



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**September 20, 2010**

**Ordinance 16929**

**Proposed No. 2010-0452.1**

**Sponsors Phillips**

1 AN ORDINANCE related to water pollution abatement;  
2 amending Ordinance 11034, Section 3 (part), and K.C.C.  
3 28.82.010, Ordinance 11034, Section 3 (part), and K.C.C.  
4 28.82.050, Ordinance 11034, Section 3 (part), and K.C.C.  
5 28.82.060, Ordinance 11034, Section 3 (part), and K.C.C.  
6 28.82.230, Ordinance 11034, Section 3 (part), and K.C.C.  
7 28.82.250, Ordinance 11034, Section 3 (part), and K.C.C.  
8 28.82.260, Ordinance 11034, Section 3 (part), and K.C.C.  
9 28.82.350, Ordinance 11034, Section 3 (part), and K.C.C.  
10 28.82.800, Ordinance 11034, Section 3 (part), as amended,  
11 and K.C.C. 28.82.810, Ordinance 11034, Section 3 (part),  
12 and K.C.C. 28.82.830, Ordinance 11034, Section 6, as  
13 amended, and K.C.C. 28.84.060 and Ordinance 11034,  
14 Section 9, as amended, and K.C.C. 28.84.100 and adding  
15 new sections to K.C.C. chapter 28.82.

16 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

17 SECTION 1. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.010 are each  
18 hereby amended to read as follows:

19 The (~~following~~) terms, words and phrases when used in K.C.C. chapters 28.81  
20 and 28.84 and this chapter shall have the meanings (~~hereinafter set forth~~) in this  
21 (~~section~~) chapter, whether appearing in capital or lower case form. If not defined  
22 (~~below~~) in this chapter, the words and phrases used in K.C.C. chapters 28.81 and 28.84  
23 and this chapter shall have their common and ordinary meanings to the degree consistent  
24 with the technical subjects (~~herein~~) in K.C.C. chapters 28.81 and 28.84 and this chapter.

25 NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 28.82 a  
26 new section to read as follows:

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

30 SECTION 3. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.050 are each  
31 hereby amended to read as follows:

32 "Authorized representative of industrial user" may be:

33 A. (~~A principal executive officer of at least the level of vice president, if the~~  
34 ~~industrial user is a corporation;~~

35 ~~B. A general partner or proprietor if the industrial user is a partnership or~~  
36 ~~proprietorship, respectively;~~

37 ~~C. A director or highest official appointed or designated to oversee the operation~~  
38 ~~and performance of the industry if the industrial user is a government agency; or~~

39 ~~D. A duly authorized representative of the individual designated above if such~~  
40 ~~representative is responsible for the overall operation of the facilities from which the~~  
41 ~~indirect discharge originates.)) The president, secretary, treasurer or a vice-president of~~

42 the corporation in charge of a principal business function, or any other person who  
43 performs similar policy or decision-making functions for the corporation;

44 B. The manager of one or more manufacturing, production or operating facilities,  
45 but only if the manager:

46 1. Is authorized to make management decisions that govern the operation of the  
47 regulated facility including having the explicit or implicit duty of making major capital  
48 investment recommendations, and initiate and direct other comprehensive measures to  
49 assure long-term environmental compliance with environmental laws and regulations;

50 2. Can ensure that the necessary systems are established or actions taken to  
51 gather complete and accurate information for control mechanism requirements;  
52 knowledgeable of King County reporting requirements; and

53 3. Has been assigned or delegated the authority to sign documents, in  
54 accordance with corporate procedures;

55 C. A general partner or proprietor if the industrial user is a partnership or  
56 proprietorship, respectively;

57 D. A director or highest official appointed or designated to oversee the operation  
58 and performance of the industry if the industrial user is a government agency; or

59 E. The individuals described in subsection A. through D. of this section may  
60 designate an authorized representative if:

61 1. The authorization is submitted to King County in writing; and

62 2. The authorization specifies the individual or position responsible for the  
63 overall operation of the facility from which the discharge originates or having overall  
64 responsibility for environmental matters for the company or agency.

65            SECTION 4. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.060 are each  
66 hereby amended to read as follows:

67            "Best management practices" or ~~((f))~~"BMPs" ~~((shall refer to operating and~~  
68 ~~housekeeping pollution control practices that keep pollutants out of the waste stream))~~  
69 means schedules of activities, prohibitions of practices, maintenance procedures and  
70 other management practices to implement the prohibitions listed in Section 403.5(a)(1)  
71 and (b) of the Act. "Best management practices" or "BMPs" also include treatment  
72 requirements, operating procedures and practices to control plant site runoff, spillage or  
73 leaks, sludge or waste disposal or drainage from raw materials storage.

74            SECTION 5. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.230 are each  
75 hereby amended to read as follows:

76            "Discharge authorization" ~~((shall))~~ means an authorization issued for the  
77 discharge of wastewater into a POTW treatment plant, public sewer, private sewer~~((;))~~ or  
78 side sewer tributary to the metropolitan sewerage system. ~~((Sueh))~~ The authorizations  
79 may include, but shall not be limited to, waste discharge permits, minor discharge  
80 authorizations, letters of authorization~~((;))~~ and general permits.

81            SECTION 6. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.250 are each  
82 hereby amended to read as follows:

83            "Discharge to metropolitan system" ~~((shall))~~ means any discharge that enters a  
84 private side sewer ~~((and/))~~, a POTW treatment plant ~~((and/))~~ or public sewer that is a  
85 tributary to the metropolitan sewerage system, and ~~((said))~~ the discharge ~~((shall))~~ will be  
86 considered a discharge to ~~((said))~~ the system whether or not specifically identifiable in  
87 effluent reaching the county's treatment works.

88            SECTION 7. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.260 are each  
89 hereby amended to read as follows:

90            "Domestic user" ~~or ((f))~~ "residential user((f))" means any person who contributes  
91 wastewater into the metropolitan sewerage system or POTW treatment plant from a  
92 residential dwelling unit.

93            SECTION 8. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.350 are each  
94 hereby amended to read as follows:

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

99            NEW SECTION. SECTION 9. There is hereby added to K.C.C, chapter 28.82 a  
100 new section to read as follows:

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

105            NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 28.82  
106 a new section to read as follows:

107            "Nonsignificant categorical industrial user" means a categorical industrial user  
108 that the control authority has determined meets the requirements of 40 CFR Sec.  
109 403.3(v)(2) of the Act.

110            SECTION 11. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.800 are each  
111 hereby amended to read as follows:

112            "Significant industrial user" (~~shall~~) means any industrial users as defined in 40  
113 CFR Sec. 403.3(t) including, but not limited to, all industrial users subject to Categorical  
114 Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I. Subchapter N, except  
115 as exempted by 40 CFR 403.3(v)(2), and any other industrial user that discharges an  
116 average of (~~(25,000)~~) twenty-five thousand gallons per day or more of process  
117 wastewater (~~((f))~~), excluding sanitary, noncontact cooling and boiler blow down  
118 wastewater(~~(f))~~), to the metropolitan sewerage system or contributes a process waste  
119 stream that makes up five percent (~~((5%))~~) or more of the average dry weather hydraulic  
120 or organic capacity of a particular treatment plant; or is designated as such by the county  
121 on the basis that the industrial user has a reasonable potential for adversely affecting the  
122 treatment plant's operation or violating any pretreatment standard or requirement (~~((f))~~) in  
123 accordance with 40 CFR 403.8(f)(6)(~~(f)~~). In accordance with 40 CFR 403.3(v)(3), if an  
124 industrial user meeting the criteria in this section has no reasonable potential for  
125 adversely affecting the POTW's operation or violating any pretreatment standard, King  
126 County may determine that the industrial user is not a significant industrial user.

127            SECTION 12. Ordinance 11034, Section 3 (part), as amended, and K.C.C.  
128 28.82.810 are each hereby amended to read as follows:

129            A. "Significant noncompliance" (~~shall apply~~) applies to an industrial user if its  
130 violation(~~((s))~~) or violations meet(~~((s))~~) one or more of the following criteria:

131            1. Any violation of a pretreatment effluent limit, whether it be daily maximum,  
132 instantaneous maximum or longer-term average, or best management practice required by

133 a categorical pretreatment limit or developed in lieu of local pretreatment limits that the  
134 control authority determines has caused, alone or in combination with other discharges,  
135 interference or pass through, including endangering the health of POTW personnel or the  
136 general public;

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

140 3. Any other violation or group of violations including violations of best  
141 management practices required by a categorical pretreatment limit or developed in lieu of  
142 local pretreatment limits that the control authority determines will adversely affect the  
143 operation or implementation of the local pretreatment program.

144 B. In addition to the criteria listed in subsection A.1., 2. and 3. of this section,  
145 "significant noncompliance" applies to a significant industrial user that meets one or  
146 more of the following criteria:

147 1. Chronic violations of wastewater discharge limits, defined here as those in  
148 which sixty-six percent or more of all of the measurements taken during a six month  
149 period exceed, by any magnitude, the daily maximum limit or average limit for the same  
150 pollutant parameter;

151 ~~((B.))~~ 2. Technical ~~((R))~~review ~~((C))~~criteria ("TRC") violations, ~~((defined here~~  
152 as)) which means those in which thirty-three percent or more of all of the measurements  
153 for each pollutant parameter taken during a six month period equal or exceed the product  
154 of the daily maximum limit or the average limit multiplied by the applicable TRC ~~((f)),~~

155 which is TRC=1.4 for BOD, TSS, fats, oil((;)) and grease and 1.2 for all other pollutants  
156 except pH((;)).

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

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

164 ~~E.))~~ 3. Failure to meet, within ninety days after the schedule date, a compliance  
165 schedule milestone contained in a local control mechanism or enforcement order for  
166 starting construction, completing construction((;)) or attaining final compliance;

167 ~~((F.))~~ 4. Failure to provide, within ~~((30))~~ forty-five days after due date, required  
168 reports such as baseline monitoring reports, ~~((90))~~ ninety-day compliance reports,  
169 periodic self-monitoring reports((;)) and reports on compliance with compliance  
170 schedules; and

171 ~~((G.))~~ 5. Failure to accurately report noncompliance ~~((; and~~

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

175 SECTION 13. Ordinance 11034, Section 3 (part), and K.C.C. 28.82.830 are each  
176 hereby amended to read as follows:

177 "Slug discharge" ~~((shall be defined as))~~ means any discharge of a ~~((non-routine))~~  
178 nonroutine, episodic nature, including but not limited to an accidental spill or a ~~((non-~~  
179 ~~eustomary))~~ noncustomary batch discharge ~~((under 40 CFR 403.8(f)(2)(v))~~ that has a  
180 reasonable potential to cause interference or pass through, or in any other way violate, the  
181 POTW's regulations, local limits or permit conditions.

182 SECTION 14. Ordinance 11034, Section 6, as amended, and K.C.C. 28.84.060  
183 are each hereby amended to read as follows:

184 A. The director shall administer and implement the following fees, rules~~((;))~~ and  
185 regulations for the disposal of industrial waste into the metropolitan sewerage system.

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

187 1. This section shall apply to all nondomestic users of the metropolitan  
188 sewerage system including, but not limited to, commercial and industrial companies and  
189 government agencies. Indirect discharges from nondomestic users regulated by this  
190 section include, but are not limited to, liquid, solid or gaseous substances, or any  
191 combination thereof resulting from any process of industry, government, manufacturing,  
192 commercial food processing, business, agriculture, trade, research, the development,  
193 recovery~~((;))~~ or processing of natural resources, leachate from landfills or other disposal  
194 sites, contaminated nonprocess water, contaminated storm water~~((;))~~ and ground water.

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

199           3. This section shall not apply to participant local agencies when collecting  
200 domestic and industrial waste and conveying ~~((such))~~ the waste to the metropolitan  
201 sewerage system.

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

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

216           C. The director shall administer, implement~~((;))~~ and enforce ~~((the provisions of))~~  
217 this section. Any powers granted to or duties imposed upon the director may be  
218 delegated by the director to other department personnel. The director shall establish and  
219 publish administrative procedures for implementation of this section ~~((which))~~ that shall  
220 include, but not be limited to, issuing permits and discharge authorizations, collecting  
221 samples, identifying and inspecting industrial users, monitoring, revenue/cost recovery,

222 appeals, discharge approval processes, issuing waste discharge permits and discharge  
223 authorizations, conducting investigations of noncompliance, preparing enforcement  
224 actions according to the department's enforcement response plan((;)) and setting local  
225 limits.

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

228 1. Discharge standards and limitations shall be established to the extent  
229 necessary to enable the county to comply with current ((NPDES)) National Pollutant  
230 Discharge Elimination System requirements, as promulgated by the ((EPA))  
231 Environmental Protection Agency or the Washington ((S))state Department of Ecology,  
232 and to protect sewerage facilities and treatment processes, public health and safety and  
233 the receiving waters, air quality((;)) and biosolids quality.

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

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

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

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

253 a. (~~(F)~~)flammable liquids, solids or gases capable of causing or contributing to  
254 explosion or supporting combustion in any sewerage facilities.

255 b. (~~(A)~~)any solid or viscous substances or particulates in quantities, either by  
256 itself or in combination with other wastes, that are capable of obstruction of flow or of  
257 interfering with the operation or performance of sewer works or treatment facilities.

258 c. (~~(A)~~)any gas or substance that, either by itself or by interaction with other  
259 wastes, is capable of creating a public nuisance or hazard to life or of preventing entry by  
260 authorized personnel to pump stations and other sewerage facilities.

261 d. (~~(A)~~)any gas or substance that, either by itself or by interaction with other  
262 waste, may cause corrosive structural damage to sewer works or treatment facilities.

263 e. (~~(W)~~)wastes at a flow rate (~~(and/)~~)or pollutant discharge rate, or both, that  
264 are excessive over relatively short time periods so that there is a treatment process upset  
265 and subsequent loss of treatment efficiency.

266 f. (~~(H)~~)heat in amounts that will inhibit biological activity in treatment plant  
267 facilities resulting in either interference in the treatment process or preventing entry by

268 authorized personnel to pump stations and other sewerage facilities. This prohibition  
269 includes but is not limited to heat in such quantities that the temperature of the treatment  
270 works influent exceeds ~~((40))~~ forty degrees ~~((C-(104))~~ Celsius, or one hundred four  
271 ~~degrees ((F))~~ Fahrenheit, or the temperature exceeds ~~((65))~~ sixty-five degrees ~~((C-(150))~~  
272 Celsius, or one hundred fifty degrees ~~((F))~~ Fahrenheit, at the point of discharge from the  
273 industrial source to public sewers ~~((and/))~~ or the metropolitan sewerage system, or both.

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

279 h. ~~((A))~~ any radioactive wastes or isotopes that exceed such concentration  
280 limitations as established by applicable Washington ~~((S))~~ state Department of Social and  
281 Health Services regulations.

282 i. ~~((T))~~ trucked and hauled wastes shall not be discharged into a sewer except at  
283 points in the metropolitan sewerage system designated for ~~((such))~~ the discharge by the  
284 director.

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

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

300 l. ~~((A))~~ any waters or wastes generated during construction activities, which  
301 may include, but not be limited to, contaminated storm water, surface water or ground  
302 water and wells constructed for the purpose of lowering the ground water table unless  
303 specifically authorized by the director.

304 m. ~~((W))~~ wastewater that imparts color that cannot be removed by the treatment  
305 process, such as dye wastes and vegetable tanning solutions that consequently impart  
306 color to the treatment plant's effluent, thereby violating the county's ~~((NPDES))~~ National  
307 Pollutant Discharge Elimination System permit.

308 n. ~~((D))~~ detergents, surface-active agents~~((;))~~ or other substances that may  
309 cause excessive foaming in the metropolitan sewerage system.

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

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

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

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

327 3. Individual limits for specific companies or general permit limits for groups of  
328 companies may be established on a case-by-case basis for compounds not specifically  
329 listed in published local discharge limits or at levels higher or lower than published local  
330 discharge limits. ~~((Such))~~ The individual limits may be higher than published local  
331 discharge limits only for companies or groups of companies that have demonstrated that  
332 no reasonable treatment method is available to meet published limits, and the volume and  
333 mass of pollutants discharged does not endanger sewerage facilities or put the POTW at  
334 risk of violating ~~((NPDES))~~ National Pollutant Discharge Elimination System limits,  
335 water quality standards, air quality standards, biosolids standards or worker safety  
336 standards. Individual limits may be lower than published local discharge standards when

337 the volume of discharge ~~((and/))~~ or mass of pollutants ~~((is))~~, or both, are such that lower  
338 limits are necessary to protect sewerage facilities and treatment processes, public health  
339 and safety, the receiving waters, air quality~~((;))~~ or biosolids quality.

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

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

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

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

363 2. The director shall establish a final compliance deadline date for any existing  
364 user not covered by categorical pretreatment standards or for any categorical user when  
365 the local limits for ~~((said))~~ the user are more restrictive than ~~((EPA))~~ the Environmental  
366 Protection Agency's categorical pretreatment standards. In establishing such a  
367 compliance deadline, the director shall consider the potential for violations of ~~((NPDES))~~  
368 National Pollutant Discharge Elimination System limits, biosolids quality, air quality~~((s))~~  
369 and worker safety standards and the difficulty and cost to industrial users of changes in  
370 industrial processes and installation of new pretreatment equipment.

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

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

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

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

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

406           b. Any person with an existing permit or written discharge authorization  
407 proposing to make a change in an existing industrial waste discharge (~~which~~) that will  
408 substantially change the volume of flow or the characteristics of the waste or establish a  
409 new point of discharge, shall apply for a new waste discharge permit thirty days (~~prior~~  
410 ~~to~~) before making the change. Substantial changes may include, but are not limited to, a  
411 twenty percent increase in the authorized daily maximum flow, addition of a new  
412 process, product(~~s~~) or manufacturing line that will increase or decrease the  
413 concentration of pollutants in the waste stream or require modification in the operation of  
414 the pretreatment system, addition of new pretreatment equipment(~~s~~) or altering a sample  
415 site.

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

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

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

441           4. Application for waste discharge permits and authorizations shall be made to  
442 the director in writing on forms provided by the department and shall include such data,  
443 information and drawings as to enable the department to determine which federal, state  
444 and local regulations apply to the discharge and to set conditions for the industrial user to  
445 comply with ~~((such))~~ the regulations. ~~((Such))~~ The information shall include, but not be  
446 limited to, identifying information such as name, address, owner and contact person,  
447 other environmental permits held by the operation, operation and site descriptions  
448 including manufacturing processes, flow measurements, measurements of pollutants,  
449 pretreatment system designs and operation and maintenance manuals, spill control  
450 plans~~((s))~~ and certification statements. The department will act only on complete  
451 applications. Significant industrial users shall comply with all requirements of 40 CFR

452 403.12 (b) by the time of permit issuance or upon commencement of discharge,  
453 whichever comes first, unless the specific conditions of a waste discharge permit  
454 establish an alternate deadline.

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

464 a. If a permit is required, the director shall complete the public notice  
465 requirements and bill the applicant for the cost or the director shall instruct the applicant  
466 at its expense to publish notices twice in a newspaper of general circulation within King  
467 County and in a local newspaper serving the area where the ((industry)) industrial user is  
468 located and in ((such)) other appropriate information media as the director may direct.  
469 ((Said)) The notice shall include a statement that any person desiring to present their  
470 views with regard to ((said)) the application may do so in writing to the director,  
471 ((provided said)) but only if the person submits ((their)) his or her views or notifies the  
472 director of ((their)) the person's interest within thirty days of the last date of publication  
473 of the notice. ((Such)) The notification or submission of views to the director shall entitle

474 ~~((said))~~ the person to review and comment on the draft permit and to a copy of the action  
475 taken on the application.

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

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

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

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

502           ~~((e.))~~ f. A draft permit shall be issued for review and comment by the  
503 applicant, federal, state and local agencies~~((s))~~ and members of the public who wish to  
504 comment on the application or draft permit. All comments will be reviewed and  
505 addressed by the director ~~((prior to))~~ before issuance of a final permit.

506           ~~((f.))~~ g. During the application processing, the department will consult with  
507 and provide copies of applications and draft permits to participant local agencies, the  
508 Washington ~~((S))~~ state Department of Ecology~~((s))~~ and the ~~((EPA))~~ Environmental  
509 Protection Agency, when appropriate, to ensure that the limitations and conditions of  
510 waste discharge permits or other written discharge authorizations will meet requirements  
511 of applicable federal, state~~((s))~~ and local regulations.

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

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

520           ~~((i))~~ j. If the characteristics of the proposed discharge or discharges meet the  
521 requirements of appropriate participant local agencies, the Washington ~~((S))~~ state  
522 Department of Ecology, the ~~((EPA,))~~ Environmental Protection Agency ~~((and))~~ any other  
523 applicable state and federal laws and regulations~~((s))~~ and this section, the director shall  
524 issue a waste discharge permit or authorization to the applicant ~~((therefor))~~ with  
525 appropriate conditions. A copy of the ~~((draft permit,))~~ final permit~~((, or authorization~~  
526 ~~and the completed application on which the permit or authorization is based))~~ will be  
527 submitted to the Washington state Department of Ecology. The appropriate local  
528 agencies will be notified in writing of the issuance of such a permit and will be furnished  
529 with one copy of each draft and final permit or other written discharge authorization  
530 issued within its jurisdiction at no charge.

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

534           a. ~~((F))~~to incorporate any new or revised federal, state~~((s))~~ or local  
535 pretreatment standards or requirements;

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

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

541 d. ~~((I))~~ information indicating that the permitted discharge poses a threat to the  
542 metropolitan sewerage system, the department's, county's ~~((and/))~~ or participant local  
543 agency's personnel~~((s))~~ or the receiving waters;

544 e. ~~((V))~~ violation of any terms or conditions of the waste discharge permit or  
545 authorization;

546 f. ~~((F))~~ to correct typographical or other errors in the waste discharge permit or  
547 authorization; or

548 g. ~~((F))~~ to reflect a transfer of the facility ownership ~~((and/))~~ or operation, or  
549 both, to a new owner~~((/))~~ or operator.

550 7. If the industrial user wishes to continue discharging after the expiration date,  
551 an application shall be filed for renewal of the permit ~~((or authorization))~~ at least ~~((180))~~  
552 one hundred eighty days ~~((prior to))~~ before the expiration date or at least ninety days  
553 before expiration date for authorizations. Applications for renewal permits or  
554 authorizations shall be processed in accordance with the requirements of this section,  
555 with the exception of the public notice requirement. An industrial user whose existing  
556 waste discharge permit or authorization has expired and has submitted its application for  
557 permit renewal in the time specified herein shall be deemed to have an effective waste  
558 discharge permit or authorization until the director issues or denies the new waste  
559 discharge permit. An industrial user whose existing waste discharge permit or  
560 authorization has expired and who failed to submit its reapplication in the time period  
561 specified herein will be deemed to be discharging without a waste discharge permit or  
562 authorization.

563 8. A permit or authorization shall be subject to revocation upon thirty days'

564 notice in writing if the director finds:

565 a. ~~((F))~~it was procured by misrepresentation of any material fact or by lack of  
566 full disclosure in the application;

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

571 c. ~~((F))~~there has been a violation of the limitations or conditions of the permit  
572 or authorization, and the industrial user refuses to take corrective action, or that a  
573 violation has continued after notice thereof;

574 d. ~~((F))~~the industrial user has refused reasonable access to its premises for the  
575 purpose of inspecting or monitoring the discharge;

576 e. ~~((F))~~the industrial user has falsified self-monitoring reports or tampered with  
577 monitoring equipment;

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

579 g. ~~((F))~~the industrial user has failed to provide advance notice of the transfer of  
580 a waste discharge permit.

581 At the time that a permit or authorization is revoked, the director may thereafter  
582 require disposal of the waste in some manner other than into a public sewer, private  
583 sewer or side sewer tributary to the metropolitan sewerage system at the expense of the  
584 person whose permit is revoked. The appropriate local agency and the Washington state

585 Department of Ecology will be notified in writing of the revocation of ~~((such))~~ the  
586 permit.

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

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

598 a. include a statement that the new owner ~~((and/))~~ or operator ~~((has))~~, or both,  
599 have no immediate intent to change the facility's operations and processes;

600 b. identify the specific date on which the transfer is to occur; ~~((and))~~

601 c. acknowledge full responsibility for complying with the existing waste  
602 discharge permit~~((;))~~; and

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

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

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

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

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

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

- 632           a. required by ~~((the terms and provisions of))~~ 40 CFR 403.12, as amended;
- 633           b. requested by state or participant local agencies; or
- 634           c. deemed necessary by the director for the proper treatment, analysis or  
635 control of waste discharges.

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

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

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

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

649           "I certify under penalty of law that this document and all attachments were  
650 prepared under my direction or supervision in accordance with a system  
651 designed to assure that qualified personnel properly gather and evaluate

652 the information submitted. Based on my inquiry of the person or persons  
653 who manage the system, or those persons directly responsible for  
654 gathering the information, the information submitted is to the best of my  
655 knowledge and belief, true, accurate and complete. I am aware that there  
656 are significant penalties for submitting false information, including the  
657 possibility of fine and imprisonment for knowing violations."

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

671 8. Any person becoming aware of the discharge of regulated substances, spills  
672 or slug discharges directly or indirectly into a public sewer, private sewer~~((;))~~ or side  
673 sewer tributary to the metropolitan sewerage system shall report ~~((such))~~ the discharge  
674 immediately to the department and one of the treatment plants of the county. This

675 notification shall include the location of discharge, type of waste, concentration and  
676 volume, if known, and any corrective actions. Failure by any person aware of ~~((such))~~  
677 the discharge of prohibited or restricted substances, spills~~((s))~~ or slug discharges to report  
678 ~~((such))~~ the discharge in the manner provided above shall constitute a violation ~~((t))~~, as  
679 that term is defined in this section~~((t))~~, and subject ~~((said))~~ the person to the penalties  
680 ~~((set forth))~~ in this section. Each failure to report a discharge shall be considered a  
681 separate violation. Notification shall not relieve the person responsible from penalties or  
682 recovery of the cost of damages resulting from the discharge. Discharges of prohibited or  
683 restricted substances directly or indirectly into navigable waters, or into streams, ditches  
684 or sewers tributary to navigable waters, shall be reported to the ~~((U.S.))~~ United States  
685 Coast Guard or to the regional office of the Washington ~~((S))~~state Department of  
686 Ecology, in accordance with Section 311 of the Act, 42 U.S.C. 1321, as amended.

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

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

703           11. All industrial users shall notify the director, the ~~((EPA))~~ Environmental  
704 Protection Agency Region 10 Waste Management Division Director~~((;))~~ and the  
705 Washington ~~((S))~~state Department of Ecology in writing of any discharge to the sewer of  
706 a substance, ~~((which))~~ that, if otherwise disposed of, would be a hazardous waste as set  
707 forth in 40 CFR Part 261.

708           a. Notification shall include the name of the hazardous waste as set forth in 40  
709 CFR part 261, the ~~((EPA))~~ Environmental Protection Agency hazardous waste generator  
710 number, where required, and the type of discharge ~~((;))~~, be it continuous, batch or  
711 other~~((;))~~. If the industrial user discharges more than ~~((100))~~ one hundred kilograms  
712 ~~((220))~~, or two hundred twenty pounds~~((;))~~, of such waste per calendar month to the  
713 POTW, the notification shall also contain the following information:

714           (1) ~~((A))~~ an identification of the hazardous constituents contained in the  
715 wastes;

716           (2) ~~((A))~~ an estimation of the mass and concentrations of ~~((such))~~ the  
717 constituents in the waste stream discharged during that calendar month; and

718           (3) ~~((A))~~ an estimation of the constituents in the waste stream expected to be  
719 discharged during the following ~~((12))~~ twelve months.

720 Discharges of more than ~~((15))~~ fifteen kilograms ~~((33))~~, or thirty-three  
721 pounds~~((t))~~ of ~~((non-acute))~~ nonacute hazardous wastes in a calendar month or of any  
722 quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e)  
723 requires a one-time notification. All notifications shall be submitted by January 24, 1991,  
724 for existing industrial users. Industrial users who commence discharge after January 24,  
725 1991, shall submit notification no later than ~~((180))~~ one hundred eighty days after the  
726 discharge of the hazardous wastes. Any industrial user required to submit notification  
727 under this subsection shall be required to submit only once for each hazardous waste  
728 discharged unless the discharge is changed according to 40 CFR 403.12(j). Notification  
729 requirements under this subsection do not apply to pollutants already reported under the  
730 self monitoring requirements of 40 CFR 403.12(b), (d)~~((;))~~ and (e) ~~((prior to))~~ before  
731 January 24, 1991.

732 b. Industrial users are exempt from the notification requirements during a  
733 calendar month in which they discharge no more than ~~((15))~~ fifteen kilograms of  
734 hazardous wastes, unless the wastes are acute hazardous waste as specified in 40 CFR  
735 261.30(d) and 261.33(e).

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

741 d. Any industrial user subject to the notification requirements under this  
742 section shall certify in writing at the time of notification that the industrial user has a

743 program in place to reduce the volume or toxicity of hazardous wastes generated to the  
744 degree it has determined to be economically practical.

745           12. Industrial users shall maintain records relating to discharges to the  
746 metropolitan sewerage system. ~~((Such))~~ The records, which include, but are not limited  
747 to, routine maintenance, documentation associated with best management practices,  
748 waste disposal dates, manifests and disposal records for accumulated wastes, self-  
749 monitoring reports, analytical lab results, dates and times of sample collection and batch  
750 discharges, pH and equipment calibration log books, pH monitoring records((;)) and flow  
751 records, shall be retained for a minimum of three years and shall be subject to review in  
752 accordance with ((the provisions of)) this section.

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

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

759           1. To carry out ~~((the provisions of))~~ this section and ensure compliance with  
760 federal and state laws and regulations relating to water pollution, authorized and properly  
761 identified representatives of the county shall have the right to enter that portion of the  
762 premises of any person discharging industrial waste into a public sewer, private sewer or  
763 side sewer tributary to the metropolitan sewerage system, whether or not the discharge is  
764 officially permitted or authorized. The purpose of entry shall be for inspection,  
765 observation, measurement, review of operating and waste management records, including

766 documentation associated with best management practices, sampling and testing in  
767 accordance with ((the provisions of)) this section, at reasonable times or for the purpose  
768 of handling an emergency, as determined by the director, at any time if the director  
769 determines that an emergency exists. Inspections shall be limited to that portion of the  
770 premises that contains a side sewer, measuring manhole, pretreatment facilities((;)) or  
771 facilities for the transportation, collection, concentration((;)) or treatment of wastes. All  
772 regular sanitary and safety requirements of ((such)) the person shall be complied with by  
773 ((such)) the representative during ((such)) the inspection. ((Prior to)) Before entering the  
774 premises, representatives of the county shall state their purpose((;)) and present  
775 credentials and an administrative inspection warrant, if one is required.

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

779             a. ((W))with the consent of the owner, operator or agent in charge of the  
780 premises;

781             b. ((I))if the discharge is permitted under an industrial waste discharge permit  
782 or other written discharge authorization;

783             c. ((I))in situations where the director has determined that an emergency exists  
784 presenting imminent danger to the public or worker health, safety and welfare, the  
785 environment or water quality of a receiving water or interference or risk of interference or  
786 obstruction with the functioning of the metropolitan sewerage system, or violating the  
787 county's ((NPDES)) National Pollutant Discharge Elimination System permit limits;

788 d. ~~((I))~~ in any emergency circumstance where there is neither time nor  
789 opportunity to apply for a warrant; and

790 e. ~~((I))~~ in any other situation where a warrant is not required by law.

791 3. ~~((I))~~ in the event an administrative inspection warrant must be obtained to  
792 enter upon the premises of any person disposing of industrial waste into a public sewer,  
793 private sewer~~((;))~~ or side sewer tributary to the metropolitan sewerage system, the  
794 director shall apply to the ~~((S))~~ superior ~~((C))~~ court ~~((of the state of Washington))~~ for  
795 issuance of warrants for the purpose of conducting administrative inspections authorized  
796 by this section. For purposes of an administrative inspection, probable cause justifying  
797 the issuance of a warrant may be based either on:

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

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

807 4. Consistent with federal pretreatment standards, pollutant levels for all  
808 regulated processes will be monitored at the point of compliance. The point of  
809 compliance shall be at the end of the regulated process following pretreatment or as

810 specified in the waste discharge permit or written discharge authorization. ~~((Such))~~ The  
811 monitoring shall be ~~((prior to))~~ before the addition of any dilution water.

812 5. The purpose of the inspection and sampling programs shall be to verify  
813 independent of information supplied by industrial users ~~((pursuant to))~~ in accordance  
814 with this section, the compliance or noncompliance with applicable pretreatment  
815 standards and requirements, best management practices or special requirements as  
816 prescribed by the director.

817 6. The sampling programs shall be designed to provide sampling emphasis on  
818 those industrial users discharging the greatest volume and concentration of pollutants.  
819 Comprehensive sampling by automatic samplers will be augmented with grab samples  
820 taken on a random basis. Flow proportioned samples are preferred. ~~((A))~~ At a minimum,  
821 significant industrial users will be sampled at ~~((least twice (2 times) per year.))~~ the  
822 frequency required by 40 CFR 403.12, as amended. Those users with large industrial  
823 discharges can expect to be sampled quarterly or more often, while users with small  
824 discharges may be sampled once annually or as required by federal regulations or an  
825 ~~((NPDES))~~ National Pollutant Discharge Elimination System permit issued to the county.  
826 Industrial users also discharging high strength waste will be sampled or classified as part  
827 of the industrial surcharge program.

828 7. The inspection programs shall be designed to provide emphasis on those  
829 industrial users discharging the greatest volume and concentration of pollutants. A  
830 significant industrial user will be inspected at ~~((least once per year))~~ the frequency  
831 required by 40 CFR 403.12, as amended.

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

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

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

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

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

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

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

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

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

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

879 (1) ~~((D))~~description of discharge practices, including ~~((non-routine))~~  
880 nonroutine batch discharges;

881 (2) ~~((D))~~description of stored chemicals;

882 (3) ~~((P))~~procedures for immediately notifying the POTW of any accidental or  
883 slug discharge; and

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

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

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

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

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

901           M. The following provisions shall govern permit fees, compliance monitoring  
902 and administrative fees~~((;))~~ and ~~((post-violation))~~ postviolation inspection and sampling  
903 program charges.

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

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

HEAVY METAL AND OIL & GREASE

MONTHLY COMPLIANCE MONITORING AND ADMINISTRATIVE FEES

920 The heavy metal and oil & grease monthly compliance monitoring and  
921 administrative charges for each (~~company~~) industrial user shall be computed using the  
922 following formulas:

923 Heavy metals monthly charge = [  $Q_t - Q_s$  ] [ (~~p~~) $Cost_{HM}$  ]

924 
$$\frac{\quad}{\quad}$$

925 
$$12$$

926 Oil & Grease monthly charge = [  $Q_t - Q_s$  ] [  $Cost_{OG}$  ]

927 
$$\frac{\quad}{\quad}$$

928 
$$12$$

929 Where:

930  $Q_t$  = measured sewage flow; 100 cubic feet/year;

931  $Q_s$  = computed sanitary flow; 100 cubic feet/year;

932  $Cost_{HM}$  = unit cost for administering and monitoring for heavy metals  
933 of permitted companies;

934  $Cost_{OG}$  = unit cost for administering and monitoring for oil & grease  
935 of permitted companies;

936 Further:

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

938 Where:

939  $Q_{ve} E O$

940 
$$\frac{\quad}{\quad}$$

941 
$$748$$



964 analysis~~((s))~~ and recovery of fifty percent of the costs of the key manhole monitoring  
965 program and industrial monitoring costs not recovered directly via fees for the ~~((post-~~  
966 ~~violation))~~ postviolation inspection and sampling program.

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

976           c. The director shall not impose the compliance monitoring and administrative  
977 fee where the compliance monitoring payments do not exceed the department's estimated  
978 costs for monitoring and processing an individual account. The department reserves the  
979 right to thereafter reimpose the compliance monitoring and administrative fee for heavy  
980 metals ~~((and/))~~ or oil and grease, or both, whenever the director determines that ~~((said))~~  
981 the payments will exceed administrative costs.

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

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

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

996           a. The surcharge shall be the unit cost of treating BOD<sub>5</sub> or suspended solids  
997 times the strength in excess of domestic strength. The unit costs for BOD<sub>5</sub> and  
998 suspended solids are computed from the actual costs of operating and maintaining the  
999 metropolitan sewerage system by allocating costs to flow, BOD<sub>5</sub> and suspended solids  
1000 and dividing the allocated costs by the total amounts of flow, BOD<sub>5</sub> and suspended solids  
1001 treated in the metropolitan sewerage system.

1002           b. The fees shall be determined according to the following surcharge formula:

1003           The computation of the high-strength surcharge is described by the following  
1004 formula:

$$1005 \quad \text{Surcharge} = Q_t [(BOD_M - BOD_d)UC_{BOD} + (SS_M - SS_d)UC_{SS}]$$

1006           Where:

$$1007 \quad \text{Surcharge} = \text{Monthly surcharge payment; \$/month}$$

- 1008  $Q_t$  = Average month sewage flow; 100 cubic feet/month
- 1009  $BOD_M$  = Measured BOD waste strength for industry; mg/l
- 1010  $BOD_d$  = Defined BOD strength for domestic waste; mg/l
- 1011  $SS_M$  = Measured SS waste strength for industry; mg/l
- 1012  $SS_d$  = Defined SS strength for domestic waste; mg/l
- 1013  $UC_{BOD}$  = Unit cost of treating BOD; \$/mg/l/100 cubic feet
- 1014  $UC_{SS}$  = Unit cost of treating SS; \$/mg/l/100 cubic feet
- 1015 And;
- 1016  $UC_x = OM_x PC$
- 1017  $+ (8.34 \text{ lb/gal})(7.48/\text{ft}^3)(100\text{ft}^3)(10^{-6})$
- 1018  $TW_x SW_x$
- 1019  $UC_x$  = Unit cost for BOD or suspended solids
- 1020  $OM_x$  = Allocated operation and maintenance costs to
- 1021 BOD or suspended solids;
- 1022  $PC$  = Costs of administering and sampling for the
- 1023 surcharge program;
- 1024  $TW_x$  = Total BOD or suspended solids handled by the
- 1025 county sewerage system; lb/year
- 1026  $SW_x$  = Surchargeable BOD or suspended solids handled
- 1027 by the county sewerage system; lb/year
- 1028 Surchargeable BOD and suspended solids is the amount that exceeds the
- 1029 established domestic waste strength.

1030 c. The concentration of domestic wastes shall be defined ~~((as 300 milligrams~~  
1031 ~~per liter of BOD and 400 milligrams per liter of suspended solids))~~ by the director.

1032 d. Treatment costs will be based on system-wide maintenance and operation  
1033 costs allocated to the appropriate waste parameters. The director shall conduct an annual  
1034 review of treatment costs and adjust charges to reflect actual operation and maintenance  
1035 costs.

1036 e. The surcharge shall be based upon the average annual strength and volume  
1037 of discharge by the industrial user. Industrial users shall have the right to challenge the  
1038 values the director develops by submitting a series of analyses from a state certified  
1039 laboratory documenting the substitute values proposed by the industrial user.  
1040 Satisfactory sampling techniques in such instances shall be subject to approval by the  
1041 director.

1042 f. The director shall establish the average annual waste strength for each  
1043 industrial user either by direct measurement or by classification. Those users discharging  
1044 in excess of 600 pounds per day of BOD and suspended solids will be monitored directly  
1045 at a frequency of not less than twice per year. Those users discharging less than ~~((said))~~  
1046 those quantities will be classified by user group and assigned a waste strength based upon  
1047 measured values for representative industrial users within each group. Industrial users  
1048 who can demonstrate a significant difference in waste generating operations from that of  
1049 their assigned class leader shall have the right to challenge their assigned classification by  
1050 submitting a series of analyses from a competent laboratory documenting the substitute  
1051 values proposed by the industrial user. Satisfactory sampling techniques in such  
1052 instances shall be subject to approval by the director.

1053 g. There shall be a domestic type classification established originating from  
1054 domestic type activities. All industrial users in the domestic type classification shall be  
1055 assigned a waste strength equal to the domestic equivalent.

1056 h. The average annual discharge volume will be based upon water  
1057 consumption figures utilized by the industrial user for the previous four quarters. Each  
1058 participant local agency shall provide the county each quarter with a listing of the water  
1059 consumption of each surcharged user. Where actual sewage flow is metered, the metered  
1060 flow shall be reported in lieu of water consumption.

1061 i. Those industrial users whose high strength waste surcharge payments fall  
1062 below the administrative costs for an individual account will be excluded from the  
1063 program.

1064 j. The county will assign the responsibility for billing and collecting the high  
1065 strength waste surcharge to each of its participant local agencies for those industrial users  
1066 within the agencies' jurisdiction. The county will review the local agencies' billing  
1067 procedures annually to ensure that the agencies' user charge is being applied equitably  
1068 and in accordance with federal regulations.

1069 5. Any industrial user that believes the compliance monitoring and  
1070 administrative fee or permit fee imposed on it by the director may be in error may appeal  
1071 the action by following the appeal process outlined in this section.

1072 6. Any industrial user for whom the director implements a ~~((post-violation))~~  
1073 postviolation inspection and sampling program under this section shall be responsible for  
1074 costs therefore incurred by the county, including without limitation expert, legal~~((s))~~ and  
1075 administrative costs. ~~((Such))~~ The costs shall be in addition to the other fees, penalties

1076 and costs for damages set forth in this section. Any industrial user subject to (~~post-~~  
1077 ~~violation~~) postviolation inspection and sampling shall be billed directly for the county's  
1078 costs. The costs recovered by the county shall include all labor, supplies(~~(s))~~) and special  
1079 costs incurred for the inspection and monitoring effort. A review of (~~(such))~~) the costs  
1080 and their allocation will be conducted annually by the director, and unit charges may be  
1081 adjusted by the director to reflect the actual sampling and inspection costs.

1082 N. The following provisions shall govern violations of discharge requirements:

1083 1. The criteria constituting violations shall be as follows:

1084 a. A discharge violation will be considered to have occurred if the limitations  
1085 established in or (~~(pursuant to))~~) in accordance with this section, federal or state  
1086 pretreatment standards, specific requirements of an industrial waste discharge permit,  
1087 written discharge authorization or any other pretreatment standards are exceeded,  
1088 regardless of intent or accident.

1089 b. A mass violation will be considered to have occurred if mass related  
1090 limitations for specific pollutants have been exceeded. Mass related limitations will be  
1091 based on daily average limits. A violation will be determined utilizing the formula:  
1092  $(8.34) \times (\text{millions of gallons discharged per day}) \times (\text{concentration of pollutant in mg/L})$ .  
1093 The concentration used for the pollutant will be the arithmetic mean of those  
1094 concentrations for samples collected during the period monitored over the operating day  
1095 or the concentration of a flow proportioned composite during that period. The volume  
1096 will be determined by either a water meter or sewer meter serving the monitored process  
1097 and read immediately (~~(prior to))~~) before and after sampling.

1098 c. A violation will be considered to have occurred if special reporting  
1099 requirements established by permit, provided for in this section, included in written  
1100 documents from the director, or specified by general federal pretreatment standards ~~((f))~~  
1101 in 40 CFR 403.12 as amended((g)), are not complied with.

1102 d. A violation will be considered to have occurred if special conditions, best  
1103 management practices or requirements established by this section, waste discharge  
1104 permit, general permit, major or minor discharge authorization ~~((e))~~, letter of ~~((special))~~  
1105 discharge authorization or written orders from the director are not complied with. The  
1106 violations include, but are not limited to, failure to pay sewer chargers or fines, failure to  
1107 complete the requirements of a compliance order, failure to meet the deadlines of a  
1108 compliance schedule and inaccurate reporting.

1109 e. Each discrete discharge that constitutes a violation under this section shall  
1110 constitute a separate violation, or if ~~((such))~~ the discharge is continuous, then each hour  
1111 of ~~((said))~~ the discharge shall constitute a separate violation, provided the director shall  
1112 have the discretion to combine ~~((such))~~ the discrete or continuous discharges and limit  
1113 the number of violations for purposes of assessing penalties, if the violations are minor  
1114 and do not pose significant risks to public health and safety or treatment processes and  
1115 facilities, and the industrial user demonstrates to the reasonable satisfaction of the  
1116 director that it is using its best efforts and the most current technology to avoid ~~((such))~~  
1117 the discrete or continuous discharges.

1118 2. ~~((Pursuant to the requirements of))~~ In accordance with 40 CFR 403.8, the  
1119 director will cause to be published in ~~((the daily))~~ a newspaper ~~((with the largest daily~~  
1120 ~~circulation in))~~ of general circulation within the county, at a minimum once every twelve

1121 months, a list of those industrial users (~~((which))~~) that since the last previous publication  
1122 were determined to be in significant noncompliance of the limitations established by this  
1123 section and applicable pretreatment standards or other requirements (~~((pursuant to))~~) under  
1124 this section. This notification will summarize enforcement actions taken by the county  
1125 during the same period covered by the publication.

1126 ~~((3. The following criteria shall be used to determine a discharge violation for~~  
1127 ~~companies with permits issued prior to November 26, 1990, for the duration of the~~  
1128 ~~permit:~~

1129 ~~a. The arithmetic mean of concentrations for eight consecutive samples~~  
1130 ~~collected over intervals of 15 minutes or greater is in excess of the limitation for~~  
1131 ~~maximum daily allowable concentration;~~

1132 ~~b. The concentration of any single sample (whether grab or a sample within a~~  
1133 ~~series) exclusive of any fats, oils, and grease exceeds the limitation for maximum daily~~  
1134 ~~allowable concentration by a factor of four; and~~

1135 ~~c. The arithmetic mean of the antilog of the negative pH values of at least eight~~  
1136 ~~consecutive samples taken at intervals of 15 minutes or greater is less than an equivalent~~  
1137 ~~pH value of 5.5, or the pH of any single sample is less than 5.0.)~~

1138 O. The following provisions shall govern penalties and enforcement of the  
1139 requirements of this section:

1140 1. Any person failing to comply with or violating any of ~~((the provisions of))~~  
1141 this section shall, for each such a failure or violation or for each day that ~~((such))~~ the  
1142 failure or violation occurred or continues to occur, be required to correct such violation  
1143 and shall be subject to enforcement action~~((s))~~ or actions to be determined by the

1144 director. Depending upon the severity of the situation, the director may require the  
1145 immediate cease of discharge and disposal of the industrial waste in some manner other  
1146 than into the public sewer, private sewer or side sewer tributary to the metropolitan  
1147 sewerage system, at the expense of the person responsible for the failure or violation.

1148         2. The director shall develop and implement an enforcement response plan that  
1149 contains guidelines indicating how the county will investigate and respond to instances of  
1150 industrial user noncompliance. At a minimum the plan shall: describe how the county  
1151 will investigate violations; describe escalating enforcement remedies and the time periods  
1152 in which they will take place, including Notice of Violation, Compliance Order, Final  
1153 Notice, Monetary Penalties, ~~((Post-Violation))~~ Postviolation Inspections and Sampling,  
1154 Cease Discharge Notice, Emergency Suspension, Termination of Discharge and  
1155 Supplemental Environmental Projects; identify by title the official~~((s))~~ or officials  
1156 responsible for implementing each enforcement response; and reflect the county's  
1157 responsibility to enforce all applicable pretreatment requirements and standards. In  
1158 determining the type of enforcement action and the amount of penalties to be levied, the  
1159 enforcement response plan shall consider the type and concentration of the pollutant  
1160 causing the violation, the analytical variability for that pollutant, the volumes discharged,  
1161 the damages caused by or related to the discharges, the history of past violation by the  
1162 same ~~((person))~~ industrial user, the assessment of any prior penalties for similar  
1163 violations and the number of violations as determined ~~((pursuant to))~~ in accordance with  
1164 other provisions of this section.

1165         a. Upon determination that a violation has taken or is taking place, a  
1166 representative of the county shall make a reasonable effort to notify the violating party

1167 immediately. The first notification may be verbal if followed by written notification.  
1168 ~~((Such))~~ The written notification shall be entitled "Notice of Violation" and shall specify  
1169 the nature and source of the violation. ~~((Such))~~ The written notice may be delivered to  
1170 the business premises of an industrial user or submitted by regular mail to the permit  
1171 holders' address, as given to the county. Following these notification procedures,  
1172 applicable follow-up correspondence will be used to establish penalties and~~((/or))~~  
1173 corrective action to be taken by the violator. Within fourteen calendar days of receiving a  
1174 Notice of Violation, the violator shall submit a report to the director describing the  
1175 circumstances surrounding the violating condition. In the case of a discharge violation,  
1176 the violator shall also collect an effluent sample and submit resultant data to the director  
1177 in addition to the report. Submission of this report shall in no way relieve the user of  
1178 liability for any violations occurring before or after receipt of the Notice of Violation.

1179           b. Upon determination that a violation has taken or is taking place, the director  
1180 may issue a compliance order to the violating party responsible for the discharge,  
1181 directing that the user come into compliance within a time specified in a schedule.  
1182 Compliance orders may also contain other requirements to address the noncompliance,  
1183 including but not limited to additional self-monitoring and management practices,  
1184 evaluations of control measures or pretreatment equipment~~((,))~~ and installation of  
1185 pretreatment equipment designed to minimize the amount of pollutants discharged to the  
1186 sewer. A compliance order may not extend the deadline for compliance established for a  
1187 federal pretreatment standard or requirement, ~~((nor does))~~ and a compliance order does  
1188 not release the user of liability for any violation, including any continuing violation.

1189 Issuance of a compliance order shall not be a prerequisite to taking any other action  
1190 against the user.

1191 c. Upon determination that a violation has taken or is taking place, the director  
1192 may issue a final notice to the violating party. Final notice places the user on notice that  
1193 further violations, or failing to complete a requirement within a designated period of  
1194 time, shall result in assessment of monetary penalties. Issuance of final notice shall not  
1195 be a prerequisite to taking any other action, including assessment of monetary penalties,  
1196 against the user.

1197 d. For each failure or violation hereunder, the person responsible shall be liable  
1198 for a maximum civil penalty of ~~((F))~~ ten ~~((F))~~ thousand ~~((D))~~ dollars per violation per  
1199 day, but not less than ~~((O))~~ one ~~((H))~~ hundred ~~((D))~~ dollars per violation, per day.

1200 Issuance of a monetary penalty shall not be a prerequisite for taking any other action  
1201 against the user. In addition to monetary penalties, the director may recover expenses  
1202 incurred by the county associated with enforcement activities, including, but not limited  
1203 to: ~~((1))~~ any additional treatment costs; ~~((2))~~ additional operational costs; ~~((3))~~ costs  
1204 incurred by the county from tracking down violators; ~~((4))~~ any penalties, fines~~((5))~~ or  
1205 other costs levied against the county for violation of state and federal permits resulting  
1206 from ~~((said non-compliant))~~ the noncompliant discharges; and ~~((5))~~ any other costs,  
1207 including expert, legal~~((6))~~ or administrative costs or the withholding of any grant money,  
1208 incurred by the county or the local public agency, to the extent permitted by law~~((, where~~  
1209 ~~such public agency has entered into an agreement with the county for reimbursement of~~  
1210 ~~the county's costs))~~). In addition to any monetary penalty ~~((which))~~ that reflects the

1211 gravity of the violation, a calculated amount based on the industrial user's economic  
1212 benefit of noncompliance may be recovered by the director.

1213 e. Upon determination that a violation has taken place, the director may require  
1214 ~~((post-violation))~~ postviolation inspections and sampling of an industrial user as defined  
1215 in K.C.C. 28.82.370. Costs for ~~((post-violation))~~ postviolation inspection and  
1216 monitoring, as set forth in this section, shall be in addition to other fees, penalties and  
1217 costs for damages set forth in this section.

1218 f. Upon determination that a violation has taken or is taking place, or that the  
1219 user's past violations are likely to recur, the director may issue an order to the user  
1220 directing it to cease and desist all such violations and directing the user to:

- 1221 (1) immediately comply with all requirements; and  
1222 (2) take such appropriate remedial or preventive action as may be needed to  
1223 properly address a continuing or threatened violation, including halting operations  
1224 ~~((and/))~~ or terminating the discharge, or both. Issuance of a cease discharge notice shall  
1225 not be a prerequisite for taking any other action against the user.

1226 g. The director may immediately suspend a user's discharge ~~((f))~~, after  
1227 informal notice to the user ~~((f))~~, whenever ~~((such))~~ the suspension is necessary in order to  
1228 stop an actual or threatened discharge that reasonably appears to present or cause an  
1229 imminent or substantial endangerment to the health or welfare of persons. The director  
1230 may also immediately suspend a user's discharge ~~((f))~~, after notice and opportunity to  
1231 respond ~~((f))~~, that threatens to interfere with the operation of the metropolitan sewerage  
1232 system, including, but not limited to, maintaining compliance with the county's

1233 ((NPDES)) National Pollutant Discharge Elimination System permit and biosolids quality  
1234 requirements, or ((which)) that presents or may present a danger to the environment.

1235 h. In addition to other provisions of this section, any user that violates the  
1236 following conditions is subject to discharge termination: violation of waste discharge  
1237 permit or written discharge authorization conditions; failure to accurately report  
1238 wastewater constituents and characteristics of discharge; failure to report significant  
1239 changes in operations or wastewater volume, constituents and characteristics ((prior to))  
1240 before discharge; refusal of reasonable access to the user's premises for the purpose of  
1241 inspection, monitoring or sampling, as provided in this section; and violation of the  
1242 limitations established in this section.

1243 i. The penalties and enforcement provisions in this section are not exclusive  
1244 remedies. The director is authorized to take any, all((,)) or any combination of these  
1245 actions against a noncompliant user. Enforcement of pretreatment violations will  
1246 generally be in accordance with the enforcement response plan. However, the director  
1247 may take other action against any user when the circumstances warrant. Further, the  
1248 director is authorized to take more than one enforcement action against any noncompliant  
1249 user. Enforcement actions may be taken concurrently.

1250 j. Where criminal enforcement action is considered in a particular case, that  
1251 case may be referred to state or federal authorities.

1252 3. Any person causing structural damage to a public sewer or treatment facility  
1253 or causing resource damage to receiving water quality or biosolids by discharges not in  
1254 compliance with this section and the requirements of any permit or written discharge  
1255 authorization, shall be liable for any such damage in addition to monetary penalties.

1256           4. In accordance with ~~((the provisions of))~~ this section, where the enforcement  
1257   remedy is the assessment of a substantial monetary penalty, where in certain instances  
1258   projects or activities remediating adverse public health conditions or environmental  
1259   consequences of the violations may be included in the enforcement action, and where the  
1260   size of the final assessed penalty may reflect the commitment of the user to undertake  
1261   environmentally beneficial expenditures, the director may approve a supplemental  
1262   environmental project other than those required to correct the underlying violation to be  
1263   undertaken by the user in exchange for a reduction in the amount of the assessed  
1264   monetary penalty. All supplemental projects must improve the injured environment or  
1265   reduce the total risk burden posed to public health or the environment by the identified  
1266   violation. Any supplemental environmental project must be shown to be of equal  
1267   monetary value to the amount of reduction in the assessed monetary penalty. The  
1268   director shall establish rules by which consideration and acceptance of a supplemental  
1269   environmental project are determined. ~~((Such))~~ The rules shall be based upon categories  
1270   of potential supplemental environmental projects including but not limited to: pollution  
1271   prevention projects~~((;))~~, pollution reduction projects~~((;))~~, environmental restoration  
1272   projects~~((;))~~, environmental auditing projects~~((;))~~ and environmental public awareness  
1273   projects. The rules shall also provide for public involvement in the acceptance of any  
1274   project and in establishing the benefit of any project to the performance of the  
1275   metropolitan water pollution abatement function by the county. Categories of potential  
1276   supplemental environmental projects ~~((;))~~, except for public awareness projects~~((;))~~, may  
1277   be considered if there is an appropriate relationship or "nexus" between the nature of the  
1278   violation and the environmental benefits to be derived from the type of supplemental

1279 project. A supplemental environmental project cannot be used to resolve violations at a  
1280 facility other than the facility or facilities that are the subject of the enforcement action.  
1281 Under no circumstances will a user be given additional time to correct the violation and  
1282 return to compliance in exchange for the conduct of a supplemental environmental  
1283 project.

1284           5. The county does not allow for the affirmative defense of an enforcement  
1285 action brought for noncompliance with applicable pretreatment standards based on  
1286 conditions of "upset" or "bypass." For the purpose of this section, "upset" means an  
1287 exceptional incident in which there is unintentional and temporary noncompliance with  
1288 discharge standards because of factors beyond the reasonable control of the user. For the  
1289 purpose of this section, "bypass" means the intentional diversion of waste streams from  
1290 any portion of a user's treatment facility. The diversion or bypass of any discharge from  
1291 any pretreatment facility utilized to maintain compliance with applicable pretreatment  
1292 standards is prohibited except where unavoidable to prevent loss of life or severe  
1293 property damage. "Severe property damage" means substantial physical damage to  
1294 property, damage to the treatment facilities((, which)) that causes them to become  
1295 inoperable((;)) or substantial and permanent loss of natural resources ((which)) that can  
1296 reasonably be expected to occur in the absence of a bypass.

1297           P. The director is authorized and directed to promulgate such rules, regulations  
1298 and guidelines as the director deems necessary to carry out the purposes or provisions of  
1299 this section, to ensure the department's compliance with the requirements of any federal  
1300 or state law or administrative regulation relating to water pollution and any changes or  
1301 amendments thereto((;)) and to ensure the department performs the metropolitan water

1302 pollution abatement function under chapter 35.58 RCW. Nothing herein shall prevent the  
1303 director from seeking judicial or governmental agency assistance to implement the  
1304 policies and requirements of this section. The rule-making process followed by the  
1305 director shall provide for public participation. ~~((Prior to))~~ Before the adoption of any  
1306 rule, the director shall notify users and the general public of the proposed rule.  
1307 Notification will include but need not be limited to: ~~((news letters))~~ newsletters; public  
1308 hearings; or legal notices published in area newspapers.

1309 Q. The director is authorized to delegate responsibility to participant local  
1310 agencies where the participant agency has requested ~~((such))~~ the delegation and where  
1311 the director has approved its plans and procedures for implementation of the delegated  
1312 responsibility.

1313 SECTION 15. Ordinance 11034, Section 9, as amended, and K.C.C. 28.84.100  
1314 are each hereby amended to read as follows:

1315 The following provisions shall govern appeals from decisions of the director  
1316 related to permits, discharge authorizations, violations and penalties under K.C.C.  
1317 28.84.050 and 28.84.060.

1318 A. Any person allegedly aggrieved by any such a decision of the director shall,  
1319 ~~((prior to))~~ before filing any appeal with the King County hearing examiner, request that  
1320 the director reconsider ~~((such))~~ the decision. ~~((Such))~~ The request must be made within  
1321 fifteen calendar days of the date of ~~((such))~~ the decision. The request shall state the  
1322 decision to be appealed, the grounds for the appeal and the relief being sought. The  
1323 director shall promptly issue a final decision, which shall be appealable only as provided  
1324 herein.

1325           B. Within fifteen calendar days of the date of issuance of the director's final  
1326 decision, the person allegedly aggrieved may file a written appeal statement with the  
1327 King County hearing examiner. The appeal shall state the decision being appealed and  
1328 the grounds for appeal.

1329           C. The examiner shall hear ~~((such))~~ the appeal, determine whether the decision of  
1330 the director was consistent with ~~((the provisions of))~~ K.C.C. 28.84.050 or 28.84.060, as  
1331 applicable, ~~((of))~~ this chapter and rules and regulations promulgated by the director, and  
1332 promptly issue a final decision under ~~((the provisions of))~~ K.C.C. 20.24.080.

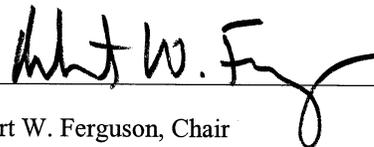
1333           D. Appeals of the examiner's final decision shall be to the ~~((S))~~superior

1334 ((C))ourt ((of King County)) or the ((S))ate Pollution Control Hearings Board, as  
1335 provided by law.  
1336

Ordinance 16929 was introduced on 8/23/2010 and passed by the Metropolitan King County Council on 9/20/2010, by the following vote:

Yes: 8 - Ms. Drago, Mr. Phillips, Mr. Gossett, Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn  
No: 0  
Excused: 1 - Mr. von Reichbauer

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
\_\_\_\_\_  
Robert W. Ferguson, Chair

ATTEST:

  
\_\_\_\_\_  
Anne Noris, Clerk of the Council

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2010 SEP 30 PM 4: 26  
CLERK  
KING COUNTY COUNCIL

APPROVED this 30<sup>th</sup> day of September, 2010.

  
\_\_\_\_\_  
Dow Constantine, County Executive

Attachments: None