9/6/95 Introduced By: Ron Sims
CAJ:cj
watr-amd 9/12/95 Proposed No.: 95-623

ORDINANCE NO. 11963

AN ORDINANCE relating to water pollution abatement policies, rules, procedures and penalties, amending Ordinance 11034, Sections 1, 2, 3 (part), 4, 6, 9, as amended, and 11 and K.C.C. 28.81.010, K.C.C. 28.81.020, K.C.C. 28.82.130, K.C.C. 28.82.210, K.C.C. 28.82.220, K.C.C. 28.82.500, K.C.C. 28.82.510, K.C.C. 28.82.610, K.C.C. 28.82.810, K.C.C. 28.84.040, K.C.C. 28.84.060, K.C.C. 28.84.100, and repealing Ordinance 11034, Sections 3 (part) and 6 (part), and K.C.C. 28.82.980 and K.C.C. 28.84.070.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 11034, Section 3 (part) and Section 6 (part), and K.C.C. 28.82.980 and K.C.C. 28.84.070 are hereby repealed.

SECTION 2. Ordinance 11034, Section 1, and K.C.C. 28.81.010 are each hereby amended to read as follows:

Chapter established. There is hereby established a new chapter in the King County Code which shall pertain to the provision of water pollution abatement in ((~~the department of metropolitan services~~)) King County and which shall contain the provisions of this chapter.

SECTION 3. Ordinance 11034, Section 2, and K.C.C. 28.81.020 are each hereby amended to read as follows:

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

A. In order to carry out its authorized function of metropolitan water pollution abatement as provided in RCW 35.58, and to comply with federal and state laws and regulations, it is necessary and in the best interests of the residents of the county and users of the metropolitan sewerage system that the council adopt policies and procedures for the

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disposal of sewage and disposal of industrial waste into the metropolitan sewerage system as set forth in this chapter.

B. It is the policy of King County to provide sewerage facilities adequate for the transportation, treatment and disposal of industrial and other wastes and to operate the metropolitan sewerage system in such a manner that protects public health and the environment. This chapter sets forth uniform requirements for users of the metropolitan sewerage system and enables the county to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). In carrying out this policy, the objectives of this chapter are:

1. To prevent pollutants from entering the sewerage system that will interfere with its normal operation, damage the collection or treatment systems, or contaminate the resulting biosolids;

2. To prevent the introduction of pollutants into the sewerage system that will not be adequately treated and will pass through into the environment;

3. To improve opportunities for recycling and reclamation of wastewater and biosolids;

4. To ensure protection of worker safety and health;

5. To reduce the introduction of clean water into the sewerage system;

6. To implement waste reduction and recycling to prolong the useful life of existing and planned wastewater facilities and to protect the environment;

7. To focus sampling and inspection efforts on those industries discharging the greatest volume and concentration of pollutants while still recognizing the cumulative impact of small discharges;

8. To implement, administer, and enforce a fee program in compliance with federal and state law and ensure that industrial users pay a fair cost for monitoring and treatment;

9. To implement an enforcement response plan aimed at achieving compliance in the shortest time frame possible and promoting responsibility of the industrial user to be in compliance with this chapter; and

10. To make information and data on industrial users available to the public ((~~except in such cases where the industrial user has requested confidentiality to protect trade secrets or where otherwise prohibited by law.~~)) in accordance with state law.

SECTION 4. Ordinance 11034, Section 3 (part), and K.C.C. 28.84.130 are each hereby amended to read as follows:

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

SECTION 5. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.210 are each hereby amended as follows:

Department ((~~or DMS~~)). Department ((~~or DMS~~)) shall mean the department of ((~~metropolitan services.~~)) natural resources.

SECTION 6. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.220 are each hereby amended to read as follows:

Director. Director shall mean the director of the department of ((~~metropolitan services~~)) natural resources of King County or a duly authorized designee.

SECTION 7. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.500 are each hereby amended to read as follows:

Metropolitan Sewer System, Metropolitan Sewerage System or Metropolitan System. Metropolitan sewer system, metropolitan sewerage system or metropolitan system shall mean all or any part of the sewerage facilities acquired, constructed, or used by ((~~the department of metropolitan services~~ King County.

SECTION 8. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.510 are each hereby amended to read as follows:

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

SECTION 9. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.610 are each hereby amended to read as follows:

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

SECTION 10. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.810 are each hereby amended to read as follows:

Significant Noncompliance. Significant noncompliance shall apply to an industrial user if its violation(s) meets one or more of the following criteria:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (((~~66%~~))) or more of all of the measurements taken during a six (((~~6~~))) month period exceed, ((~~(~~))by any magnitude((~~)~~)), the daily maximum limit or average limit for the same pollutant parameter;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (((~~33%~~))) or more of all of the measurements for each pollutant parameter taken during a six (((~~6~~))) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except ((~~Ph~~)) pH).

C. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

D. Any discharge of a pollutant that has caused imminent danger to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under this chapter to halt or prevent such a discharge;

E. Failure to meet, within ninety (((~~90~~))) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide, within 30 days after due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; and

H. Any other violation or group of violations that the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 11. Ordinance 11034, Section 4, and K.C.C. 28.84.040 are each hereby amended to read as follows:

Citizens Water Quality Advisory Committee. A. The Citizens Water Quality Advisory Committee is hereby established. The committee shall act in an advisory capacity to the director on matters concerning water pollution abatement plans and programs and may submit independent recommendations to the executive and council. The committee shall review, advise and make recommendations regarding matters such as general program focus, program service levels and financing, and policies on water pollution abatement issues.

B. The committee shall be comprised of forty-five (45) members appointed by the executive and confirmed by the council. Membership shall include three members from each county council district and six at-large members. The district members shall reside in the district they represent. The at-large members may reside in any district but not more than one at-large member shall be from any one district. The committee members shall include a cross section of the public affected by water pollution abatement plans and programs, including elderly, students, persons with disabilities, business, labor, environmentalists, women, minorities, community councils and other citizen, civic and municipal groups.

C. Appointments to the committee shall be effective until December 31 of the second year following each member's appointment date; provided, that members of the committee appointed ((~~by the Metro Council~~)) prior to January 1, 1994, may serve on the committee until their terms expire or they resign. Members whose terms have expired shall serve until replacements are appointed. Members may be reappointed for one additional term.

D. The committee shall select its officers, including chair, vice-chair and any others it deems necessary. The committee shall adopt appropriate bylaws.

E. The objectives of the committee shall be as follows:

1. To achieve direct involvement of citizens in the facilities and budget planning processes;

2. To develop within the community greater visibility and responsibility for water quality programs;

3. To provide an independent forum to which the citizens can bring their suggestions, desires and complaints regarding water quality problems;

4. To provide a citizen advisory body to aid in the decision-making process;

5. To assure that at each critical point in the planning process there are a maximum number of options considered;

6. To advise on extended citizen participation; and

7. To ((~~insure~~)) ensure that water quality planning and implementation are consistent with and complementary to region-wide planning.

SECTION 12. Ordinance 11034, Section 6 (part), and K.C.C. 28.84.060 are each hereby amended to read as follows:

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

B. The following provisions shall govern the applicability of this section.

1. This section shall apply to all nondomestic users of the metropolitan sewerage system including, but not limited to, commercial and industrial companies and government agencies. Indirect discharges from nondomestic users regulated by this section

include, but are not limited to, liquid, solid or gaseous substances, or any combination thereof resulting from any process of industry, government, manufacturing, commercial food processing, business, agriculture, trade, research, the development, recovery, or processing of natural resources, leachate from landfills or other disposal sites, contaminated nonprocess water, contaminated storm water, and ground water.

2. This section shall not apply to the discharge of storm water into an existing combined sanitary and storm system unless such discharge results from industrial activity and the director has determined that such discharge may affect the county's water quality and biosolids objectives.

3. This section shall not apply to participant local agencies when collecting domestic and industrial waste and conveying such waste to the metropolitan sewerage system.

4. This section authorizes the issuance of wastewater discharge permits, authorizes monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

5. Industrial waste shall be accepted into the metropolitan sewerage system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the county for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. ((~~As~~)) At a minimum, all industrial users of metropolitan sewerage system facilities shall comply with the applicable pretreatment standards and requirements developed pursuant to Sections 307(b) and 307(c) of the Act. This includes the pretreatment standards for existing and new discharges, which are defined in regulations promulgated pursuant to such Sections of the Act.

C. The director shall administer, implement, and enforce the provisions of this section. Any powers granted to or duties imposed upon the director may be delegated by the director to other department personnel. The director shall establish and publish administrative procedures for implementation of this section which shall include but not be limited to issuing permits and discharge authorizations, collecting samples, identifying and

inspecting industrial users, monitoring, revenue/cost recovery, appeals, discharge approval processes, issuing waste discharge permits and discharge authorizations, conducting investigations of noncompliance, preparing enforcement actions according to the department's enforcement response plan, and setting local limits.

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

1. Discharge standards and limitations shall be established to the extent necessary to enable the county to comply with current NPDES requirements, as promulgated by the EPA or the Washington State Department of Ecology, and to protect sewerage facilities and treatment processes, public health and safety and the receiving waters, air quality, and biosolids quality.

2. Dischargers shall comply with all applicable pretreatment standards and requirements. Discharges subject to federal categorical discharge limits shall be subject to those limits, or to county local discharge limits, whichever is most restrictive. In addition to concentration limits, permit limits may also include mass limits stated as total pounds of a pollutant allowed per day.

3. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations or flow restrictions on users he or she believes may be using dilution to meet applicable pretreatment standards or requirements.

4. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

5. No industrial user shall discharge any of the following pollutants, substances, or wastewater directly or indirectly into any public sewer, private sewer or side sewer tributary to the metropolitan sewerage system:

a. Flammable liquids, solids or gases capable of causing or contributing to explosion or supporting combustion in any sewerage facilities.

b. Any solid or viscous substances or particulates in quantities, either by itself or in combination with other wastes, that are capable of obstruction of flow or of interfering with the operation or performance of sewer works or treatment facilities.

c. Any gas or substance that, either by itself or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry by authorized personnel to pump stations and other sewerage facilities.

d. Any gas or substance that, either by itself or by interaction with other waste, may cause corrosive structural damage to sewer works or treatment facilities.

e. Wastes at a flow rate and/or pollutant discharge rate that are excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

f. Heat in amounts that will inhibit biological activity in treatment plant facilities resulting in either interference in the treatment process or preventing entry by authorized personnel to pump stations and other sewerage facilities. This prohibition includes but is not limited to heat in such quantities that the temperature of the treatment works influent exceeds 40 degrees C (104 degrees F) or the temperature exceeds 65 degrees C (150 degrees F) at the point of discharge from the industrial source to public sewers and/or the metropolitan sewerage system.

g. Food waste unless it will pass a 1/4-inch sieve. The director shall establish rules on the use of food grinders to meet the 1/4-inch criterion. Such rules shall be based upon department biosolids criteria, impact on solid waste utilities, concerns of local health agencies and imposition of high strength surcharge fees.

h. Any radioactive wastes or isotopes that exceed such concentration limitations as established by applicable Washington State Department of Social and Health Services regulations.

i. Trucked and hauled wastes shall not be discharged into a sewer except at points in the metropolitan sewerage system designated for such discharge by the director.

j. Any waters or wastes containing higher than ordinary concentrations or quantities of compatible pollutants, including but not limited to, biochemical oxygen demanding pollutants, suspended solids, ((~~Ph~~)) pH and fecal material, may be required to discharge at a specific release rate or at a specified strength if, in the opinion of the director, the release of such waste in an uncontrolled manner could adversely affect proper handling and treatment in the metropolitan sewerage system.

k. Storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, and unpolluted wastewater unless specifically authorized elsewhere in this section or by rules published by the director regarding the acceptance of clean water into the metropolitan sewerage system. Such rules shall be based upon existing sewer capacity, cost and availability of alternate disposal options, cost of implementing control measures to prevent contamination of storm water, surface water, and ground water, cost of recycling or reclaiming clean water, benefits to regional water conservation using reclaimed effluent and adverse impacts to water quality and public health.

l. Any waters or wastes generated during construction activities which may include, but not be limited to, contaminated storm water, surface water or ground water and wells constructed for the purpose of lowering the groundwater table unless specifically authorized by the director.

m. Wastewater that imparts color that cannot be removed by the treatment process, such as dye wastes and vegetable tanning solutions that consequently impart color to the treatment plant's effluent, thereby violating the county's NPDES permit.

n. Detergents, surface-active agents, or other substances that may cause excessive foaming in the metropolitan sewerage system.

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

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

1. The director shall publish and revise from time to time local discharge limits developed according to guidelines promulgated by the EPA and/or Washington State Department of Ecology using data specific to the metropolitan sewerage system and its industrial users. At a minimum, local discharge limits shall restrict the following parameters: metals; organics; ((~~Ph~~)) pH; temperature; fats, oils and greases of animal or vegetable origin; fats, oils and greases of mineral origin; and other toxic substances as required, including those defined in applicable state and federal regulations. These published local discharge limits shall, by this reference, be made a part of this section.

2. No industrial user shall discharge wastewater containing concentrations (and/or mass limitations) in excess of the published local discharge limits, except as provided for in this section.

3. Individual limits for specific companies or general permit limits for groups of companies may be established on a case-by-case basis for compounds not specifically listed in published local discharge limits or at levels higher or lower than published local discharge limits. Such individual limits may be higher than published local discharge limits only for companies or groups of companies that have demonstrated that no reasonable treatment method is available to meet published limits, and the volume and mass of pollutants discharged does not endanger sewerage facilities or put the POTW at risk of violating NPDES limits, water quality standards, air quality standards, biosolids standards or worker safety standards. Individual limits may be lower than published local discharge standards when the volume of discharge and/or mass of pollutants is such that lower limits are necessary to protect sewerage facilities and treatment processes, public health and safety, the receiving waters, air quality, or biosolids quality.

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

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

I. The following provisions shall govern compliance with applicable pretreatment requirements:

1. Compliance by existing users covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standards.

2. The director shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for said user are more restrictive than EPA's categorical pretreatment standards. In establishing such a compliance deadline, the director shall consider the potential for violations of NPDES limits, biosolids quality, air quality, and worker safety standards and the difficulty and cost to industrial users of changes in industrial processes and installation of new pretreatment equipment.

3. New source industrial users and all other new users including significant industrial users shall comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New sources and new users shall install and have in operating condition all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

J. The following provisions shall govern waste discharge permits and authorizations:

1. Each person discharging or proposing to discharge industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system shall secure written discharge authorization, which may include, but shall not be limited to, a waste discharge permit, minor discharge authorization, or general permit from the department unless otherwise provided in this section. The conditions and discharge standards in all written discharge authorizations shall be predicated on federal, state, county, and other applicable local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. These conditions and discharge standards shall be re-evaluated upon expiration of the written discharge authorization and may be revised from time to time as required by county, state or federal regulations and requirements or to meet any emergency. Obtaining a written discharge authorization, however, shall not relieve a user of its obligation to comply with all federal and state pretreatment standards or requirements, or with any other requirements of federal, state and local law.

a. Any person proposing to discharge industrial waste, but not holding a valid waste discharge permit or other written discharge authorization, shall apply to secure a waste discharge permit or discharge authorization unless the director has determined that written authorization is not required. Application to the department shall be made for permits at least sixty (((~~60~~))) days prior to beginning discharge unless the industrial user is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, in which case application to the department shall be made for such permit ninety (((~~90~~))) days prior to beginning of discharge. Application to the department shall be made for all other written discharge authorizations thirty (((~~30~~))) days prior to beginning of discharge. Any new source or new user meeting the definition of significant industrial user shall not discharge without a waste discharge permit.

b. Any person with an existing permit or written discharge authorization proposing to make a change in an existing industrial waste discharge which will substantially change the volume of flow or the characteristics of the waste or establish a new point of discharge, shall apply for a new waste discharge permit thirty (((~~30~~))) days

prior to making the change. Substantial changes may include, but are not limited to, a twenty (((~~20~~))) percent increase in the authorized daily maximum flow, addition of a new process, product, or manufacturing line that will increase or decrease the concentration of pollutants in the waste stream or require modification in the operation of the pretreatment system, addition of new pretreatment equipment, or altering a sample site.

c. The director may grant permission to discharge without written authorization when the discharge is limited in concentration of pollutants, volume or duration, or when the user has applied for and is in the process of obtaining written discharge authorization.

2. All significant industrial users shall secure a waste discharge permit. Existing significant industrial users without permits and industrial users that the director has determined present a substantial risk with existing discharges shall, upon receipt of written notice, apply for a waste discharge permit within thirty (((~~30~~))) days. Extensions of time for submittal of an application may be granted by the director, not to exceed a total of sixty (((~~60~~))) days. The director on his or her own initiative or in response to a petition from an industrial user may determine that an industrial user is not a significant industrial user when there is no reasonable potential for the discharge to adversely affect the POTW's operation or to violate any pretreatment standard or requirement.

3. Persons who are not subject to federal categorical standards or who discharge less than 25,000 gallons per day or who in the opinion of the director have no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement are not required to obtain a waste discharge permit. Instead, the director may require and issue some other form of written authorization, which may include but is not limited to a minor discharge authorization, a letter of discharge approval, or a general permit. The director may require industrial users to obtain a waste discharge permit when noncompliance with this section exists. Upon written notice from the department that a permit is required, the person so notified shall apply for a waste discharge permit within thirty (((~~30~~))) days. Extensions of time for submittal of an application may be granted by the director, not to exceed a total of sixty (((~~60~~))) days.

4. Application for waste discharge permits and authorizations shall be made to the director in writing on forms provided by the department and shall include such data, information and drawings as to enable the department to determine which federal, state and local regulations apply to the discharge and to set conditions for the industrial user to comply with such regulations. Such information shall include but not be limited to identifying information such as name, address, owner and contact person, other environmental permits held by the operation, operation and site descriptions including manufacturing processes, flow measurements, measurements of pollutants, pretreatment system designs and operation and maintenance manuals, spill control plans, and certification statements. The department will act only on complete applications. Significant industrial users shall comply with all requirements of 40 CFR 403.12 (b) by the time of permit issuance or upon commencement of discharge, whichever comes first, unless the specific conditions of a waste discharge permit establish an alternate deadline.

5. Upon receipt of a completed application, the director shall determine if a permit, minor discharge authorization or other document is required and notify the applicant. Waste discharge permits and authorizations shall be processed in accordance with Chapter 90.48 RCW, as amended, Public Law 92-500, and this section, which includes: public notice for discharges requiring permits; determination of applicable discharge limits and special conditions; review and approval of any pretreatment facilities; facility inspections; issuance of a draft permit; review of the application and any draft permits by appropriate federal, state, and local agencies; and issuance of the final permit or written authorization.

a. If a permit is required, the director shall complete the public notice requirements and bill the applicant for the cost or the director shall instruct the applicant at its expense to publish notices twice in a newspaper of general circulation within King County and in a local newspaper serving the area where the industry industrial user is located and in such other appropriate information media as the director may direct. Said notice shall include a statement that any person desiring to present their views with regard to said application may do so in writing to the director, provided said person submits their views or notifies the director of their interest within thirty (((~~30~~))) days of the last date of

publication of the notice. Such notification or submission of views to the director shall entitle said person to review and comment on the draft permit and to a copy of the action taken on the application.

b. Waste discharge permits and written discharge authorizations shall be issued with conditions to demonstrate compliance, meet applicable federal, state and local regulations and prevent violations of this section and the waste discharge permit or authorization. Such conditions may include, but shall not be limited to, discharge limitations and standards, spill control measures, accidental spill prevention plans, slug control plans, monitoring requirements, maintenance requirements, installation of monitoring equipment, record-keeping requirements, reporting requirements, federal and state requirements, installation of sampling sites, flow restrictions, engineering reports, solvent management plans, implementation of best management practices, and special studies to evaluate discharge limits or compliance status.

c. As a condition of the granting of a waste discharge permit or other authorization, the director may require the industrial user to install pretreatment facilities or make plant or process modifications as deemed necessary by the director to meet the requirements of this section and applicable federal and state standards. Such facilities or modifications shall be designed, installed, constructed, operated and maintained at the industrial user's expense in accordance with the provisions of this section, and in accordance with the rules and regulations of all local and governmental agencies.

d. No industrial user may discharge industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system until inspection has been made by the department for compliance with conditions of the permit or authorization and with this section unless the director has determined that an inspection is not required.

e. A draft permit shall be issued for review and comment by the applicant, federal, state and local agencies, and members of the public who wish to comment on the application or draft permit. All comments will be reviewed and addressed by the director prior to issuance of a final permit.

f. During the application processing, the department will consult with and provide copies of applications and draft permits to participant local agencies, the Washington State Department of Ecology, and the EPA, when appropriate, to ensure that the limitations and conditions of waste discharge permits or other written discharge authorizations will meet requirements of applicable federal, state, and local regulations.

g. The director may deny a permit or discharge authorization when the applicant's discharge will not comply with this section or will create a public nuisance. The director may also deny a permit or authorization to protect public health and welfare.

h. Waste discharge permits and authorizations shall be issued by the director for a specified time period, not to exceed five (((~~5~~))) years. A waste discharge permit or authorization may be issued for a period less than five (((~~5~~))) years at the discretion of the director. Each waste discharge permit or authorization will indicate a specific date upon which it will expire.

i. If the characteristics of the proposed discharge or discharges meet the requirements of appropriate participant local agencies, the Washington State Department of Ecology, the EPA, and any other applicable state and federal laws and regulations, and this section, the director shall issue a waste discharge permit or authorization to the applicant therefor with appropriate conditions. A copy of the draft permit, final permit, or authorization and the completed application on which the permit or authorization is based will be submitted to the Department of Ecology. The appropriate local agencies will be notified in writing of the issuance of such a permit and will be furnished with one copy of each draft and final permit or other written discharge authorization issued within its jurisdiction at no charge.

6. Discharge conditions published in a waste discharge permit or authorization shall remain in effect until the permit or authorization expires, except that the director may modify the permit or authorization for good cause including the following:

a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

b. To address alterations or additions to the user's operation, processes, or wastewater volume or character since the time of permit or authorization issuance (such modifications may be requested by the industrial user);

c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

d. Information indicating that the permitted discharge poses a threat to the metropolitan sewerage system, the department's, county's and/or participant local agency's personnel, or the receiving waters;

e. Violation of any terms or conditions of the waste discharge permit or authorization;

f. To correct typographical or other errors in the waste discharge permit or authorization; or

g. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

7. If the industrial user wishes to continue discharging after the expiration date, an application shall be filed for renewal of the permit or authorization at least 180 days prior to the expiration date. Applications for renewal permits or authorizations shall be processed in accordance with the requirements of this section, with the exception of the public notice requirement. An industrial user whose existing waste discharge permit or authorization has expired and has submitted its application for permit renewal in the time specified herein shall be deemed to have an effective waste discharge permit or authorization until the director issues or denies the new waste discharge permit. An industrial user whose existing waste discharge permit or authorization has expired and who failed to submit its reapplication in the time period specified herein will be deemed to be discharging without a waste discharge permit or authorization.

8. A permit or authorization shall be subject to revocation upon thirty (((~~30~~))) days' notice in writing if the director finds:

a. It was procured by misrepresentation of any material fact or by lack of full disclosure in the application;

b. A material change in the volume of flow or characteristics of waste was effected without notice to the department and application to the department for a new permit or authorization was not made and a permit or authorization issued as required in this section;

c. There has been a violation of the limitations or conditions of the permit or authorization, and the industrial user refuses to take corrective action, or that a violation has continued after notice thereof;

d. The industrial user has refused reasonable access to its premises for the purpose of inspecting or monitoring the discharge;

e. The industrial user has falsified self-monitoring reports or tampered with monitoring equipment;

f. The industrial user has failed to pay sewer charges or fines; or

g. The industrial user has failed to provide advance notice of the transfer of a waste discharge permit.

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

9. A permit or authorization may be suspended temporarily and further discharges halted by the director if the director determines that waste discharges are in violation of waste discharge permit or authorization limitations or conditions or county, state, or federal standards and pose an immediate risk to public health and safety, receiving water quality, biosolids quality, or an immediate risk of damage, obstruction, or interference with treatment facilities. Such suspension shall be effective immediately upon written notice delivered to the industrial user's business premises or posting at the point of discharge.

10. A waste discharge permit or authorization shall not be transferred without prior notification and approval by the director. Such notification shall be submitted at least thirty (((~~30~~))) days prior to the date of facility transfer and shall:

a. include a statement that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

b. identify the specific date on which the transfer is to occur; and

c. acknowledge full responsibility for complying with the existing waste discharge permit.

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

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

1. It shall be the responsibility of every industrial user to control the discharge of industrial waste into a public sewer, private sewer or side sewer tributary to the metropolitan sewerage system in compliance with this section and the requirements of a waste discharge permit or written discharge authorization issued under the provisions of this section.

2. Whenever pretreatment facilities are required pursuant to this section, they shall be designed, constructed, installed, operated and maintained at the expense of the industrial user and in a manner prescribed by the director. The director may require dischargers to submit plans in the form of engineering reports and drawings for approval. Such reports and plans shall be prepared according to federal and state requirements. The industrial user shall maintain records indicating routine maintenance check dates, cleaning and waste removal dates, and means of disposal of accumulated wastes. Such records shall be retained for a minimum of three (((~~3~~))) years and be subject to review in accordance with this section. Approval of proposed facilities or equipment by the director will not in any way guarantee that these facilities or equipment will function in the manner described by their constructor or manufacturer, nor shall it relieve a person of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the applicable standards, limitations and conditions of a waste discharge permit.

3. Industrial users will be required to submit samples of industrial waste discharges to the director or to perform tests and report the test results to the director on a routine and continuing basis when:

a. required by the terms and provisions of 40 CFR 403.12, as amended;

b. requested by state or participant local agencies; or

c. deemed necessary by the director for the proper treatment, analysis or control of waste discharges.

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

4. All sampling data collected by significant industrial users and analyzed using procedures approved by 40 CFR 136 or approved alternatives shall be submitted to the director whether required as part of a written authorization or done voluntarily by the significant industrial user.

5. To the degree practicable, the director will provide each permittee or applicant with information on applicable county, state and federal waste analysis and reporting requirements, provided, however, that any failure or inadvertence to do so shall not excuse the permittee from compliance with said requirements. Specific requirements will be established by written permit or authorization.

6. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

information, including the possibility of fine and imprisonment for knowing violations."

7. When required by the director, the industrial user shall install and maintain at its expense a suitable sample site or control manhole in its side sewer to facilitate observation, sampling and measurement of wastes therein. Such sample sites or manholes shall be located, if feasible, where it is accessible from a public road or street. It shall be constructed in accordance with plans approved by the director and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the director. The industrial user shall make access to such manhole available to the director at all times. Any tampering with flow or sampling equipment by the discharger or employees is prohibited. When deemed necessary by the director, an industrial user may be required to obtain, install, operate, and maintain, at its expense, an automatic sampler and/or analyzer or flow measurement device in order to monitor its industrial waste discharges in the manner directed by the director.

8. Any person becoming aware of the discharge of regulated substances, spills or slug discharges directly or indirectly into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system shall report such discharge immediately ((~~by telephone~~)) to the department and one of the treatment plants of the county. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and any corrective actions. Failure by any person aware of such discharge of prohibited or restricted substances, spills, or slug discharges to report such discharge in the manner provided above shall constitute a violation (as that term is defined in this section), and subject said person to the penalties set forth in this section. Each failure to report a discharge shall be considered a separate violation. Notification shall not relieve the person responsible from penalties or recovery of the cost of damages resulting from the discharge. Discharges of prohibited or restricted substances directly or indirectly into navigable waters, or into streams, ditches or sewers tributary to navigable waters, shall be reported to the U.S. Coast Guard or to the regional office of the Washington State Department of Ecology, in accordance with Section 311 of the Act, 42 U.S.C. 1321, as amended.

9. In order that employees of industrial users involved in discharge to sewers will be informed of the county's requirements, said industrial users shall make available to their employees copies of this section together with such other wastewater information and notices directed toward more effective water pollution control that may be furnished by the director from time to time. A notice advising employees whom to call in case of a discharge violation of this section shall be furnished and permanently posted in highly visible places such as bulletin boards and lunchrooms. Where lack of proper employee training is determined to have caused noncompliance with the provisions of this section or with the requirements of a waste discharge permit or written discharge authorization, the director shall require industrial users to provide employee training.

10. Any direct or indirect connection or entry point that could allow prohibited or regulated substances to enter the industrial user's plumbing or drainage system shall be eliminated. Where such action is impractical or unreasonable, the industrial user shall label such entry points appropriately to warn against discharge of such wastes in violation of this section.

11. All industrial users shall notify the director, the EPA Region 10 Waste Management Division Director, and the Washington State Department of Ecology in writing of any discharge to the sewer of a substance, which, if otherwise disposed of would be a hazardous waste as set forth in 40 CFR Part 261.

a. Notification shall include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste generator number, where required, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms (220 pounds) of such waste per calendar month to the POTW, the notification shall also contain the following information:

(1) An identification of the hazardous constituents contained in the wastes;

(2) An estimation of the mass and concentrations of such constituents in the waste stream discharged during that calendar month; and

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

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

b. Industrial users are exempt from the notification requirements during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33(e).

c. In the case of new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921, identifying additional characteristics of hazardous wastes or listing any additional substance as a hazardous waste, the industrial user shall submit notification as required under this section within 90 days of the effective date of the new regulations.

d. Any industrial user subject to the notification requirements under this section shall certify in writing at the time of notification that the industrial user has a program in place to reduce the volume or toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

12. Industrial users shall maintain records relating to discharges to the metropolitan sewerage system. Such records, which include, but are not limited to, routine maintenance, waste disposal dates, manifests and disposal records for accumulated wastes, self-monitoring reports, analytical lab results, dates and times of sample collection and batch discharges, ((~~Ph~~)) pH and equipment calibration log books, ((~~Ph~~)) pH monitoring

records, and flow records, shall be retained for a minimum of three (((~~3~~))) years and shall be subject to review in accordance with the provisions of this section.

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

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

2. A warrant shall not be required for entry and administrative inspections (including observation, measurement, sampling or testing) under this section in the following situations:

a. With the consent of the owner, operator or agent in charge of the premises;

b. If the discharge is permitted under an industrial waste discharge permit or other written discharge authorization;

c. In situations where the director has determined that an emergency exists presenting imminent danger to the public or worker health, safety and welfare, the environment or water quality of a receiving water or interference or risk of interference or

obstruction with the functioning of the metropolitan sewerage system, or violating the county's NPDES permit limits;

d. In any emergency circumstance where there is neither time nor opportunity to apply for a warrant; and

e. In any other situation where a warrant is not required by law.

3. In the event an administrative inspection warrant must be obtained to enter upon the premises of any person disposing of industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system, the director shall apply to ((~~any judge of~~)) the Superior Court of the state of Washington ((~~who shall within their territorial jurisdiction and upon proper oath or affirmation showing probable cause,~~)) for issu((~~e~~))ance of warrants for the purpose of conducting administrative inspections authorized by this section. For purposes of an administrative inspection, probable cause justifying the issuance of a warrant may be based either on:

a. specific evidence of an existing violation of the terms and conditions of a waste discharge permit, this section or any state or federal law or regulation relating to water pollution; or

b. evidence that reasonable administrative standards for conducting an inspection (including observation, measurement or testing of industrial waste) are satisfied with respect to a particular premises and that a specific premises has been selected for county inspection on the basis of a general administrative plan for the enforcement of this section or any county, state, or federal laws or regulations relating to water pollution.

4. Consistent with federal pretreatment standards, pollutant levels for all regulated processes will be monitored at the point of compliance. The point of compliance shall be at the end of the regulated process following pretreatment or as specified in the waste discharge permit or written discharge authorization. Such monitoring shall be prior to the addition of any dilution water.

5. The purpose of the inspection and sampling programs shall be to verify independent of information supplied by industrial users pursuant to this section, the compliance or noncompliance with applicable pretreatment standards and requirements, or special requirements as prescribed by the director.

6. The sampling programs shall be designed to provide sampling emphasis on those industrial users discharging the greatest volume and concentration of pollutants. Comprehensive sampling by automatic samplers will be augmented with grab samples taken on a random basis. Flow proportioned samples are preferred. A significant industrial user will be sampled at least twice (2 times) per year. Those users with large industrial discharges can expect to be sampled quarterly or more often, while users with small discharges may be sampled once annually or as required by federal regulations or an NPDES permit issued to the county. Industrial users also discharging high strength waste will be sampled or classified as part of the industrial surcharge program.

7. The inspection programs shall be designed to provide emphasis on those industrial users discharging the greatest volume and concentration of pollutants. A significant industrial user will be inspected at least once per year.

8. The post-violation inspection and sampling program shall provide for additional inspection and sampling of any industry failing to comply with or violating any of the provisions of this section and/or applicable state and federal requirements.

9. Except as otherwise stipulated below, information and data on industrial users obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agencies in conformance with county ordinances and state laws and regulations. Industrial user information such as trade secrets may be withheld provided confidentiality is specifically requested by the industrial user at the time the information is provided or submitted to the director. Wastewater constituents and characteristics shall not be recognized as confidential information and will be available to the public without restriction.

10. A portion (or co-collected sample in the instance of fats, oils, and greases) of any samples collected by department personnel shall be made available to the industrial user being sampled. If the industrial user has samples analyzed for comparison with the department's results, such a comparison will be considered valid only if methods and procedures are the same as those utilized or approved by the department and those methods and procedures conform to and are consistent with the analytical methods established by the latest edition of the following references:

a. Standard Methods for the Examination of Water and Wastewater;

b. American Society for Testing and Materials, A.S.T.M. Standards, part 23, Water, Atmospheric Analysis;

c. Environmental Protection Agency, Water Quality Office Analytical Control Laboratory, Methods for Chemical Analysis of Water and Wastes; or

d. any other analytical method determined by the department to be required to identify and quantify a particular pollutant not adequately sampled by the above referenced methods.

11. If, as the result of a valid sample comparison, a discrepancy arises between the analytical results obtained by an industrial user and the county's results, and if a statistical summary indicates that the precision of the county's and the industrial user's results are within acceptable quality assurance/quality control standards, the two results will be averaged to determine the user's compliance.

12. The director may require any user to develop and implement an accidental discharge (spill)/slug control plan. An accidental discharge or accidental spill prevention plan (ASPP)/slug control plan describing facilities to prevent accidental discharge or slug discharges of pollutants and/or operating procedures to provide this protection, shall be submitted to the director for review and approval before implementation. The director shall determine which user is required to develop a plan and require said plan be submitted within 90 days following notification by the director. Each user shall implement its ASPP as submitted or as modified after such plans have been reviewed and approved by the director. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify its facility as necessary to meet spill control requirements.

a. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan that addresses, at a minimum, the following:

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

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

b. Users shall notify the director immediately upon the occurrence of a slug or accidental discharge of substances regulated by this section. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions.

c. Within fourteen (((~~14~~))) days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures taken by the user to prevent similar future occurrences.

d. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge.

M. The following provisions shall govern permit fees, compliance monitoring and administrative fees, and post-violation inspection and sampling program charges.

1. To cover the cost of drafting waste discharge permits as provided in this section, the director shall establish a permit fee. Such fee shall be applicable to each new or revised permit issued after the adoption of this section. Such permits shall normally be issued for a period of five years and said fee shall entitle the permittee to the review of two draft permits and the review and issuance of one final permit and one permit revision during the stated term of each permit. No additional charges shall be made for revisions or draft permit revisions initiated by the department. The cost for routine permit administration, including annual permit inspections, are covered under other provisions in this section. The director is hereby authorized to establish the permit drafting fee as part of the county's annual budget process.

2. Those permittees authorized to discharge heavy metals and/or those permittees authorized to discharge oil and grease shall pay a compliance monitoring and administrative fee. Such fee shall be a unit charge calculated in accordance with the procedures hereafter set forth herein and in accordance with the following:

HEAVY METAL AND OIL & GREASE
MONTHLY COMPLIANCE MONITORING AND ADMINISTRATIVE FEES

The heavy metal and oil & grease monthly compliance monitoring and administrative charges for each company shall be computed using the following formulas:

$$\text{Heavy metals monthly charge} = \frac{[Q_t - Q_s]\ [Cost_{HM}]}{12}$$

$$\text{Oil \& Grease monthly charge} = \frac{[Q_t - Q_s]\ [Cost_{OG}]}{12}$$

Where:

Q_t = measured sewage flow; 100 cubic feet/year;
Q_s = computed sanitary flow; 100 cubic feet/year;
$Cost_{HM}$ = unit cost for administering and monitoring for heavy metals of permitted companies;
$Cost_{OG}$ = unit cost for administering and monitoring for oil & grease of permitted companies;

Further:

$Q_t - Q_s$ = industrial wastewater discharged; 100 cubic feet/yr

Where: $\frac{Q_{ve}\ E\ O}{748}$

Q_{ve} = sanitary volume exclusion per employee per day; gallons/day;
E = average daily number of employees;
O = average number of annual operating days;
748 = factor for converting gallons to 100 cubic feet;

Further:

$$Cost_x = \frac{AM_x}{{}^{T}IF_x}$$

Where:

$Cost_x$ = unit cost for administering and monitoring heavy metals or oil and grease program;
AM_x = budget allocated to administering heavy metals or oil and grease program;
${}^{T}IF_x$ = total industrial flow discharged by heavy metal permittees or oil and grease permittees; 100 cubic feet/year.

a. The compliance monitoring and administrative fees shall be based upon the county's estimated costs for the total compliance monitoring program for the heavy metals and oil and grease programs. A review of such costs and their allocation will be conducted annually by the director, and unit charges may be adjusted to reflect the actual monitoring costs. Compliance monitoring and administrative fees shall include, but not be limited to, routine permit administration, program development, laboratory analysis, and recovery of fifty (((~~50~~))) percent of the costs of the key manhole monitoring program and industrial monitoring costs not recovered directly via fees for the post-violation inspection and sampling program.

b. Compliance monitoring and administrative charges shall be based upon the average monthly volume of discharge by each industrial/commercial permittee served directly or indirectly by the metropolitan sewerage system. The average monthly discharge volume will be based on water consumption figures of each industrial/commercial permittee for the previous four quarters of the year. Each participant local agency shall provide the department each quarter with a listing of the water consumption of each industrial/ commercial permittee served by said participant local agency and the department. Where actual sewage flow is metered, the metered flow shall be reported in lieu of water consumption.

c. The director shall not impose the compliance monitoring and administrative fee where the compliance monitoring payments do not exceed the department's estimated costs for monitoring and processing an individual account. The department reserves the right to thereafter reimpose the compliance monitoring and administrative fee for heavy metals and/or oil and grease whenever the director determines that said payments will exceed administrative costs.

d. The department will assign the responsibility for billing and collecting the compliance monitoring and administrative fees to each of its participant local agencies for those companies within the agencies' jurisdiction. The permit fee will be billed directly to the permittee.

3. The department shall have the right to impose an administrative fee to recover the cost of drafting minor discharge authorizations and general permits as provided under other provisions of this section.

4. Users ((~~having~~)) discharging waste with a strength greater than domestic waste shall pay a high strength surcharge in addition to the basic fee. The surcharge for high strength industrial wastes shall be based on treatment or removal costs of those constituents whose concentration exceeds that contained in domestic wastes and which contribute to the costs of operation and maintenance of the metropolitan sewerage system. The constituents presently in this category are biochemical oxygen demand (BOD) and suspended solids.

a. The surcharge shall be the unit cost of treating BOD_5 or suspended solids times the strength in excess of domestic strength. The unit costs for BOD_5 and suspended solids are computed from the actual costs of operating and maintaining the metropolitan sewerage system by allocating costs to flow, BOD_5 and suspended solids and dividing the allocated costs by the total amounts of flow, BOD_5 and suspended solids treated in the metropolitan sewerage system.

b. The fees shall be determined according to the following surcharge formula:

The computation of the high-strength surcharge is described by the following formula:

$$\text{Surcharge} = Q_t \; [(BOD_M - BOD_d)UC_{BOD} + (SS_M - SS_d)UC_{SS}]$$

Where:

Surcharge = Monthly surcharge payment; $/month
Q_t = Average month sewage flow; 100 cubic feet/month
BOD_M = Measured BOD waste strength for industry; mg/l
BOD_d = Defined BOD strength for domestic waste; mg/l
SS_M = Measured SS waste strength for industry; mg/l
SS_d = Defined SS strength for domestic waste; mg/l
UC_{BOD} = Unit cost of treating BOD; $/mg/l/100 cubic feet
UC_{SS} = Unit cost of treating SS; $/mg/l/100 cubic feet

And;

$$UC_x = \left[\frac{OM_x}{TW_x} + \frac{PC}{SW_x} \right] (8.34\ lb/gal)(7.48/ft^3)(100ft^3)(10^{-6})$$

UC_x = Unit cost for BOD or suspended solids
OM_x = Allocated operation and maintenance costs to BOD or suspended solids;
PC = Costs of administering and sampling for the surcharge program;
TW_x = Total BOD or suspended solids handled by the county sewerage system; lb/year
SW_x = Surchargeable BOD or suspended solids handled by the county sewerage system; lb/year

Surchargeable BOD and suspended solids is the amount that exceeds the established domestic waste strength.

c. The concentration of domestic wastes shall be defined as 300 milligrams per liter of BOD and 400 milligrams per liter of suspended solids.

d. Treatment costs will be based on system-wide maintenance and operation costs allocated to the appropriate waste parameters. The director shall conduct an annual review of treatment costs and adjust charges to reflect actual operation and maintenance costs.

e. The surcharge shall be based upon the average annual strength and volume of discharge by the industrial user. Industrial users shall have the right to challenge the values the director develops by submitting a series of analyses from a state certified laboratory documenting the substitute values proposed by the industrial user. Satisfactory sampling techniques in such instances shall be subject to approval by the director.

f. The director shall establish the average annual waste strength for each industrial user either by direct measurement or by classification. Those users discharging in excess of 600 pounds per day of BOD and suspended solids will be monitored directly at a frequency of not less than twice per year. Those users discharging less than said quantities will be classified by user group and assigned a waste strength based upon measured values for representative industrial users within each group. Industrial users who can demonstrate a significant difference in waste generating operations from that of their assigned class leader shall have the right to challenge their assigned classification by

submitting a series of analyses from a competent laboratory documenting the substitute values proposed by the industrial user. Satisfactory sampling techniques in such instances shall be subject to approval by the director.

g. There shall be a domestic type classification established originating from domestic type activities. All industrial users in the domestic type classification shall be assigned a waste strength equal to the domestic equivalent.

h. The average annual discharge volume will be based upon water consumption figures utilized by the industrial user for the previous four quarters. Each participant local agency shall provide the county each quarter with a listing of the water consumption of each surcharged user. Where actual sewage flow is metered, the metered flow shall be reported in lieu of water consumption.

i. Those industrial users whose high strength waste surcharge payments fall below the administrative costs for an individual account will be excluded from the program.

j. The county will assign the responsibility for billing and collecting the high strength waste surcharge to each of its participant local agencies for those industrial users within the agencies' jurisdiction. The county will review the local agencies' billing procedures annually to ensure that the agencies' user charge is being applied equitably and in accordance with federal regulations.

5. Any industrial user that believes the compliance monitoring and administrative fee or permit fee imposed on it by the director may be in error may appeal the action by following the appeal process outlined in this section.

6. Any industrial user for whom the director implements a post-violation inspection and sampling program under this section shall be responsible for costs therefor incurred by the county, including without limitation expert, legal, and administrative costs. Such costs shall be in addition to the other fees, penalties and costs for damages set forth in this section. Any industrial user subject to post-violation inspection and sampling shall be billed directly for the county's costs. The costs recovered by the county shall include all labor, supplies, and special costs incurred for the inspection and monitoring effort. A review of such costs and their allocation will be conducted annually by the director, and

unit charges may be adjusted by the director to reflect the actual sampling and inspection costs.

N. The following provisions shall govern violations of discharge requirements:

1. The criteria constituting violations shall be as follows:

a. A discharge violation will be considered to have occurred if the limitations established in or pursuant to this section, federal or state pretreatment standards, specific requirements of an industrial waste discharge permit, written discharge authorization or any other pretreatment standards are exceeded, regardless of intent or accident.

b. A mass violation will be considered to have occurred if mass related limitations for specific pollutants have been exceeded. Mass related limitations will be based on daily average limits. A violation will be determined utilizing the formula: (8.34) x (millions of gallons discharged per day) x (concentration of pollutant in mg/L). The concentration used for the pollutant will be the arithmetic mean of those concentrations for samples collected during the period monitored over the operating day or the concentration of a flow proportioned composite during that period. The volume will be determined by either a water meter or sewer meter serving the monitored process and read immediately prior to and after sampling.

c. A violation will be considered to have occurred if special reporting requirements established by permit, provided for in this section, included in written documents from the director, or specified by general federal pretreatment standards (40 CFR 403.12 as amended), are not complied with.

d. A violation will be considered to have occurred if special conditions or requirements established by this section, waste discharge permit, general permit, minor discharge authorization or letter of special discharge authorization are not complied with.

e. Each discrete discharge that constitutes a violation under this section shall constitute a separate violation, or if such discharge is continuous, then each hour of said discharge shall constitute a separate violation, provided the director shall have the discretion to combine such discrete or continuous discharges and limit the number of violations for purposes of assessing penalties, if the violations are minor and do not pose

significant risks to public health and safety or treatment processes and facilities, and the industrial user demonstrates to the reasonable satisfaction of the director that it is using its best efforts and the most current technology to avoid such discrete or continuous discharges.

2. Pursuant to the requirements of 40 CFR 403.8, the director will cause to be published in the daily newspaper with the largest daily circulation in the county, ((~~as~~)) at a minimum once every twelve (((~~12~~))) months, a list of those industrial users which since the last previous publication were determined to be in significant noncompliance of the limitations established by this section and applicable pretreatment standards or other requirements pursuant to this section. This notification will summarize enforcement actions taken by county during the same period covered by the publication.

3. The following criteria shall be used to determine a discharge violation for companies with permits issued prior to November 26, 1990, for the duration of the permit:

a. The arithmetic mean of concentrations for eight consecutive samples collected over intervals of 15 minutes or greater is in excess of the limitation for maximum daily allowable concentration;

b. The concentration of any single sample (whether grab or a sample within a series) - exclusive of any fats, oils, and grease - exceeds the limitation for maximum daily allowable concentration by a factor of four (((~~4~~))); and

c. The arithmetic mean of the antilog of the negative pH values of at least eight consecutive samples taken at intervals of 15 minutes or greater is less than an equivalent ((~~Ph~~)) pH value of 5.5, or the ((~~Ph~~)) pH of any single sample is less than 5.0.

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

1. Any person failing to comply with or violating any of the provisions of this section shall, for each such failure or violation or for each day that such failure or violation occurred or continues to occur, be required to correct such violation and shall be subject to enforcement action(s) to be determined by the director. Depending upon the severity of the situation, the director may require the immediate cease of discharge and disposal of the industrial waste in some manner other than into the public sewer, private sewer or side

sewer tributary to the metropolitan sewerage system, at the expense of the person responsible for the failure or violation.

2. The director shall develop and implement an enforcement response plan that contains guidelines indicating how the county will investigate and respond to instances of industrial user noncompliance. At a minimum the plan shall: ((~~a.~~)) describe how the county will investigate violations((~~,~~)); ((~~b.~~))describe escalating enforcement remedies and the time periods in which they will take place, including Notice of Violation, Compliance Order, Final Notice, Monetary Penalties, Post-Violation Inspections and Sampling, Cease Discharge Notice, Emergency Suspension, Termination of Discharge and Supplemental Environmental Projects((~~,~~)); ((~~c.~~)) identify by title the official(s) responsible for implementing each enforcement response((~~,~~)); and ((~~d.~~)) reflect the county's responsibility to enforce all applicable pretreatment requirements and standards. In determining the type of enforcement action and the amount of penalties to be levied, the enforcement response plan shall consider the type and concentration of the pollutant causing the violation, the analytical variability for that pollutant, the volumes discharged, the damages caused by or related to the discharges, the history of past violation by the same person, the assessment of any prior penalties for similar violations and the number of violations as determined pursuant to other provisions of this section.

a. Upon determination that a violation has taken or is taking place, a representative of the county shall make a reasonable effort to notify the violating party immediately. The first notification may be verbal if followed by written notification. Such written notification shall be entitled "Notice of Violation" and shall specify the nature and source of the violation. Such written notice may be delivered to the business premises of an industrial user or submitted by regular mail to the permit holders' address, as given to the county. Following these notification procedures, applicable follow-up correspondence will be used to establish penalties and/or corrective action to be taken by the violator. Within fourteen ((~~(14)~~)) calendar days of receiving a Notice of Violation, the violator shall submit a report to the director describing the circumstances surrounding the violating condition. In the case of a discharge violation, the violator shall also collect an effluent sample and submit resultant data to the director in addition to the report. Submission of

this report shall in no way relieve the user of liability for any violations occurring before or after receipt of the Notice of Violation.

b. Upon determination that a violation has taken or is taking place, the director may issue a compliance order to the violating party responsible for the discharge, directing that the user come into compliance within a time specified in a schedule. Compliance orders may also contain other requirements to address the noncompliance, including but not limited to additional self-monitoring and management practices, evaluations of control measures or pretreatment equipment, and installation of pretreatment equipment designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

c. Upon determination that a violation has taken or is taking place, the director may issue a final notice to the violating party. Final notice places the user on notice that further violations, or failing to complete a requirement within a designated period of time, shall result in assessment of monetary penalties. Issuance of final notice shall not be a prerequisite to taking any other action, including assessment of monetary penalties, against the user.

d. For each failure or violation hereunder, the person responsible shall be liable for a maximum civil penalty of Ten Thousand Dollars (((~~$10,000.00~~))) per violation, per day, but not less than One Hundred Dollars (((~~$100.00~~))) per violation, per day. Issuance of a monetary penalty shall not be a prerequisite for taking any other action against the user. <u>In addition to monetary penalties, the director may recover expenses incurred by the county associated with enforcement activities, including, but not limited to: (1) any additional treatment costs; (2) additional operational costs; (3) costs incurred by the county from tracking down violators; (4) any penalties, fines, or other costs levied against the county for violation of state and federal permits resulting from said non-compliant discharges; and (5) any other costs, including expert, legal, or administrative costs or the withholding of any grant money, incurred by the county or the local public agency, to the</u>

extent permitted by law, where such public agency has entered into an agreement with the county for reimbursement of the county's costs. In addition to any monetary penalty which reflects the gravity of the violation, a calculated amount based on the industrial user's economic benefit of noncompliance may be recovered by the director.

e. Upon determination that a violation has taken place, the director may require post-violation inspections and sampling of an industrial user, as defined in K.C.C. 28.82.370. Costs for post-violation inspection and monitoring, as set forth in this section, shall be in addition to other fees, penalties and costs for damages set forth in this section.

f. Upon determination that a violation has taken or is taking place, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) immediately comply with all requirements; and

(2) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease discharge notice shall not be a prerequisite for taking any other action against the user.

g. The director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the metropolitan sewerage system, including, but not limited to, maintaining compliance with the county's NPDES permit and biosolids quality requirements, or which presents or may present a danger to the environment.

h. In addition to other provisions of this section, any user that violates the following conditions is subject to discharge termination: violation of waste discharge permit or written discharge authorization conditions; failure to accurately report wastewater constituents and characteristics of discharge; failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to

discharge; refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling, as provided in this section; and violation of the limitations established in this section.

i. The penalties and enforcement provisions in this section are not exclusive remedies. The director is authorized to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is authorized to take more than one enforcement action against any noncompliant user. Enforcement actions may be taken concurrently.

j. Where criminal enforcement action is considered in a particular case, that case may be referred to state or federal authorities.

3. Any person causing structural damage to a public sewer or treatment facility or causing resource damage to receiving water quality or biosolids by discharges not in compliance with this section and the requirements of any permit or written discharge authorization, shall be liable for any such damage ((~~and for any additional treatment costs, additional operational costs, monetary gain by the industrial user due to noncompliance, costs or fines incurred by the county from NPDES violations, costs incurred by the county from tracking down violators and for any penalties, including the withholding of any grant money, levied against the county for violation of state and federal permits resulting from said noncompliant discharges and for any other expert, legal or administrative costs incurred by the county or the local public agency as a result of such damage or discharge~~)) in addition to monetary penalties.

4. In accordance with the provisions of this section, where the enforcement remedy is the assessment of a substantial monetary penalty, where in certain instances projects or activities remediating adverse public health conditions or environmental consequences of the violations may be included in the enforcement action, and where the size of the final assessed penalty may reflect the commitment of the user to undertake environmentally beneficial expenditures, the director may approve a supplemental environmental project other than those required to correct the underlying violation to be

undertaken by the user in exchange for a reduction in the amount of the assessed monetary penalty. All supplemental projects must improve the injured environment or reduce the total risk burden posed to public health or the environment by the identified violation. Any supplemental environmental project must be shown to be of equal monetary value to the amount of reduction in the assessed monetary penalty. The director shall establish rules by which consideration and acceptance of a supplemental environmental project are determined. Such rules shall be based upon categories of potential supplemental environmental projects including but not limited to: pollution prevention projects; pollution reduction projects; environmental restoration projects; environmental auditing projects; and environmental public awareness projects. The rules shall also provide for public involvement in the acceptance of any project and in establishing the benefit of any project to the performance of the metropolitan water pollution abatement function by the county. Categories of potential supplemental environmental projects (except for public awareness projects) may be considered if there is an appropriate relationship or "nexus" between the nature of the violation and the environmental benefits to be derived from the type of supplemental project. A supplemental environmental project cannot be used to resolve violations at a facility other than the facility or facilities that are the subject of the enforcement action. Under no circumstances will a user be given additional time to correct the violation and return to compliance in exchange for the conduct of a supplemental environmental project.

5. The county does not allow for the affirmative defense of an enforcement action brought for noncompliance with applicable pretreatment standards based on conditions of "upset" or "bypass." For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with discharge standards because of factors beyond the reasonable control of the user. For the purpose of this section, "bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility. The diversion or bypass of any discharge from any pretreatment facility utilized to maintain compliance with applicable pretreatment standards is prohibited except where unavoidable to prevent loss of life or severe property damage. "Severe property damage" means substantial physical damage to property,

damage to the treatment facilities, 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.

P. The director is authorized and directed to promulgate such rules, regulations and guidelines as the director deems necessary to carry out the purposes or provisions of this section, to ensure the department's compliance with the requirements of any federal or state law or administrative regulation relating to water pollution and any changes or amendments thereto, and to ensure the department performs the metropolitan water pollution abatement function under Chapter 35.58 RCW. Nothing herein shall prevent the director from seeking judicial or governmental agency assistance to implement the policies and requirements of this section. The rule-making process followed by the director shall provide for public participation. Prior to the adoption of any rule, the director shall notify users and the general public of the proposed rule. Notification will include but need not be limited to: news letters; public hearings; or legal notices published in area newspapers.

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

SECTION 13. Ordinance 11034, Section 9, as amended, and K.C.C. 28.84.100 are each hereby amended to read as follows:

Appeal Procedure. The following provisions shall govern appeals from decisions of the director related to permits, discharge authorizations, violations and penalties under Sections 28.56.050 and 28.56.060 of this chapter.

A. Any person allegedly aggrieved by any such decision of the director ((~~may~~)) shall, prior to filing an appeal with the King County Hearing Examiner, request that the director reconsider such decision. Such request must be made within fifteen (((~~15~~))) calendar days of the date of such decision. The director shall promptly issue a final decision which shall be appealable only as provided herein.

B. Within fifteen (((~~15~~))) calendar days of the date of issuance of the director's final decision((~~ following a request for reconsideration~~)), the person allegedly aggrieved may file a written appeal statement with the ~~office of the zoning and subdivision~~ King County

Hearing E((e))xaminer. The appeal shall state the decision being appealed and the grounds for appeal.

C. The examiner shall hear such appeal, determine whether the decision of the director was consistent with the provisions of Section 28.84.050 or Section 28.84.060, as applicable, of this chapter and rules and regulations promulgated by the director, and promptly issue a final decision under the provisions of K.C.C. 20.24.080.

D. Appeals of the examiner's final decision shall be to the Superior Court of King County or the State Pollution Control Hearings Board, as provided by law.

SECTION 14. **Effective date.** This ordinance shall take effect on January 1, 1996.

SECTION 15. **Severability.** The provisions of this ordinance shall be effective in all cases unless otherwise provided by state or federal law. The provisions of this ordinance are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or other portion of this ordinance or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of the application to other persons or circumstances.

SECTION 16. **Continuation of ordinances.** The provisions of this ordinance, so far as they are substantially the same as those of ordinances existing at the time of the enactment of this ordinance, shall be construed as continuations thereof.

INTRODUCED AND READ for the first time this 11th day of September, 1995.

PASSED by a vote of 12 to 0 this 18th day of September, 1995.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

ATTEST:

Janet Masuo
Deputy Clerk of the Council

APPROVED this 28th day of September, 1995

King County Executive

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