).
- C. 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.
- D. 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 SMC 13.08.691. In such cases, the results of this monitoring shall be included in periodic monitoring reports.
- E. Users that send electronic (digital) documents to the city to satisfy the requirements of this section must meet all state and federal electronic signature requirements: Electronic data shall be in the format required by the Director. The Director may also require reporting in both digital and traditional format.

### **13.08.650 Reports of changed conditions.**

Each user must notify the Director of any significant changes to the user's operations or system which might

alter the nature, quality, or volume of its wastewater from that described in either an industrial user survey form, state waste discharge permit application, or by written correspondence to the city. This notification must be made at least 30 days before the desired change and be sent to both the Director and Ecology. In such cases:

- A. Either Ecology or the Director may require the user to submit whatever information is needed to evaluate the changed condition. The Director may also require a new or revised wastewater discharge permit application under SMC 13.08.450.
- B. The Director may issue, reissue, or modify a wastewater discharge contract applying the procedures of SMC 13.08.510 through 13.08.570 in response to a user's notice under this section.

### **13.08.660 Reports of potential problems.**

- A. Any user which has any unusual discharge that could cause problems to the POTW must immediately notify the Director by telephone of the discharge. 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 notification does not authorize the discharge, and all reasonable steps to halt or prevent the discharge must be made. However, failure to make such notification is a separate and distinct violation of this chapter from the discharge itself. 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 prohibitions, treatment standards, or other requirements of SMC 13.08.210 through 13.08.260 such as vapor toxicity and explosivity limits, or cause interference with the collection system or treatment works, to pass through the POTW.
- B. Within five 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 this chapter.
- C. Regardless of whether the user has been required to submit a slug discharge control plan (per SMC 13.08.330), all users required to have a contract or permit shall post notice in a prominent location advising employees who to call at City Hall to inform the Director of a potential problem discharge (13.08.660(A)). Users shall ensure that all employees who may cause or witness such a discharge are advised of the emergency notification procedures.
- D. 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 a slug discharge control plan under SMC 13.08.330 shall also modify their plans to include the new conditions prior to, or within two days after making such changes.
- E. These requirements apply in addition to any requirements of an Ecology permit.

### **13.08.670 Reports from unpermitted users.**

All users not required to obtain a wastewater discharge permit or general permit shall provide appropriate reports to the Director as the Director may require. This includes periodically completing and signing industrial user surveys or certifying compliance with the requirements of any BMP program or grease remediation program.

### **13.08.680 Notice of violation/repeat sampling and reporting.**

If sampling performed by a user by either an Ecology permit or city contract indicates a violation, the user must notify the Director within 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 30 days after becoming aware of the violation. The Director may waive the repeat sampling requirement where the city has sampled the effluent for the pollutant in question prior to the user obtaining sampling results.

### **13.08.690 Notification of the discharge of hazardous waste.**

- A. 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, Ecology's permit contact, the EPA regional waste management division Director, and state hazardous waste authorities, in writing, of the discharge. Maintain a copy of this notification and include it in all subsequent permit application or re-applications under this chapter.
  - 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,
    - c. The type of discharge (continuous, batch, or other).
  - 3. If the discharge totals more than 220 pounds 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 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 this chapter.
  - 7. This requirement does not relieve the user from requirements to provide other notifications, such as of changed conditions under SMC 13.08.650, or applicable permit conditions, permit application requirements, and prohibitions.
  - 8. The notification requirements in this section do not apply to pollutants for which routine monitoring and reporting is required in a permit under this chapter.
- B. Users must report all discharges of more than 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 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.
- C. 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 90 days of the effective date of such regulations.
- D. 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.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a contract issued thereunder, an Ecology issued permit, or any applicable federal or state law.



### **13.08.691 Sampling—Analytical requirements and collection protocols.**

- A. All pollutant sampling and analyses required under this chapter shall conform to the most current version of 40 CFR Part 136, unless otherwise 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 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.
- B. Sampling and analysis reports performed by the Director will be supplied to the user. The user may dispute the accuracy of the sample and provide an alternative sampling report within 21 days of receipt of the city's findings. If no alternative sample is provided within the 21-day period, it shall constitute an acknowledgement by the user that the sampling and analysis performed by the Director is a valid representation of the pollutants in their wastewater.
- C. Users must ensure all samples they collect to satisfy sampling requirements under this chapter 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.
  - 1. 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.
  - 2. Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using grab collection techniques.
  - 3. 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.
  - 4. For all other pollutants, users must employ 24-hour time-proportional composite samplers unless the Director authorizes or requires an alternative sample collection method.
  - 5. The Director may authorize composite samples for parameters unaffected by the compositing procedures, as appropriate.
  - 6. The Director may require grab samples either in lieu of or in addition to composite sampling to show compliance with instantaneous discharge limits.
  - 7. In all cases, users must take care to ensure the samples are representative of their wastewater discharges.
  - 8. Users sampling to complete baseline monitoring and 90-day compliance reports required by SMC 13.08.610 and 13.08.630, must satisfy some specific requirements. These reports require at least four 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 13.08.691(C)(3). Where historical sampling data exists; the Director may also authorize fewer samples.
  - 9. For periodic monitoring reports, (SMC 13.08.640), the Director may specify the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
  - 10. The user shall record instantaneous and 24-hour flow (from totalizer) at the time each sample is collected, and provide said flow information to the Director. If a flowmeter is not available, the city will use water flow information from their records to determine corresponding load (in pounds per day).

### **13.08.693 Date of receipt of reports.**

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

### **13.08.694 Record keeping.**

Users subject to reporting requirements of this chapter shall retain the below records for all monitoring required by this chapter 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 SMC 13.08.240(C). Monitoring records shall include at least:

- A. The time, date, and place of sampling;
- B. The sampling and preservation methods used;
- C. The person taking the sample, and persons with control of the sample prior to analysis;
- D. The person performing the analyses and the date the analysis was completed;
- E. The analytical techniques or methods used; and
- F. 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 Washington 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 at least three years, until any litigation concerning the user or the city is complete, or for longer periods when the user has been specifically notified of a longer retention period by the Director.

### **13.08.695 Certification statements.**

- A. The following certification statement must be signed by an authorized representative as defined by SMC 13.08.140(C) and included when submitting:
  - 1. An industrial user survey or update to a survey to reflect changed conditions.
  - 2. A permit (re-)application in accordance with SMC 13.08.460;
  - 3. A dispute of any city-provided sample performed under SMC 13.08.691,
  - 4. A baseline monitoring report under SMC 13.08.610(B)(5),
  - 5. A report on compliance with the categorical pretreatment standard deadlines under SMC 13.08.630;
  - 6. A periodic compliance report required by SMC 13.08.640 (A)—(D), or
  - 7. An initial request to forego sampling of a pollutant based on SMC 13.08.640(B)(4)

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

- B. Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on SMC 13.08.640(B) 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 wastewaters due to activities at the facility since filing of the last periodic report under SMC 13.08A.640(A)."

### **13.08.710 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 this chapter 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.

- A. 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.
- B. 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.
- C. Users shall provide full access to the Director to use any monitoring facilities and utilities available or required in accordance with SMC 13.08.310 and 13.08.320 (B) and (C) to confirm that the standards or treatment required for discharge to the sewer are being met.
- D. 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.
- E. Any unreasonable delay in allowing the Director full access to the user's premises and wastewater operations shall be a violation of this chapter.

### **13.08.720 Search warrants.**

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

- A. 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 this chapter is occurring on the premises;
- B. The Director has been denied access to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder; or
- C. 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.

### **13.08.810 Confidential information.**

Generally, information submitted to demonstrate compliance with pretreatment standards and requirements will be freely available to the public. Users may have certain information, however, withheld as confidential if the following process is followed.

- A. 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.
- B. The Director shall review and approve or deny such requests. When approved, the information shall not be available as public records and shall be marked confidential.
- C. All other information submitted to the Director and obtained from the Director's oversight shall be available to the public subject to the city records review policy.

- D. 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.
- E. Federal rules prevent wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 from being recognized as confidential information.

### **13.08.910 Publication of users in significant noncompliance.**

- A. Publishing: The Director must annually publish a list of the users which, at any time during the previous 12 months, were in significant noncompliance 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.
- B. Definition: The term significant noncompliance 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 of a pollutant that has caused imminent endangerment to the public or to the environment, including risk of noncompliance with city's NPDES permit, 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 66 percent or more of all of the measurements taken for the same pollutant parameter taken during a rolling six-month period exceed, by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits of SMC 13.08.210 through 13.08.260.
  - 5. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a rolling six-month period equal or exceed the product of the numeric pretreatment standard or requirement, (including instantaneous limits, as defined by SMC 13.08.210 through 13.08.260), 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 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 45 calendar 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 noncompliance.
- C. Applicability: The criteria in paragraphs 1—3 above are applicable to all users, whereas the criteria in paragraphs 4—8 are only applicable to SIUs.

### **13.08.920 Administrative enforcement remedies.**

- A. Enforcement response plan. In administering the City's pretreatment program, the Director shall follow the City's approved pretreatment program procedures, including the City's enforcement response plan. The enforcement response plan is intended to ensure that enforcement is timely, proportional to the violation, and consistent with the City's treatment of similarly situated users.

- B. Progressive enforcement ladder. In response to any noncompliance with this chapter, a wastewater discharge permit, order, approval, notice, directive, or other requirement imposed under this chapter, the Director may use one or more of the following enforcement remedies. The remedies may be applied progressively or immediately, depending on the nature, severity, duration, recurrence, and risk created by the violation:
  - 1. Notice of violation. The Director may issue a written notice of violation identifying the violation, the corrective action required, and the deadline for compliance.
  - 2. Administrative order. If the violation is not corrected, if the violation is repeated, or if immediate corrective action is necessary, the Director may issue an administrative order requiring compliance, establishing a compliance schedule, requiring monitoring or reporting, requiring pretreatment improvements, requiring cessation of prohibited discharges, or imposing other conditions necessary to protect the POTW, the public, City personnel, or the environment.
  - 3. Administrative fine. The Director may impose administrative fines or penalties authorized by this chapter, by ordinance, by resolution, or by applicable state or federal law.
  - 4. Suspension of service or discharge authorization. The Director may suspend sewer service, wastewater discharge authorization, or any wastewater discharge permit when necessary to stop an actual or threatened discharge that presents, or may present, an imminent or substantial danger to the POTW, the public, City personnel, public health, safety, welfare, or the environment, or when a user fails to comply with a notice of violation, administrative order, permit condition, or other requirement of this chapter.
  - 5. Termination of service or permit. For continuing, repeated, significant, or willful violations, or for failure to comply with prior enforcement actions, the Director may terminate sewer service, revoke or terminate a wastewater discharge permit, or prohibit further discharge to the POTW, subject to any notice and appeal rights provided by this chapter or applicable law.
  - 6. Civil remedies. The City may seek civil enforcement, including injunctive relief, recovery of costs, damages, penalties, attorney fees where authorized, abatement, collection of unpaid charges or penalties, liens, or any other civil remedy available under this chapter or applicable law.
  - 7. Criminal remedies. The City may refer violations for criminal enforcement where authorized by this chapter or applicable law, including violations involving knowing, willful, reckless, fraudulent, or materially harmful conduct.
- C. No required sequence. The enforcement remedies listed in this section are cumulative and are not exclusive. The Director is not required to complete each step before proceeding to a more serious remedy where the violation, history of noncompliance, risk to the POTW, threat to health or safety, or need for prompt action warrants an accelerated response.
- D. Availability of enforcement response plan. Any person may review or obtain a copy of the City's enforcement response plan by contacting the Director or the City. The City may charge the lawful cost of copying or producing the record.

#### **13.08.921 Notification of violation.**

The Director may issue a written notice of violation identifying the violation, required corrective action, and deadline for compliance. Unless otherwise directed, the user must submit a written explanation and corrective action plan within 30 days. Acceptance of a plan does not waive any violation or limit further enforcement.

#### **13.08.922 Show cause hearing.**

The Director may require a user to appear and show cause why proposed enforcement action should not be taken. Notice must be served at least 20 days before the hearing and must describe the alleged violation, proposed action, hearing date, and user's opportunity to present information. A show cause hearing is not required before other enforcement action.

### **13.08.923 Administrative orders.**

The Director may issue or enter into consent orders, compliance orders, and cease-and-desist orders requiring compliance, corrective action, pretreatment improvements, monitoring, reporting, cessation of prohibited discharges, or other measures necessary to protect the POTW, City personnel, the public, or the environment. An administrative order does not waive penalties or limit other remedies.

### **13.08.925 Administrative fines.**

- A. The Director may impose an administrative fine of up to \$10,000 per violation per day for violation of this chapter, a wastewater discharge permit, an order, or any pretreatment standard or requirement. For monthly or long-term average limits, each day in the violation period is a separate violation.
  - B. The City may recover costs of emergency response, additional monitoring, investigation, administration, and enforcement caused by the violation.
  - C. In setting the fine, the Director may consider the nature, severity, duration, recurrence, culpability, compliance history, economic benefit of noncompliance, and risk to the POTW, public health, City personnel, or the environment.
  - D. Unpaid fines and costs are delinquent 30 days after the due date and may accrue penalties, interest, and liens as authorized by this chapter and applicable law.
  - E. A user may request reconsideration in writing within 15 working days after notice of the fine. The Director may affirm, reduce, or withdraw the fine. Payment of the fine may be required as a condition of reconsideration unless waived by the Director.
- 13.08.926 Emergency discontinuance of service.**
- A. 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.
  - B. The Director may halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment, including risk of noncompliance with city's NPDES permit, or which threatens to interfere with the operation of the POTW (including the collection system and pump stations). In such cases, the Director shall attempt to provide not only notice to the affected user(s), but the opportunity to respond.
  - C. Any user causing the Director to exercise the emergency authorities provided for under this section shall be responsible for reimbursement of all related costs to the city.

### **13.08.927 Emergency suspensions.**

The Director may immediately suspend a user's discharge (or threatened discharge) when it 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.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. 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 sewer system. Remedies available to the Director include immediately severing the 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.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment

shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Users shall submit this report to the Director prior to the date of any show cause or termination hearing under SMC 13.08.923 and 13.08.928.

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

### **13.08.928 Termination of discharge.**

Any user who violates the following conditions is subject to having the privilege of discharging to the public sewer system withdrawn:

- A. Discharge of non-domestic wastewater without a permit, including:
  - 1. Where the appropriate permit has not been requested;
  - 2. Where the appropriate permit has not yet been issued; or
  - 3. Where the permit has been denied or revoked based on the provisions of SMC 13.08.560 (Permit Revocation).
- B. Violation of permit terms and conditions including:
  - a. Exceeding any permit limit;
  - b. Failing to meet other pretreatment standards or requirements;
  - c. Violating any prohibition; or
  - d. Failing to properly monitor and report discharges or changed conditions.
- C. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; (whether subject to a permit or not); or
- D. Violation of the pretreatment standards and requirements in SMC 13.08.210 through 13.08.260, including failure to satisfy industrial user survey requirements.

When the Director determines this remedy is necessary and appropriate to fulfill the intentions of this chapter, such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under SMC 13.08.923 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.

### **13.08.931 Injunctive relief.**

The Director may seek injunctive relief when a user has violated, or continues to violate a provision of this chapter, including a pretreatment standard or requirement, or a permit or order issued hereunder. In such cases, the Director may petition the Superior Court of Skamania County through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter 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.

### **13.08.932 Civil penalties.**

- A. A user which has violated, or continues to violate a provision of this chapter, including a pretreatment standard or requirement, or a permit or order issued hereunder shall be liable to the city for a maximum civil penalty of \$10,000.00 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.
- B. 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 city.

- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances. The Director shall provide the court a recommended civil penalty amount, and its basis. This basis shall address, as available, the extent of harm caused, the magnitude and duration of the violation, any economic benefit gained, the timing of users actions and responses, corrective actions by the user, and the user's compliance history. The Director will provide the range of penalty amounts its enforcement response plan suggests if it addresses the situation and provides such guidance. The Director will provide any other facts the court requests, or the Director believes important for the court to have to render a just determination.
- D. 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 noncompliance by a user.

### **13.08.933 Criminal prosecution.**

A. Gross misdemeanor. Any user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, an order issued under this chapter, or any applicable pretreatment standard or requirement, shall, upon conviction, be guilty of a gross misdemeanor and punished by a fine of not more than \$5,000, imprisonment for not more than 364 days, or both. Each day on which a violation occurs or continues constitutes a separate offense.

B. Injury or property damage. Any user who willfully or negligently introduces any substance into the POTW that causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and punished by a fine of not more than \$5,000, imprisonment for not more than 364 days, or both. This penalty is in addition to any other criminal charge, civil action, administrative remedy, or judicial remedy available under federal, state, or local law.

C. False statements and tampering. Any user who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, a wastewater discharge permit, or an order issued under this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be guilty of a gross misdemeanor and punished by a fine of not more than \$5,000, imprisonment for not more than 364 days, or both. Each day on which a violation occurs or continues constitutes a separate offense.

D. Repeat violations. A prior conviction under this section may be considered by the court in imposing any sentence authorized by law.

### **13.08.934 Remedies nonexclusive.**

All remedies under this chapter are cumulative and may be used separately or together unless prohibited by law.

### **13.08.941 Penalties for late reports.**

The Director may assess a penalty of \$50.00 to any user for each day that a report required by this chapter, a permit or order issued hereunder is late. Penalties accrue beginning the fifth day after the report is due. The Director's actions to collect late reporting penalties shall not limit the Director's authority to initiate any other enforcement action.

### **13.08.942 Performance bonds.**

The Director may require a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the Director as necessary to assure the User will achieve consistent compliance with this chapter. 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 this chapter, 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 city may use this bond to pay any fees, costs, or penalties assessed to the User whenever the Users account is in arrears for over 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. User may petition no more frequently than once in any twelve-month period.

#### **13.08.943 Liability insurance.**

The Director may require any user to provide insurance if they previously failed to comply with any provision of this chapter, 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 this chapter, 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.

#### **13.08.944 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 this chapter, a previous permit or order issued hereunder.

#### **13.08.945 Water supply severance.**

The Director may order water service to a user severed whenever a user has violated or continues to violate any provision of this chapter, a permit, or order issued hereunder, or any other pretreatment standard or requirement. Users wishing to restore their service must first demonstrate their ability to comply with this chapter and pay the related costs of this action.

#### **13.08.946 Public nuisances.**

A violation of any provision of this chapter 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 SMC 8.60 governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

#### **13.08.951 Upset.**

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to punitive actions in response to noncompliance with categorical pretreatment standards (SMC 13.08.220 and SMC 13.08.230), but not local limits (SMC 13.08.240) when the requirements of paragraph (C), below, are met.
- C. 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 treatment 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 24 hours of becoming aware of the upset. When initially provided orally, the User must have provided a written report within five days:
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

### **13.08.953 Bypass.**

- A. For the purposes of this section,
  1. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
  2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow a bypass to occur if it does not cause pretreatment standards or requirements to be violated and is for essential maintenance to assure efficient operation.
- C. 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 days before the bypass wherever possible.
  2. Users must tell the Director of any unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of becoming aware of the bypass. Users must provide a written follow-up report within five 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.
    - c. When, specifically, the bypass started and ended.
    - d. When the bypass is expected to stop (if ongoing).
    - e. What steps the User has taken or plans to take to reduce, eliminate, and prevent the bypass from reoccurring.
- D. Bypass.
  1. Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless:
    - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities,

retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- c. The user submitted notices as required under paragraph (C) of this section.
- 2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

### **13.08.961 Pretreatment charges and fees.**

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. 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;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs associated with the enforcement activity taken by the Director to address IU noncompliance; and
- F. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

### **13.08.999 Severability**

If any section, subsection, sentence, clause, or phrase of this chapter is held invalid or unconstitutional, that decision does not affect the validity of the remaining portions of this chapter.