



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 18851

Proposed No. 2018-0246.2

Sponsors Balducci

1 AN ORDINANCE updating and streamlining King County
2 industrial waste program fees; and amending Ordinance
3 11034, Section 6, as amended, and K.C.C 28.84.060.

4 **STATEMENT OF FACTS:**

- 5 1. The King County industrial waste program is funded by fees paid by
6 regulated industries.
- 7 2. The federal Clean Water Act requires wastewater utilities to have a
8 pretreatment program in place for industrial waste discharges and King
9 County administers its industrial waste program under a delegation of
10 authority from the Washington state Department of Ecology.
- 11 3. The current industrial waste fee structure was developed in the 1980's
12 under the Municipality of Metropolitan Seattle ("Metro"), adopted into
13 code in 1993 with the merger of Metro into King County, and last
14 amended in 2010.
- 15 4. King County's industrial waste program administers regulations to
16 ensure the wastewater generated by industries is treated properly to protect
17 employees, the wastewater treatment process, facilities, and water quality.
- 18 5. Issuance fees for reviewing applications and developing permits and
19 other authorizations for industrial waste discharges are the same under the

20 existing fee structure for all facilities, no matter how complex.

21 6. The compliance monitoring and administration fee structure is based on
22 water volume and only two types of industrial chemicals: heavy metals
23 and fats, oils and grease. Using water volume solely to set fees does not
24 reflect the cost of serving the various types of industrial customers in our
25 region today.

26 7. Surcharge fees currently combine the costs for both treatment of high
27 strength wastes at the treatment plant and compliance monitoring and
28 administration by King County industrial waste program staff, which can
29 make it harder to track actual costs.

30 8. King County's industrial waste program is developing a new fee
31 structure that would be based on the cost of providing service, be easier to
32 implement and administer, and provide for more certainty for industry.

33 9. The proposed revised fee structure will be revenue-neutral for the King
34 County industrial waste program and the changes would be made in two
35 parts: updates to the King County Code and a new public rule to establish
36 a fee structure based on costs.

37 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

38 SECTION 1. Ordinance 11034, Section 6, as amended, and K.C.C. 28.84.060 are
39 each hereby amended to read as follows:

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

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

43 1. This section shall apply to all nondomestic users of the metropolitan
44 sewerage system including, but not limited to, commercial and industrial companies and
45 government agencies. Indirect discharges from nondomestic users regulated by this
46 section include, but are not limited to, liquid, solid or gaseous substances, or any
47 combination thereof resulting from any process of industry, government, manufacturing,
48 commercial food processing, business, agriculture, trade, research, the development,
49 recovery or processing of natural resources, leachate from landfills or other disposal sites,
50 contaminated nonprocess water, contaminated storm water and ground water.

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

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

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

62 5. Industrial waste shall be accepted into the metropolitan sewerage system
63 subject to regulations and requirements as may be promulgated by state and federal
64 regulatory agencies or the county for the protection of sewerage facilities and treatment
65 processes, public health and safety, receiving water quality and avoidance of nuisance.

66 At a minimum, all industrial users of metropolitan sewerage system facilities shall
67 comply with the applicable pretreatment standards and requirements developed in
68 accordance with Sections 307(b) and 307(c) of the Act. This includes the pretreatment
69 standards for existing and new discharges, which are defined in regulations promulgated
70 under Sections 307(b) and 307(c) of the Act.

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

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

82 1. Discharge standards and limitations shall be established to the extent
83 necessary to enable the county to comply with current National Pollutant Discharge
84 Elimination System requirements, as promulgated by the Environmental Protection
85 Agency or the Washington state Department of Ecology, and to protect sewerage
86 facilities and treatment processes, public health and safety and the receiving waters, air
87 quality and biosolids quality.

88 2. Industrial users shall comply with all applicable pretreatment standards and

89 requirements. Discharges subject to federal categorical discharge limits shall be subject
90 to those limits, or to county local discharge limits, whichever is most restrictive. In
91 addition to concentration limits, permit limits may also include mass limits stated as total
92 pounds of a pollutant allowed per day.

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

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

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

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

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

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

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

117 e. wastes at a flow rate or pollutant discharge rate, or both, that are excessive
118 over relatively short time periods so that there is a treatment process upset and
119 subsequent loss of treatment efficiency.

120 f. heat in amounts that will inhibit biological activity in treatment plant
121 facilities resulting in either interference in the treatment process or preventing entry by
122 authorized personnel to pump stations and other sewerage facilities. This prohibition
123 includes but is not limited to heat in such quantities that the temperature of the treatment
124 works influent exceeds forty degrees Celsius, or one hundred four degrees Fahrenheit, or
125 the temperature exceeds sixty-five degrees Celsius, or one hundred fifty degrees
126 Fahrenheit, at the point of discharge from the industrial source to public sewers or the
127 metropolitan sewerage system, or both.

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

132 h. any radioactive wastes or isotopes that exceed such concentration limitations
133 as established by applicable Washington state Department of Social and Health Services
134 regulations.

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

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

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

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

155 m. wastewater that imparts color that cannot be removed by the treatment
156 process, such as dye wastes and vegetable tanning solutions that consequently impart
157 color to the treatment plant's effluent, thereby violating the county's National Pollutant

158 Discharge Elimination System permit.

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

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

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

166 1. The director shall publish and revise from time to time local discharge limits,
167 including best management practices, developed according to guidelines promulgated by
168 the Environmental Protection Agency or Washington state Department of Ecology using
169 data specific to the metropolitan sewerage system and its industrial users. At a minimum,
170 local discharge limits shall restrict the following parameters: metals; organics; pH;
171 temperature; fats, oils and greases of animal or vegetable origin; fats, oils and greases of
172 mineral origin; and other toxic substances as required, including those defined in
173 applicable state and federal regulations. These published local discharge limits shall, by
174 this reference, be made a part of this section.

175 2. No industrial user shall discharge wastewater containing concentrations or
176 mass limitations, or both, in excess of the published local discharge limits, except as
177 provided for in this section.

178 3. Individual limits for specific companies or general permit limits for groups of
179 companies may be established on a case-by-case basis for compounds not specifically
180 listed in published local discharge limits or at levels higher or lower than published local

181 discharge limits. The individual limits may be higher than published local discharge
182 limits only for companies or groups of companies that have demonstrated that no
183 reasonable treatment method is available to meet published limits, and the volume and
184 mass of pollutants discharged does not endanger sewerage facilities or put the POTW at
185 risk of violating National Pollutant Discharge Elimination System limits, water quality
186 standards, air quality standards, biosolids standards or worker safety standards.

187 Individual limits may be lower than published local discharge standards when the volume
188 of discharge or mass of pollutants, or both, such that lower limits are necessary to protect
189 sewerage facilities and treatment processes, public health and safety, the receiving
190 waters, air quality or biosolids quality.

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

197 H. In areas served by combined sewers, storm water connections made before
198 January 26, 1961, and storm water connections made after January 26, 1961, that have no
199 public or private storm sewer available within a reasonable distance may continue to
200 discharge without authorization from the director unless the discharge has the potential to
201 affect the county's ability to comply with all federal, state and local regulations and meet
202 the county's water quality objectives as stated in this chapter. In such cases, the storm
203 water shall be regulated as an industrial waste and be subject to all of this section. In

204 some cases, the county may require the industrial user to eliminate or mitigate storm
205 water discharges by implementing control measures that shall include but not be limited
206 to installation of a separate storm sewer, detention, pretreatment, roofing, reuse,
207 relocation of processing or treatment areas and discharging to receiving waters.

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

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

213 2. The director shall establish a final compliance deadline date for any existing
214 user not covered by categorical pretreatment standards or for any categorical user when
215 the local limits for the user are more restrictive than the Environmental Protection
216 Agency's categorical pretreatment standards. In establishing such a compliance deadline,
217 the director shall consider the potential for violations of National Pollutant Discharge
218 Elimination System limits, biosolids quality, air quality and worker safety standards and
219 the difficulty and cost to industrial users of changes in industrial processes and
220 installation of new pretreatment equipment.

221 3. New source industrial users and all other new users including significant
222 industrial users shall comply with applicable pretreatment standards within the shortest
223 feasible time, not to exceed ninety days from the beginning of discharge. New sources
224 and new users shall install and have in operating condition all pollution control
225 equipment required to meet applicable pretreatment standards before beginning to
226 discharge.

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

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

244 a. Any person proposing to discharge industrial waste, but not holding a valid
245 waste discharge permit or other written discharge authorization, shall apply to secure a
246 waste discharge permit or discharge authorization unless the director has determined that
247 written authorization is not required. Application to the department shall be made for
248 permits at least sixty days before beginning discharge unless the industrial user is subject
249 to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I,

250 Subchapter N, in which case application to the department shall be made for the permit
251 ninety days before beginning of discharge. Application to the department shall be made
252 for all other written discharge authorizations thirty days before beginning of discharge.
253 Any new source or new user meeting the definition of significant industrial user shall not
254 discharge without a waste discharge permit.

255 b. Any person with an existing permit or written discharge authorization
256 proposing to make a change in an existing industrial waste discharge that will
257 substantially change the volume of flow or the characteristics of the waste or establish a
258 new point of discharge, shall apply for a new waste discharge permit thirty days before
259 making the change. Substantial changes may include, but are not limited to, a twenty
260 percent increase in the authorized daily maximum flow, addition of a new process,
261 product or manufacturing line that will increase or decrease the concentration of
262 pollutants in the waste stream or require modification in the operation of the pretreatment
263 system, addition of new pretreatment equipment or altering a sample site.

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

268 2. All significant industrial users shall secure a waste discharge permit.
269 Existing significant industrial users without permits and industrial users that the director
270 has determined present a substantial risk with existing discharges shall, upon receipt of
271 written notice, apply for a waste discharge permit within thirty days. Extensions of time
272 for submittal of an application may be granted by the director, not to exceed a total of

273 sixty days. The director on the director's own initiative or in response to a petition from
274 an industrial user may determine that an industrial user is not a significant industrial user
275 when there is no reasonable potential for the discharge to adversely affect the POTW's
276 operation or to violate any pretreatment standard or requirement.

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

288 4. Application for waste discharge permits and authorizations shall be made to
289 the director in writing on forms provided by the department and shall include such data,
290 information and drawings as to enable the department to determine which federal, state
291 and local regulations apply to the discharge and to set conditions for the industrial user to
292 comply with the regulations. The information shall include, but not be limited to,
293 identifying information such as name, address, owner and contact person, other
294 environmental permits held by the operation, operation and site descriptions including
295 manufacturing processes, flow measurements, measurements of pollutants, pretreatment

296 system designs and operation and maintenance manuals, spill control plans and
297 certification statements. The department will act only on complete applications.
298 Significant industrial users shall comply with all requirements of 40 CFR 403.12 (b) by
299 the time of permit issuance or upon commencement of discharge, whichever comes first,
300 unless the specific conditions of a waste discharge permit establish an alternate deadline.

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

310 a. If a permit is required, the director shall complete the public notice
311 requirements and bill the applicant for the cost or the director shall instruct the applicant
312 at its expense to publish notices twice in a newspaper of general circulation within King
313 County and in a local newspaper serving the area where the industrial user is located and
314 in other appropriate information media as the director may direct. The notice shall
315 include a statement that any person desiring to present their views with regard to the
316 application may do so in writing to the director, but only if the person submits the
317 person's views or notifies the director of the person's interest within thirty days of the last
318 date of publication of the notice. The notification or submission of views to the director

319 shall entitle the person to review and comment on the draft permit and to a copy of the
320 action taken on the application.

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

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

338 d. The director shall have the authority to require that an industrial user
339 implement a technology based approach to limit pollutants discharged to the sanitary
340 sewer through the application of AKART.

341 e. No industrial user may discharge industrial waste into a public sewer,

342 private sewer, or side sewer tributary to the metropolitan sewerage system until
343 inspection has been made by the department for compliance with conditions of the permit
344 or authorization and with this section unless the director has determined that an
345 inspection is not required.

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

350 g. During the application processing, the department will consult with and
351 provide copies of applications and draft permits to participant local agencies, the
352 Washington state Department of Ecology and the Environmental Protection Agency,
353 when appropriate, to ensure that the limitations and conditions of waste discharge permits
354 or other written discharge authorizations will meet requirements of applicable federal,
355 state and local regulations.

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

359 i. Waste discharge permits and authorizations shall be issued by the director
360 for a specified period, not to exceed five years. A waste discharge permit or
361 authorization may be issued for a period fewer than five years at the discretion of the
362 director. Each waste discharge permit or authorization will indicate a specific date upon
363 which it will expire.

364 j. If the characteristics of the proposed discharge or discharges meet the

365 requirements of appropriate participant local agencies, the Washington state Department
366 of Ecology, the [Environmental Protection Agency]*[,]any other applicable state and
367 federal laws and regulations and this section, the director shall issue a waste discharge
368 permit or authorization to the applicant with appropriate conditions. A copy of the, final
369 permit will be submitted to the Washington state Department of Ecology. The
370 appropriate local agencies will be notified in writing of the issuance of such a permit and
371 will be furnished with one copy of each draft and final permit or other written discharge
372 authorization issued within its jurisdiction at no charge.

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

376 a. to incorporate any new or revised federal, state or local pretreatment
377 standards or requirements;

378 b. to address alterations or additions to the user's operation, processes or
379 wastewater volume or character since the time of permit or authorization issuance, for
380 which the modifications may be requested by the industrial user;

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

383 d. information indicating that the permitted discharge poses a threat to the
384 metropolitan sewerage system, the department's, county's or participant local agency's
385 personnel or the receiving waters;

386 e. violation of any terms or conditions of the waste discharge permit or
387 authorization;

388 f. to correct typographical or other errors in the waste discharge permit or
389 authorization; or

390 g. to reflect a transfer of the facility ownership or operation, or both, to a new
391 owner or operator.

392 7. If the industrial user wishes to continue discharging after the expiration date,
393 an application shall be filed for renewal of the permit at least one hundred eighty days
394 before the expiration date or at least ninety days before expiration date for authorizations.
395 Applications for renewal permits or authorizations shall be processed in accordance with
396 the requirements of this section, with the exception of the public notice requirement. An
397 industrial user whose existing waste discharge permit or authorization has expired and
398 has submitted its application for permit renewal in the time specified herein shall be
399 deemed to have an effective waste discharge permit or authorization until the director
400 issues or denies the new waste discharge permit. An industrial user whose existing waste
401 discharge permit or authorization has expired and who failed to submit its reapplication
402 in the time period specified herein will be deemed to be discharging without a waste
403 discharge permit or authorization.

404 8. A permit or authorization shall be subject to revocation upon thirty days'
405 notice in writing if the director finds:

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

408 b. a material change in the volume of flow or characteristics of waste was
409 effected without notice to the department and application to the department for a new
410 permit or authorization was not made and a permit or authorization was issued, as

411 required in this section;

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

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

417 e. the industrial user has falsified self-monitoring reports or tampered with
418 monitoring equipment;

419 f. the industrial user has failed to pay sewer charges or fines;~~((-or))~~

420 g. the industrial user has failed to provide advance notice of the transfer of a
421 waste discharge permit; or

422 h. the industrial user has failed to pay the permit or authorization issuance fee,
423 failed to pay for the annual compliance monitoring and administrative fee, surcharge fee,
424 if applicable, or postviolation charges.

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

430 9. A permit or authorization may be suspended temporarily and further
431 discharges halted by the director if the director determines that waste discharges are in
432 violation of waste discharge permit or authorization limitations or conditions or county,
433 state or federal standards and pose an immediate risk to public health and safety,

434 receiving water quality or biosolids quality, or an immediate risk of damage, obstruction
435 or interference with treatment facilities. The suspension shall be effective immediately
436 upon written notice delivered to the industrial user's business premises or posting at the
437 point of discharge.

438 10. A waste discharge permit or authorization shall not be transferred without
439 prior notification and approval by the director. The notification shall be submitted at
440 least thirty days before the date of facility transfer and shall:

- 441 a. include a statement that the new owner or operator, or both, have no
442 immediate intent to change the facility's operations and processes;
- 443 b. identify the specific date on which the transfer is to occur;
- 444 c. acknowledge full responsibility for complying with the existing waste
445 discharge permit; and
- 446 d. include a written agreement between the old and new owner or operator, or
447 both, containing a specific date for transfer of permit responsibility, coverage and
448 liability.

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

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

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

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

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

- 473 a. required by 40 CFR 403.12, as amended;
- 474 b. requested by state or participant local agencies; or
- 475 c. deemed necessary by the director for the proper treatment, analysis or
476 control of waste discharges.

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

478 4. All sampling data collected by industrial users and analyzed using procedures
479 approved by 40 CFR 136 or approved alternatives shall be submitted to the director

480 whether required as part of a written authorization or done voluntarily by the industrial
481 user.

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

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

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

498 7. When required by the director, the industrial user shall install and maintain at
499 its expense a suitable sample site or control maintenance hole in its side sewer to
500 facilitate observation, sampling and measurement of wastes therein. The sample sites or
501 maintenance holes shall be located, if feasible, where it is accessible from a public road
502 or street. It shall be constructed in accordance with plans approved by the director and

503 shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a
504 screen may be conveniently installed by the director. The industrial user shall make
505 access to the sample site or maintenance hole available to the director at all times. Any
506 tampering with flow or sampling equipment by the discharger or its employees is
507 prohibited. When deemed necessary by the director, an industrial user may be required to
508 obtain, install, operate and maintain, at its expense, an automatic sampler or analyzer, or
509 both, or flow measurement device in order to monitor its industrial waste discharges in
510 the manner directed by the director.

511 8. Any person becoming aware of the discharge of regulated substances, spills
512 or slug discharges directly or indirectly into a public sewer, private sewer or side sewer
513 tributary to the metropolitan sewerage system shall report the discharge immediately to
514 the department and one of the treatment plants of the county. This notification shall
515 include the location of discharge, type of waste, concentration and volume, if known, and
516 any corrective actions. Failure by any person aware of the discharge of prohibited or
517 restricted substances, spills or slug discharges to report the discharge in the manner
518 provided above shall constitute a violation, as that term is defined in this section, and
519 subject the person to the penalties in this section. Each failure to report a discharge shall
520 be considered a separate violation. Notification shall not relieve the person responsible
521 from penalties or recovery of the cost of damages resulting from the discharge.
522 Discharges of prohibited or restricted substances directly or indirectly into navigable
523 waters, or into streams, ditches or sewers tributary to navigable waters, shall be reported
524 to the United States Coast Guard or to the regional office of the Washington state
525 Department of Ecology, in accordance with Section 311 of the Act, 42 U.S.C. 1321, as

526 amended.

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

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

542 11. All industrial users shall notify the director, the Environmental Protection
543 Agency Region 10 Waste Management Division Director and the Washington state
544 Department of Ecology in writing of any discharge to the sewer of a substance, that, if
545 otherwise disposed of would be a hazardous waste as set forth in 40 CFR Part 261.

546 a. Notification shall include the name of the hazardous waste as set forth in 40
547 CFR part 261, the Environmental Protection Agency hazardous waste generator number,
548 where required, and the type of discharge, be it continuous, batch or other. If the

549 industrial user discharges more than one hundred kilograms, or two hundred twenty
550 pounds, of such waste per calendar month to the POTW, the notification shall also
551 contain the following information:

- 552 (1) an identification of the hazardous constituents contained in the wastes;
553 (2) an estimation of the mass and concentrations of the constituents in the
554 waste stream discharged during that calendar month; and
555 (3) an estimation of the constituents in the waste stream expected to be
556 discharged during the following twelve months.

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

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

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

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

581 12. Industrial users shall maintain records relating to discharges to the
582 metropolitan sewerage system. The records, which include, but are not limited to, routine
583 maintenance, documentation associated with best management practices, waste disposal
584 dates, manifests and disposal records for accumulated wastes, self-monitoring reports,
585 analytical lab results, dates and times of sample collection and batch discharges, pH and
586 equipment calibration log books, pH monitoring records and flow records, shall be
587 retained for a minimum of three years and shall be subject to review in accordance with
588 this section.

589 13. The director may establish rules by which required reports can be received
590 electronically from industrial users. The rules shall establish the framework for
591 electronic reporting that ensures the legal dependability of electronic documents
592 submitted in accordance with this section.

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

595 1. To carry out this section and ensure compliance with federal and state laws
596 and regulations relating to water pollution, authorized and properly identified
597 representatives of the county shall have the right to enter that portion of the premises of
598 any person discharging industrial waste into a public sewer, private sewer or side sewer
599 tributary to the metropolitan sewerage system, whether or not the discharge is officially
600 permitted or authorized. The purpose of entry shall be for inspection, observation,
601 measurement, review of operating and waste management records, including
602 documentation associated with best management practices, sampling and testing in
603 accordance with this section, at reasonable times or for the purpose of handling an
604 emergency, as determined by the director, at any time if the director determines that an
605 emergency exists. Inspections shall be limited to that portion of the premises that
606 contains a side sewer, measuring maintenance hole, pretreatment facilities or facilities for
607 the transportation, collection, concentration or treatment of wastes. All regular sanitary
608 and safety requirements of the person shall be complied with by the representative during
609 the inspection. Before entering the premises, representatives of the county shall state
610 their purpose and present credentials and an administrative inspection warrant, if one is
611 required.

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

- 615 a. with the consent of the owner, operator or agent in charge of the premises;
- 616 b. if the discharge is permitted under an industrial waste discharge permit or
617 other written discharge authorization;

618 c. in situations where the director has determined that an emergency exists
619 presenting imminent danger to the public or worker health, safety and welfare, the
620 environment or water quality of a receiving water or interference or risk of interference or
621 obstruction with the functioning of the metropolitan sewerage system, or violating the
622 county's National Pollutant Discharge Elimination System permit limits;

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

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

626 3. In the event an administrative inspection warrant must be obtained to enter
627 upon the premises of any person disposing of industrial waste into a public sewer, private
628 sewer or side sewer tributary to the metropolitan sewerage system, the director shall
629 apply to the superior court for issuance of warrants for the purpose of conducting
630 administrative inspections authorized by this section. For purposes of an administrative
631 inspection, probable cause justifying the issuance of a warrant may be based either on:

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

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

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

646 5. The purpose of the inspection and sampling programs shall be to verify
647 independent of information supplied by industrial users in accordance with this section,
648 the compliance or noncompliance with applicable pretreatment standards and
649 requirements, best management practices or special requirements as prescribed by the
650 director.

651 6. The sampling programs shall be designed to provide sampling emphasis on
652 those industrial users discharging the greatest volume and concentration of pollutants.
653 Comprehensive sampling by automatic samplers will be augmented with grab samples
654 taken on a random basis. Flow proportioned samples are preferred. At a minimum,
655 significant industrial users will be sampled at the frequency required by 40 CFR 403.12,
656 as amended. Those users with large industrial discharges can expect to be sampled
657 quarterly or more often, while users with small discharges may be sampled once annually
658 or as required by federal regulations or ~~((an))~~ a National Pollutant Discharge Elimination
659 System permit issued to the county. Industrial users also discharging high strength waste
660 will be sampled or classified as part of the industrial surcharge program.

661 7. The inspection programs shall be designed to provide emphasis on those
662 industrial users discharging the greatest volume and concentration of pollutants. A
663 significant industrial user will be inspected at the frequency required by 40 CFR 403.12,

664 as amended.

665 8. The ~~((post-violation))~~ postviolation inspection and sampling program shall
666 provide for additional inspection and sampling of any industry failing to comply with or
667 violating any of this section or applicable state and federal requirements.

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

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

- 683 a. Standard Methods for the Examination of Water and Wastewater;
- 684 b. American Society for Testing and Materials, A.S.T.M. Standards, part 23,
685 Water, Atmospheric Analysis;
- 686 c. Environmental Protection Agency, Water Quality Office Analytical Control

687 Laboratory, Methods for Chemical Analysis of Water and Wastes; or

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

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

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

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

709 (1) description of discharge practices, including nonroutine batch discharges;

710 (2) description of stored chemicals;

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

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

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

723 c. Within five days following an accidental discharge, the user shall submit to
724 the director a detailed written report describing the cause of the discharge and the
725 measures taken by the user to prevent similar future occurrences.

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

728 e. A significant industrial user shall notify the POTW immediately of any
729 changes at its facility affecting potential for a slug discharge.

730 M. The following provisions shall govern permit and other authorization issuance
731 fees, compliance monitoring and administrative fees, fees to recover treatment costs for
732 high strength wastes, and ((postviolation inspection and sampling program)) postviolation

733 charges.

734 1.a. To cover the cost of ~~((drafting))~~ issuing waste discharge permits and other
735 types of authorizations, including general permits for industrial users connected to the
736 county sanitary sewer system as provided in this section, the ~~((director))~~ wastewater
737 treatment division manager shall establish ~~((a permit))~~ issuance fees. The issuance fees
738 shall be applicable to each new, renewed or revised permit or other type of authorization
739 issued after the adoption of this section. The permits and other types of authorizations
740 shall ~~((normally))~~ be issued for a maximum period of five years ~~((and the fee shall entitle~~
741 ~~the permittee to the review of two draft permits and the review and issuance of one final~~
742 ~~permit and one permit revision during the stated term of each permit. No additional~~
743 ~~charges shall be made for revisions or draft permit revisions initiated by the department))~~.
744 The costs for routine permit administration, including minor revisions to the permit or
745 authorization, annual permit inspections, sampling, surcharge and postviolation
746 inspection and monitoring are covered under other provisions in this section. The
747 ~~((director))~~ wastewater treatment division manager is hereby authorized to establish the
748 permit ~~((drafting fee))~~ and authorization issuance fees for new documents, renewals and
749 revisions as part of the county's annual budget process. The wastewater treatment
750 division manager shall periodically review and may modify issuance fees.

751 b. The wastewater treatment division shall bill the customer directly for the
752 cost of issuing a permit or other types of authorization, after the permit or authorization is
753 issued.

754 c. No refund of any permit or authorization issuance fee shall be granted
755 before or after the expiration of the permit or authorization.

756 d. Failure to pay all charges within sixty days from the date of invoice shall be
757 cause for revocation of the permit or authorization.

758 ~~2.a. ((Those permittees authorized to discharge heavy metals and those permittees~~
759 ~~authorized to discharge oil and grease shall pay a))~~ The wastewater treatment division
760 manager is hereby authorized to establish an annual compliance monitoring and
761 administrative fee structure for various types of commercial and industrial users. The
762 ~~((fee shall be a unit charge calculated in accordance with the procedures hereafter set forth~~
763 ~~herein and in accordance with the following:))~~ wastewater treatment division manager
764 shall assign commercial and industrial users to various compliance monitoring and
765 administrative tiers. The wastewater treatment division manager shall periodically
766 review and may modify the compliance monitoring and administrative fees.

767 b. Annual compliance monitoring and administrative fees may be assessed
768 based on cost of service and the estimated cost to monitor and administer permits or other
769 authorizations.

770 c. The compliance monitoring and administrative fees shall include, but not be
771 limited to, routine administration and management of the permit or authorization,
772 inspections, sampling, laboratory analytical costs and other associated costs.

773 d. It shall be the responsibility of each participant local agency to bill and
774 collect the compliance monitoring and administrative fees for those industrial users
775 within the agencies' jurisdiction.

776 ~~((Heavy Metals and Oil and Grease~~

777 ~~Monthly Compliance Monitoring and Administrative Fees~~

778 ~~The heavy metals and oil and grease monthly compliance monitoring and administrative~~

779 charges for each industrial user shall be computed using the following formulas:

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

781 Oil and grease monthly charge =
$$\frac{[Q_t - Q_s] \text{Cost}_{OG}}{12}$$

782 Where: Q_t = measured sewage flow, 100 cubic feet per year

783 Q_s = computed sanitary flow, 100 cubic feet per year

784 Cost_{HM} = unit cost for administering and monitoring for heavy metals of permitted
785 companies

786 Cost_{OG} = unit cost for administering and monitoring for oil and grease of permitted
787 companies

788 Further: $Q_t - Q_s$ = industrial wastewater discharged, 100 cubic feet per year

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

790 Q_{ve} = sanitary volume exclusion per employee per day, gallons per day

791 E = average daily number of employees

792 O = average number of annual operating days

793 748 = factor for converting gallons to 100 cubic feet

794 Further:
$$\text{Cost}_x = \frac{AM_x}{IF_x}$$

795 Where: Cost_x = unit cost for administering and monitoring heavy metals or oil and grease
796 program

797 AM_x = budget allocated to administering heavy metals or oil and grease program

798 IF_x = total industrial flow discharged by heavy metals permittees or oil and grease

799 permittees, 100 cubic feet per year

800 a. ~~The compliance monitoring and administrative fees shall be based upon the~~
801 ~~county's estimated costs for the total compliance monitoring program for the heavy metals~~
802 ~~and oil and grease programs. A review of the costs and their allocation will be conducted~~
803 ~~annually by the director, and unit charges may be adjusted to reflect the actual monitoring~~
804 ~~costs. Compliance monitoring and administrative fees shall include, but not be limited to,~~
805 ~~routine permit administration, program development, laboratory analysis and recovery of~~
806 ~~fifty percent of the costs of the key maintenance hole monitoring program and industrial~~
807 ~~monitoring costs not recovered directly via fees for the postviolation inspection and~~
808 ~~sampling program.~~

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

818 c. ~~The director shall not impose the compliance monitoring and administrative~~
819 ~~fee where the compliance monitoring payments do not exceed the department's estimated~~
820 ~~costs for monitoring and processing an individual account. The department reserves the~~
821 ~~right to thereafter reimpose the compliance monitoring and administrative fee for heavy~~

822 ~~metals or oil and grease, or both, whenever the director determines that the payments will~~
823 ~~exceed administrative costs.~~

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

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

831 ~~((4.))~~ 3. Users discharging waste with a strength greater than domestic waste
832 shall pay a high strength surcharge treatment fee in addition to the ~~((basic))~~ compliance
833 monitoring and administrative fee. The wastewater treatment division manager shall
834 periodically review and may modify the high strength surcharge treatment fees. The
835 surcharge for high strength industrial wastes shall be based on treatment or removal costs
836 of those constituents whose concentration exceeds that contained in domestic wastes and
837 that contribute to the costs of operation and maintenance of the metropolitan sewerage
838 system. The constituents ~~((presently))~~ typically in this category are biochemical oxygen
839 demand ("BOD") and suspended solids. If BOD and suspended solids are not the
840 primary constituents that characterize the waste, then the wastewater treatment division
841 manager may use a more appropriate constituent that characterizes the waste to establish
842 waste strength.

843 a. The surcharge treatment cost shall be the unit cost of treating BOD~~((5-σr))~~
844 and suspended solids ~~((times the strength))~~ in excess of domestic strength. ~~((The unit~~

845 costs for BOD5 and suspended solids are computed from the actual costs of operating and
 846 maintaining the metropolitan sewerage system by allocating costs to flow, BOD5 and
 847 suspended solids and dividing the allocated costs by the total amounts of flow, BOD5 and
 848 suspended solids treated in the metropolitan sewerage system.

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

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

852
$$\text{Surcharge} = Q_t [(BOD_M - BOD_d)UC_{BOD} + (SS_M - SS_d)UC_{SS}]$$

853 Where: Surcharge = Monthly surcharge payment; \$/month

854 Q_t = Average month sewage flow; 100 cubic feet/month

855 BOD_M = Measured BOD waste strength for industry; mg/l

856 BOD_d = Defined BOD strength for domestic waste; mg/l

857 SS_M = Measured SS waste strength for industry; mg/l

858 SS_d = Defined SS strength for domestic waste; mg/l

859 UC_{BOD} = Unit cost of treating BOD; \$/mg/l per 100 cubic feet

860 UC_{SS} = Unit cost of treating SS; \$/mg/l per 100 cubic feet

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

861 And;

862 UC_x = Unit cost for BOD or suspended solids

863 OM_x = Allocated operation and maintenance costs to BOD or suspended solids;

864 PC = Costs of administering and sampling for the surcharge program;

865 TW_x = Total BOD or suspended solids handled by the county sewerage system; lb/year

866 SW_x = Surchargeable BOD or suspended solids handled by the county sewerage system;

867 ~~lb/year~~

868 ~~Surchargeable BOD and suspended solids is the amount that exceeds the~~
869 ~~established domestic waste strength.))~~

870 ~~((e.))~~ b. The concentration of domestic wastes shall be defined by the
871 ~~((director))~~ wastewater treatment division manager.

872 ~~((d.))~~ c. Treatment costs will be based on system-wide maintenance and
873 operation costs allocated to the appropriate waste parameters. The ~~((director))~~
874 wastewater treatment division manager shall conduct an annual review of waste strength
875 and treatment costs and adjust charges ~~((to reflect actual operation and maintenance~~
876 ~~costs))~~.

877 ~~((e.))~~ d. The surcharge shall be based upon the average ~~((annual))~~ waste
878 strength for each parameter and volume of discharge by the industrial user. Industrial
879 users shall have the right to challenge the waste strength values that the ~~((director))~~
880 wastewater treatment division manager develops ~~((by submitting a series of analyses~~
881 ~~from a state certified laboratory documenting the substitute values proposed by the~~
882 ~~industrial user. Satisfactory sampling techniques in such instances shall be subject to~~
883 ~~approval by the director))~~.

884 ~~((f.))~~ e. The ~~((director))~~ wastewater treatment division manager shall establish
885 the average ~~((annual))~~ waste strength for each industrial user either by direct
886 measurement or by classification. ~~((Those users discharging in excess of 600 pounds per~~
887 ~~day of BOD and suspended solids will be monitored directly at a frequency of not less~~
888 ~~than twice per year. Those users discharging less than those quantities will be classified~~
889 ~~by user group and assigned a waste strength based upon measured values for~~

890 ~~representative industrial users within each group. Industrial users who can demonstrate a~~
891 ~~significant difference in waste generating operations from that of their assigned class~~
892 ~~leader shall have the right to challenge their assigned classification by submitting a series~~
893 ~~of analyses from a competent laboratory documenting the substitute values proposed by~~
894 ~~the industrial user. Satisfactory sampling techniques in such instances shall be subject to~~
895 ~~approval by the director.)) The wastewater treatment division manager shall establish
896 thresholds for frequency and duration of direct measurement of industrial users for high
897 strength waste parameters.~~

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

901 ((h)) g. The average annual discharge volume will be based upon ((water
902 consumption figures utilized)) the wastewater volumes reported by the industrial user for
903 the previous four quarters. ((Each participant local agency shall provide the county each
904 quarter with a listing of the water consumption of each surcharged user. Where actual
905 sewage flow is metered, the metered flow shall be reported in lieu of water
906 consumption.)) If there are insufficient data reported by the industrial user to calculate
907 the average annual discharge volume, then the wastewater treatment division manager
908 may extrapolate discharge volumes based on periodic production rates or other available
909 data until an average annual discharge volume can be measured.

910 h. Industrial user waste strengths shall be based on average values derived
911 using data points at or above a minimum number and a data collection time interval, as
912 established by the wastewater treatment division manager.

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

916 j. ~~The county will assign~~) It shall be the responsibility ~~((for billing))~~ of each
917 participant local agency to bill and ~~((collecting))~~ collect the high strength waste treatment
918 surcharge ~~((to each of its participant local agencies))~~ fee for those industrial users within
919 the agencies' jurisdiction. ~~((The county will review the local agencies' billing procedures~~
920 ~~annually to ensure that the agencies' user charge is being applied equitably and in~~
921 ~~accordance with federal regulations.~~

922 5.) 4. Any industrial user ~~((that believes the compliance monitoring and~~
923 ~~administrative fee or permit fee imposed on it by the director may be in error may appeal~~
924 ~~the action by following the appeal process outlined in this section))~~ has the right to
925 challenge the compliance monitoring and administration tier to which the user has been
926 assigned by first requesting that the wastewater treatment division manager reconsider
927 the compliance monitoring and administration tier assigned to that user. The request
928 must be made within fifteen calendar days of the date of the wastewater treatment
929 division manager's determination of that user's compliance monitoring and administration
930 tier. The wastewater treatment division manager shall promptly issue a decision on this
931 request, which shall be appealable to the director as set forth in the rules published by the
932 director. The director's determination of the appeal shall be final and is not subject to the
933 appeal procedure in K.C.C. 28.84.100.

934 ~~((6.))~~ 5. Any industrial user for whom the ~~((director))~~ wastewater treatment
935 division manager implements a post-violation inspection and sampling program under

936 this section shall be responsible for costs therefore incurred by the county, including
937 without limitation expert, legal and administrative costs. ~~((The costs shall be in addition
938 to the other fees, penalties, and costs for damages set forth in this section. Any industrial
939 user subject to postviolation inspection and sampling shall be billed directly for the
940 County's costs. The costs recovered by the County shall include all labor, supplies, and
941 special costs incurred for the inspection and monitoring effort. A review of the costs and
942 their allocation will be conducted annually by the director, and unit charges may be
943 adjusted by the director to reflect the actual sampling and inspection costs.))~~

944 a. The costs shall be in addition to the other fees, penalties and costs for
945 damages set forth in this section.

946 b. Any industrial user subject to postviolation inspection and sampling shall be
947 billed directly for the county's costs.

948 c. The postviolation fees assessed by the county shall include all labor,
949 supplies and special costs incurred for the inspection and monitoring effort, enforcement
950 actions and cost of any appeals.

951 d. The wastewater treatment division manager shall develop a fee schedule and
952 review the costs and their allocation on a periodic basis.

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

954 1. The criteria constituting violations shall be as follows:

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

959 accident.

960 b. A mass violation will be considered to have occurred if mass related
961 limitations for specific pollutants have been exceeded. Mass related limitations will be
962 based on daily average limits. A violation will be determined utilizing the formula:
963 $(8.34) \times (\text{millions of gallons discharged per day}) \times (\text{concentration of pollutant in mg/L})$.
964 The concentration used for the pollutant will be the arithmetic mean of those
965 concentrations for samples collected during the period monitored over the operating day
966 or the concentration of a flow proportioned composite during that period. The volume
967 will be determined by either a water meter or sewer meter serving the monitored process
968 and read immediately before and after sampling.

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

973 d. A violation will be considered to have occurred if special conditions, best
974 management practices or requirements established by this section, waste discharge
975 permit, general permit, major or minor discharge authorization, letter of discharge
976 authorization or written orders from the director are not complied with. The violations
977 include, but are not limited to, failure to pay sewer charges or fines, failure to complete
978 the requirements of a compliance order, failure to meet the deadlines of a compliance
979 schedule and inaccurate reporting.

980 e. Each discrete discharge that constitutes a violation under this section shall
981 constitute a separate violation, or if the discharge is continuous, then each hour of the

982 discharge shall constitute a separate violation, provided the director shall have the
983 discretion to combine the discrete or continuous discharges and limit the number of
984 violations for purposes of assessing penalties, if the violations are minor and do not pose
985 significant risks to public health and safety or treatment processes and facilities, and the
986 industrial user demonstrates to the reasonable satisfaction of the director that it is using
987 its best efforts and the most current technology to avoid the discrete or continuous
988 discharges.

989 2. In accordance with 40 CFR 403.8, the director will cause to be published in a
990 newspaper of general circulation within the county, at a minimum once every twelve
991 months, a list of those industrial users that since the last previous publication were
992 determined to be in significant noncompliance of the limitations established by this
993 section and applicable pretreatment standards or other requirements under this section.
994 This notification will summarize enforcement actions taken by the county during the
995 same period covered by the publication.

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

998 1. Any person failing to comply with or violating any of this section shall, for
999 each such a failure or violation or for each day that the failure or violation occurred or
1000 continues to occur, be required to correct such violation and shall be subject to
1001 enforcement action or actions to be determined by the director. Depending upon the
1002 severity of the situation, the director may require the immediate cease of discharge and
1003 disposal of the industrial waste in some manner other than into the public sewer, private
1004 sewer or side sewer tributary to the metropolitan sewerage system, at the expense of the

1005 person responsible for the failure or violation.

1006 2. The director shall develop and implement an enforcement response plan that
1007 contains guidelines indicating how the county will investigate and respond to instances of
1008 industrial user noncompliance. At a minimum the plan shall: describe how the county
1009 will investigate violations; describe escalating enforcement remedies and the time periods
1010 in which they will take place, including Notice of Violation, Compliance Order, Final
1011 Notice, Monetary Penalties, Postviolation Inspections and Sampling, Cease Discharge
1012 Notice, Emergency Suspension, Termination of Discharge and Supplemental
1013 Environmental Projects; identify by title the official or officials responsible for
1014 implementing each enforcement response; and reflect the county's responsibility to
1015 enforce all applicable pretreatment requirements and standards. In determining the type
1016 of enforcement action and the amount of penalties to be levied, the enforcement response
1017 plan shall consider the type and concentration of the pollutant causing the violation, the
1018 analytical variability for that pollutant, the volumes discharged, the damages caused by or
1019 related to the discharges, the history of past violation by the same industrial user, the
1020 assessment of any prior penalties for similar violations and the number of violations as
1021 determined in accordance with other provisions of this section.

1022 a. Upon determination that a violation has taken or is taking place, a
1023 representative of the county shall make a reasonable effort to notify the violating party
1024 immediately. The first notification may be verbal if followed by written notification.
1025 The written notification shall be entitled "Notice of Violation" and shall specify the
1026 nature and source of the violation. The written notice may be delivered to the business
1027 premises of an industrial user or submitted by regular mail to the permit holders' address,

1028 as given to the county. Following these notification procedures, applicable follow-up
1029 correspondence will be used to establish penalties and corrective action to be taken by the
1030 violator. Within fourteen calendar days of receiving a Notice of Violation, the violator
1031 shall submit a report to the director describing the circumstances surrounding the
1032 violating condition. In the case of a discharge violation, the violator shall also collect an
1033 effluent sample and submit resultant data to the director in addition to the report.
1034 Submission of this report shall in no way relieve the user of liability for any violations
1035 occurring before or after receipt of the Notice of Violation.

1036 b. Upon determination that a violation has taken or is taking place, the director
1037 may issue a compliance order to the violating party responsible for the discharge,
1038 directing that the user come into compliance within a time specified in a schedule.
1039 Compliance orders may also contain other requirements to address the noncompliance,
1040 including but not limited to additional self-monitoring and management practices,
1041 evaluations of control measures or pretreatment equipment and installation of
1042 pretreatment equipment designed to minimize the amount of pollutants discharged to the
1043 sewer. A compliance order may not extend the deadline for compliance established for a
1044 federal pretreatment standard or requirement, and a compliance order does not release the
1045 user of liability for any violation, including any continuing violation. Issuance of a
1046 compliance order shall not be a prerequisite to taking any other action against the user.

1047 c. Upon determination that a violation has taken or is taking place, the director
1048 may issue a final notice to the violating party. Final notice places the user on notice that
1049 further violations, or failing to complete a requirement within a designated period of
1050 time, shall result in assessment of monetary penalties. Issuance of final notice shall not

1051 be a prerequisite to taking any other action, including assessment of monetary penalties,
1052 against the user.

1053 d. For each failure or violation hereunder, the person responsible shall be liable
1054 for a maximum civil penalty of ten thousand dollars per violation per day, but not less
1055 than one hundred dollars per violation, per day. Issuance of a monetary penalty shall not
1056 be a prerequisite for taking any other action against the user. In addition to monetary
1057 penalties, the director may recover expenses incurred by the county associated with
1058 enforcement activities, including, but not limited to: any additional treatment costs;
1059 additional operational costs; costs incurred by the county from tracking down violators;
1060 any penalties, fines or other costs levied against the county for violation of state and
1061 federal permits resulting from discharges; and any other costs, including expert, legal or
1062 administrative costs or the withholding of any grant money, incurred by the county or the
1063 local public agency, to the extent permitted by law. In addition to any monetary penalty
1064 that reflects the gravity of the violation, a calculated amount based on the industrial user's
1065 economic benefit of noncompliance may be recovered by the director.

1066 e. Upon determination that a violation has taken place, the director may require
1067 postviolation inspections and sampling of an industrial user as defined in K.C.C.
1068 28.82.370. Costs for postviolation inspection and monitoring, as set forth in this section,
1069 shall be in addition to other fees, penalties and costs for damages set forth in this section.

1070 f. Upon determination that a violation has taken or is taking place, or that the
1071 user's past violations are likely to recur, the director may issue an order to the user
1072 directing it to cease and desist all such violations and directing the user to:

1073 (1) immediately comply with all requirements; and

1074 (2) take such appropriate remedial or preventive action as may be needed to
1075 properly address a continuing or threatened violation, including halting operations or
1076 terminating the discharge, or both. Issuance of a cease discharge notice shall not be a
1077 prerequisite for taking any other action against the user.

1078 g. The director may immediately suspend a user's discharge, after informal
1079 notice to the user, whenever the suspension is necessary in order to stop an actual or
1080 threatened discharge that reasonably appears to present or cause an imminent or
1081 substantial endangerment to the health or welfare of persons. The director may also
1082 immediately suspend a user's discharge, after notice and opportunity to respond, that
1083 threatens to interfere with the operation of the metropolitan sewerage system, including,
1084 but not limited to, maintaining compliance with the county's National Pollutant Discharge
1085 Elimination System permit and biosolids quality requirements, or that presents or may
1086 present a danger to the environment.

1087 h. In addition to other provisions of this section, any user that violates the
1088 following conditions is subject to discharge termination: violation of waste discharge
1089 permit or written discharge authorization conditions; failure to accurately report
1090 wastewater constituents and characteristics of discharge; failure to report significant
1091 changes in operations or wastewater volume, constituents and characteristics before
1092 discharge; refusal of reasonable access to the user's premises for the purpose of
1093 inspection, monitoring or sampling, as provided in this section; and violation of the
1094 limitations established in this section.

1095 i. The penalties and enforcement provisions in this section are not exclusive
1096 remedies. The director is authorized to take any, all or any combination of these actions

1097 against a noncompliant user. Enforcement of pretreatment violations will generally be in
1098 accordance with the enforcement response plan. However, the director may take other
1099 action against any user when the circumstances warrant. Further, the director is
1100 authorized to take more than one enforcement action against any noncompliant user.
1101 Enforcement actions may be taken concurrently.

1102 j. Where criminal enforcement action is considered in a particular case, that
1103 case may be referred to state or federal authorities.

1104 3. Any person causing structural damage to a public sewer or treatment facility
1105 or causing resource damage to receiving water quality or biosolids by discharges not in
1106 compliance with this section and the requirements of any permit or written discharge
1107 authorization, shall be liable for any such damage in addition to monetary penalties.

1108 4. In accordance with this section, where the enforcement remedy is the
1109 assessment of a substantial monetary penalty, where in certain instances projects or
1110 activities remediating adverse public health conditions or environmental consequences of
1111 the violations may be included in the enforcement action, and where the size of the final
1112 assessed penalty may reflect the commitment of the user to undertake environmentally
1113 beneficial expenditures, the director may approve a supplemental environmental project
1114 other than those required to correct the underlying violation to be undertaken by the user
1115 in exchange for a reduction in the amount of the assessed monetary penalty. All
1116 supplemental projects must improve the injured environment or reduce the total risk
1117 burden posed to public health or the environment by the identified violation. Any
1118 supplemental environmental project must be shown to be of equal monetary value to the
1119 amount of reduction in the assessed monetary penalty. The director shall establish rules

1120 by which consideration and acceptance of a supplemental environmental project are
1121 determined. The rules shall be based upon categories of potential supplemental
1122 environmental projects including but not limited to: pollution prevention projects,
1123 pollution reduction projects, environmental restoration projects, environmental auditing
1124 projects and environmental public awareness projects. The rules shall also provide for
1125 public involvement in the acceptance of any project and in establishing the benefit of any
1126 project to the performance of the metropolitan water pollution abatement function by the
1127 county. Categories of potential supplemental environmental projects, except for public
1128 awareness projects, may be considered if there is an appropriate relationship or "nexus"
1129 between the nature of the violation and the environmental benefits to be derived from the
1130 type of supplemental project. A supplemental environmental project cannot be used to
1131 resolve violations at a facility other than the facility or facilities that are the subject of the
1132 enforcement action. Under no circumstances will a user be given additional time to
1133 correct the violation and return to compliance in exchange for the conduct of a
1134 supplemental environmental project.

1135 5. The county does not allow for the affirmative defense of an enforcement
1136 action brought for noncompliance with applicable pretreatment standards based on
1137 conditions of "upset" or "bypass." For the purpose of this section, "upset" means an
1138 exceptional incident in which there is unintentional and temporary noncompliance with
1139 discharge standards because of factors beyond the reasonable control of the user. For the
1140 purpose of this section, "bypass" means the intentional diversion of waste streams from
1141 any portion of a user's treatment facility. The diversion or bypass of any discharge from
1142 any pretreatment facility utilized to maintain compliance with applicable pretreatment

1143 standards is prohibited except where unavoidable to prevent loss of life or severe
1144 property damage. "Severe property damage" means substantial physical damage to
1145 property, damage to the treatment facilities that causes them to become inoperable or
1146 substantial and permanent loss of natural resources that can reasonably be expected to
1147 occur in the absence of a bypass.

1148 P. The director is authorized and directed to promulgate such rules, regulations
1149 and guidelines as the director deems necessary to carry out the purposes or provisions of
1150 this section, to ensure the department's compliance with the requirements of any federal
1151 or state law or administrative regulation relating to water pollution and any changes or
1152 amendments thereto and to ensure the department performs the metropolitan water
1153 pollution abatement function under chapter 35.58 RCW. Nothing herein shall prevent the
1154 director from seeking judicial or governmental agency assistance to implement the
1155 policies and requirements of this section. The rule-making process followed by the
1156 director shall provide for public participation. Before the adoption of any rule, the
1157 director shall notify users and the general public of the proposed rule. Notification will
1158 include but need not be limited to: newsletters; public hearings; or legal notices
1159 published in area newspapers.

1160 Q. The director is authorized to delegate responsibility to participant local
1161 agencies where the participant agency has requested the delegation and where the director
1162 has approved its plans and procedures for implementation of the delegated responsibility.

1163 SECTION 2. The department of natural resources and parks shall adopt a public
1164 rule by June 30, 2019, addressing the fees and charges to industrial users to implement
1165 this ordinance. The department shall notify the clerk of the council of the adoption of the

1166 rule by filing with the clerk a paper original and an electronic copy of a notice that cites
1167 section 3 of this ordinance and specifies that the rule is adopted.

1168 SECTION 3. Section 1 of this ordinance takes effect only upon the effective date

1169 of the public rule implementing this ordinance adopted in accordance with section 2 of
1170 this ordinance.
1171

Ordinance 18851 was introduced on 7/23/2018 and passed as amended by the Metropolitan King County Council on 12/10/2018, by the following vote:

Yes: 7 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. Dunn,
Mr. McDermott, Ms. Kohl-Welles and Ms. Balducci
No: 2 - Mr. Dembowski and Mr. Upthegrove
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

J. Joseph McDermott, Chair

ATTEST:

Melani Pedroza, Clerk of the Council



2018 DEC 21 PM 12:34
CLERK
KING COUNTY COUNCIL

RECEIVED

APPROVED this 20 day of December, 2018

Dow Constantine, County Executive

Attachments: None