

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 8.
ENVIRONMENTAL AND ANIMAL CONTROL
AND PROTECTION.

CHAPTER 1.
ENVIRONMENTAL CONTROLS.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 1. ENVIRONMENTAL CONTROLS.

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CHAPTER 1. ENVIRONMENTAL CONTROLS.

SUBCHAPTER I. AIR POLLUTION CONTROL.

§§ 8-101.01 TO 8-101.03. PURPOSE; EMISSION AND AIR CONTROL STANDARDS; AIR POLLUTION CONTROL PROGRAM; ADMINISTRATION OF SUBCHAPTER.[REPEALED]

(Mar. 15, 1985, D.C. Law 5-165, § 2(a), 32 DCR 562.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., §§ 6-901 to 6-903.

Legislative History of Laws

For legislative history of D.C. Law 5-165, see Historical and Statutory Notes following § 8-101.04.

Delegation of Authority

Delegation of Authority Pursuant to DC Law 6-100, the "Litter Control Administration Act of 1985;" DC Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985;" DC Law 5-165, the "DC Air Pollution Control Act of 1984;" DC Law 13-172, the "Rodent Control Act of 2000;" and DC Law 6-126, the "Construction Codes Approval and Amendments Act of 1986", see Mayor's Order 2002-5, February 1, 2002 (49 DCR 911).

§ 8-101.04. TESTING OF SOLID WASTE REDUCTION CENTER NUMBER 1 FOR COMPLIANCE WITH CERTAIN EMISSION STANDARDS; SUBMISSION OF TEST RESULTS AND REPORTS TO COUNCIL.

(a) The Mayor of the District of Columbia shall conduct tests as necessary at least once a year to determine the compliance of Solid Waste Reduction Center Number 1 with the emission standards for incinerators established by the District of Columbia and by the United States Environmental Protection Agency. These tests shall also include determinations of emissions of such other pollutants as may be useful or necessary in the management of the environment in the District of Columbia.

(b) More frequent tests shall be conducted as may be necessary to ensure the operation of Solid Waste Reduction Center Number 1 in compliance with District of Columbia and federal emission standards for incinerators. The need for more frequent tests shall be determined by such factors as visible emission characteristics and operating and maintenance parameters.

(c) The Mayor of the District of Columbia shall promptly submit the results of all tests performed pursuant to this section to the Council of the District of Columbia.

(d) Beginning 3 months after March 15, 1985, and every 6 months thereafter, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia a report regarding Solid Waste Reduction Center Number 1. Each report shall describe, as applicable, but need not be limited to, the following subjects:

- (1) The status of any construction or repairs;
- (2) Any changes in operational or maintenance procedures instituted since the last report to the Council of the District of Columbia and the effect of the changes on emissions from the facility;
- (3) Visible emissions from the facility; and
- (4) Anticipated additional funding requirements, if any, to achieve and maintain operation of the facility in compliance with applicable emission limitations.

(Mar. 15, 1985, D.C. Law 5-165, § 4, 32 DCR 562.)

Prior Codifications

1981 Ed., § 6-904.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of Air Pollution Control Temporary Amendment Act of 1996 (D.C. Law 11-256, April 9, 1997, law notification 44 DCR 2614).

Emergency Act Amendments

For temporary amendment of section, see § 2 of the Air Pollution Control Emergency Amendment Act of 1996 (D.C. Act 11-450, December 5, 1996, 43 DCR 6682), and § 2 of the Air Pollution Control Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-16, March 3, 1997, 44 DCR 1754).

Legislative History of Laws

Law 5-165, the "District of Columbia Air Pollution Control Act of 1984", was introduced in Council and assigned Bill No. 5-168, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-230 and transmitted to both Houses of Congress for its review.

Delegation of Authority

Delegation of authority under D.C. Law 5-165, the District of Columbia Air Pollution Control Act of 1984, see Mayor's Order 93-12, February 16, 1993.

Delegation of authority pursuant to D.C. Law 5-165, the "D.C. Air Pollution Control Act of 1984", see Mayor's Order 98-44, April 10, 1998 (45 DCR 2689).

Miscellaneous Notes

Air quality control regulations: D.C. Law 5-165, § 3, the "District of Columbia Air Pollution Control Act of 1984", enacted the air quality control regulations of the District of Columbia as Title 20 of the District of Columbia Municipal Regulations (20 DCMR Chapters 1-9).

§ 8-101.05. COMPREHENSIVE AIR POLLUTION CONTROL PROGRAM.

(a) The Mayor of the District of Columbia shall prepare a comprehensive program for the control and prevention of air pollution in the District of Columbia. This program shall provide for the administration and enforcement by the Mayor of the District of Columbia of the rules stated in 20 DCMR. As part of the program, the Mayor of the District of Columbia:

- (1) Shall conduct research, investigations, experiments, training demonstrations, surveys, and studies, relating to the causes, effects, extent, prevention, and control of air pollution in the District of Columbia;
- (2) Shall collect and make available, through publication, educational and training programs, and other appropriate means, the results of, and other information pertaining to, the activities carried out under paragraph (1) of this subsection; and
- (3) May advise, cooperate, and enter into agreements with the governments and agencies of any state or political subdivision adjacent to the District of Columbia and any interstate or other regional agency representing these states or political subdivisions to perform the following:
 - (A) Establish cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective air pollution laws; and
 - (B) Establish any agency as may be necessary to carry out these agreements.

(b) For the purpose of carrying out the mayoral duties under this section, the Mayor of the District of Columbia may:

- (1) Delegate the performance of the duties to an agency of the government of the District of Columbia, designated or established by the Mayor of the District of Columbia;
- (2) Hold hearings relating to the administration of this section;
- (3) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract, or otherwise;
- (4) Receive and administer grants or gifts made for the purpose of carrying out the purposes of this section; and
- (5) Take any other action which may be necessary to carry out the mayoral duties listed in this section.

(Mar. 15, 1985, D.C. Law 5-165, § 5, 32 DCR 562; July 25, 1995, D.C. Law 11-30, § 3, 42 DCR 1547.)

HISTORICAL AND STATUTORY NOTES

Temporary Enactment

For temporary (225 day) addition of section, see § 2 of the Lamond-Riggs Air Quality Study Temporary Act of 2006 (D.C. Law 16-113, June 8, 2006 law notification 53 DCR 5351).

Prior Codifications

1981 Ed., § 6-905.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of Lamond-Riggs Air Quality Study Emergency Act of 2006 (D.C. Act 16-284, February 27, 2006, 53 DCR 1635).

Legislative History of Laws

For legislative history of D.C. Law 5-165, see Historical and Statutory Notes following § 8-101.04.

Law 11-30, the "Technical Amendments Act of 1995," was introduced in Council and assigned Bill No. 11-58, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 7, 1995, and March 7, 1995, respectively. Signed by the Mayor on March 22, 1995, it was assigned Act No. 11-32 and transmitted to both Houses of Congress for its review. D.C. Law 11-30 became effective on July 25, 1995.

Miscellaneous Notes

Air Quality Control Regulations amended: Section 485 of D.C. Law 6-42 amended §§ 100.4 and 105.1 of the Air Quality Control Regulations, effective March 15, 1985, (D.C. Law 5-165; 20 DCMR Chapters 1 through 9) to provide for adjudication of infractions pursuant to Chapter 18 of Title 2. Section 501(b) of D.C. Law 6-42 provided that the provisions of the act shall apply only to infractions which occur or are discovered by inspection after October 5, 1985.

Section 2(v) of D.C. Law 8-237 amended § 485 of D.C. Law 6-42, effective March 8, 1991, to insert subsections 105.2 and 3013.4 regarding the imposition of civil fines, penalties, and fees as alternative sanctions.

§ 8-101.06. RULES.

(a) The Mayor may issue or amend any rule needed to comply with the requirements of federal laws and regulations in implementing the District's comprehensive air pollution control program.

(b) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirement imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(c) The Mayor may also issue or amend any rule needed to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2. Rules issued pursuant to this subsection are not subject to the 45-day Council review period prescribed in subsection (b) of this section.

(Mar. 15, 1985, D.C. Law 5-165, § 6, 32 DCR 562; Apr. 26, 1994, D.C. Law 10-106, § 5, 41 DCR 1014; May 16, 1995, D.C. Law 11-15, § 2, 42 DCR 1392; Apr. 9, 1997, D.C. Law 11-255, § 58, 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-906.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3 of Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Temporary Amendment Act of 1992 (D.C. Law 9-262, March 27, 1993, law notification 40 DCR 2332).

Emergency Act Amendments

For temporary amendment of section, see § 3 of the Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Emergency Amendment Act of 1992 (D.C. Act 9-390, January 6, 1993, 40 DCR 683).

Legislative History of Laws

For legislative history of D.C. Law 5-165, see Historical and Statutory Notes following § 8-101.04.

Law 10-106, the "Motor Vehicle Biennial Inspection Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-6, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 18, 1994, it was assigned Act No. 10-194 and transmitted to both Houses of Congress for its review. D.C. Law 10-106 became effective on April 26, 1994.

Law 11-15, the "Air Pollution Control Program Regulations Federal Conformity Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-40, which was retained by Council. The Bill was adopted on first and second readings on January 17, 1995, and February 7, 1995, respectively. Signed by the Mayor on March 9, 1995, it was assigned Act No. 11-27 and transmitted to both Houses of Congress for its review. D.C. Law 11-15 became effective on May 16, 1995.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 5-165, District of Columbia Air Pollution Control Act of 1984, see Mayor's Order 88-62, March 15, 1988.

Resolutions

Resolution 14-106, the "Air Quality Regulations Amendment Emergency Approval Resolution of 2001", was approved effective May 1, 2001.

Resolution 15-510, the "Air Quality Control Regulation Implementing Sections 182 and 185 of the Federal Clean Air Act Emergency Approval Resolution of 2004", was approved effective April 4, 2004.

Resolution 15-512, the "Air Quality Control Regulation Implementing the Severe Area Non-attainment Requirements of the Federal Clean Air Act Emergency Approval Resolution of 2004", was approved effective April 4, 2004.

Miscellaneous Notes

Application of Law 10-106: Section 6(b) of D.C. Law 10-106 provided that § 5 of the act shall apply as of September 30, 1993.

District of Columbia Air Pollution Control Act of 1984 Proposed Rulemaking Approval Resolution of 1998: Pursuant to Resolution 12-(PR12-693), effective June 19, 1998, the Council approved the proposed rulemaking to amend Chapters 1 through 5 and Chapters 7 and 8 of Title 20 (Environment) DCMR, issued pursuant to the "District of Columbia Air Pollution Control Act of 1984".

SUBCHAPTER 1-A. ANACOSTIA RIVER CLEAN UP AND PROTECTION.

§ 8-102.01. DEFINITIONS.

For the purposes of this subchapter, the term:

(1) "Disposable carryout bag" means a bag of any material, commonly plastic or kraft paper, which is provided to a consumer at the point of sale to carry purchases. The term "disposable carryout bag" shall not include:

(A) Bags used by consumers inside stores to:

- (i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
- (ii) Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
- (iii) Contain or wrap flowers, potted plants, or other items where dampness may be a problem; and
- (iv) Contain unwrapped prepared foods or bakery goods;

(B) Bags provided by pharmacists to contain prescription drugs;

(C) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

(D) Paper carryout bags that restaurants, as defined in § 47-2827(e)(2), provide to customers to take food away from the retail establishment;

(E) Reusable carryout bags; or

(F) Bags provided to the consumer, as required by § 25-113(b)(5)(C), for the purpose of transporting a partially consumed bottle of wine.

(2) "Fund" means the Anacostia River Clean Up and Protection Fund established by § 8-102.05(a).

(3) "Retail establishment" means any licensee under a Public Health: Food Establishment Retail endorsement to a basic business license under Chapter 28 of Title 47 or under an off-premises retailer's license, class A or B, pursuant to § 25-112.

(4) "Reusable carryout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth, fiber, other machine washable fabric, or durable plastic that is at least 2.25 millimeters thick.

(Sept. 23, 2009, D.C. Law 18-55, § 2, 56 DCR 5703.)

HISTORICAL AND STATUTORY NOTES

Temporary Amendments of Section

Section 2 of D.C. Law 18-140 amended section 10 of D.C. Law 18-55 to read as follows:

"Sec. 10. Applicability.

"Sections 2 and 4 through 6 shall apply as of January 1, 2010. Section 3 shall apply as of April 1, 2010."

Section 4(b) of D.C. Law 18-140 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section 10 of D.C. Law 18-55, see § 2 of Anacostia River Clean Up and Protection Clarification Emergency Act of 2009 (D.C. Act 18-282, January 11, 2010, 57 DCR 950).

Legislative History of Laws

Law 18-55, the "Anacostia River Clean Up and Protection Act of 2009", was introduced in Council and assigned Bill No. 18-150, which was referred to the Committees on Finance and Revenue and Government Operations and the Environment. The Bill was adopted on first and second readings on June 2, 2009, and June 16, 2008, respectively. Enacted without signature by the Mayor on July 6, 2009, it was assigned Act No. 18-134 and transmitted to both Houses of Congress for its review. D.C. Law 18-55 became effective on September 23, 2009.

Miscellaneous Notes

Section 10 of D.C. Law 18-55 provides:

"Sec. 10. Applicability.

"Sections 2 through 6 shall apply as of January 1, 2010."

§ 8-102.02. REQUIREMENTS FOR DISPOSABLE CARRYOUT BAGS MADE AVAILABLE TO CUSTOMERS BY RETAIL ESTABLISHMENTS.

(a) Disposable carryout bags made of plastic that cannot be recycled shall not be sold or distributed, retail or wholesale, in the District.

(b) Disposable carryout bags made of paper shall:

(1) Be 100% recyclable;

(2) Contain a minimum of 40% post-consumer recycled content; and

(3) Display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible manner on the bag exterior.

(c) Disposable carryout bags made of plastic shall:

(1) Be 100% recyclable;

(2) Be made of high-density polyethylene film marked with the SPI resin identification code 2 or low-density polyethylene film marked with the SPI resin identification code 4; and

(3) Display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible manner on the bag exterior.

(d) Violation of the requirements set forth in this section shall subject the retail establishment to the penalties set forth in § 8-102.04.

(Sept. 23, 2009, D.C. Law 18-55, § 3, 56 DCR 5703.)

HISTORICAL AND STATUTORY NOTES

For Law 18-55, see notes following § 8-102.01.

§ 8-102.03. ESTABLISHMENT OF FEE.

(a)(1) A consumer making a purchase from a retail establishment shall pay at the time of purchase a fee of \$.05 for each disposable carryout bag.

(2) A retail establishment shall not advertise or hold out or state to the public or to a customer directly or indirectly that the reimbursement of the fee or any part thereof to be collected by the retail establishment will be assumed or absorbed by the retail establishment or otherwise refunded to the customer.

(3) All retail establishments shall indicate on the consumer transaction receipt the number of disposable carryout bags provided and the total amount of fee charged.

(b)(1)(A) Each retail establishment shall retain \$.01 of each \$.05 fee collected; provided, that an establishment that chooses to offer a carryout bag credit program to its customers, as set forth in subparagraph (B) of this paragraph, shall retain an additional \$.01 from each fee collected, for a total of \$.02 for each \$.05 fee collected.

(B) A retail establishment shall retain an additional \$.01 of each \$.05 fee for a carryout program which:

(i) Credits the consumer no less than \$.05 for each carryout bag provided by the consumer for packaging their purchases, regardless of whether that bag is paper, plastic, or reusable;

(ii) Is prominently advertised at each checkout register; and

(iii) Reflects the total credit amount on the consumer transaction receipt.

(C) The fees retained by the retail establishment under this paragraph shall not be classified as revenue and shall be tax-exempt for the purposes of Chapters 18, 20, and 27B of Title 47.

(D) The fees retained by the retail establishment shall be excluded from the definition of retail sale under § 47-2001(n)(2) and from the definition of gross receipts under § 47-2761(5).

(E) The fees to be remitted to the District under subsection (b)(2) of this section shall be added to other tax payments in determining whether the electronic payment requirement under § 47-4402(c) applies.

(2) The remaining amount of each fee collected shall be paid to the Office of Tax and Revenue and shall be deposited in the Anacostia River Cleanup and Protection Fund established by § 8-102.05(a).

(c) The Office of Tax and Revenue shall develop rules for frequency and method for reporting and transmitting the fees, as set forth in subsection (a) of this section, to the District.

(d) Except to the extent of any inconsistency with this subchapter, the same provisions to Title 47 that are applicable to the gross sales tax shall govern the administration, collection, and enforcement of the fee set forth in subsection (a) of this section.

(e) Notwithstanding any other law, the Office of Tax and Revenue shall furnish to the District Department of the Environment, upon request, the names, addresses, and whether any fees were collected pursuant to subsection (a) of this section of retail establishments subject to the provisions of this subchapter.

(Sept. 23, 2009, D.C. Law 18-55, § 4, 56 DCR 5703; Sept. 14, 2011, D.C. Law 19-21, § 6032(a), 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-21 added subsec. (e).

Legislative History of Laws

For Law 18-55, see notes following § 8-102.01.

Law 19-21, the "Fiscal Year 2012 Budget Support Act of 2011", was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

Miscellaneous Notes

Short title: Section 6031 of D.C. Law 19-21 provided that subtitle D of title VI of the act may be cited as "Bag Fee Compliance Amendment Act of 2011".

§ 8-102.04. RULES; ENFORCEMENT AND PENALTIES FOR VIOLATION.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this subchapter within 90 days after September 23, 2009.

(b)(1) If the Mayor determines that a violation has occurred, the retail establishment shall be liable for the fees under § 8-102.03(a) and the Mayor shall impose a penalty on the retail establishment. The penalty shall be a class 4 infraction under the Schedule of Fines in section 3201 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR § 3201), pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(2) No more than one penalty shall be imposed upon a retail establishment within a 7-day period.

(c) If payment of any amounts due under this section is not received on or before the due date, a penalty shall be added as the Mayor provides by rule.

(d) Revenues collected through citations for violation of this subchapter shall be used only for enforcement costs, including hiring inspectors and other staff, and administrative costs associated with enforcement of this subchapter.

(Sept. 23, 2009, D.C. Law 18-55, § 5, 56 DCR 5703; Sept. 14, 2011, D.C. Law 19-21, § 6032(b), 58 DCR 6226; Oct. 23, 2012, D.C. Law 19-188, § 2(a), 59 DCR 10151.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-21, in subsec. (b)(2)(A), substituted "warning" for "warning in a calendar year"; and, in subsecs. (b)(2)(B) and (C), substituted "violation" for "violation in the same calendar year".

D.C. Law 19-188 rewrote subsec. (b), which had read as follows:

"(b) If the Mayor determines that a violation has occurred, the retail establishment shall be liable for the fees under § 8-102.03(a) and:

"(1) Upon the 1st violation, written warning notice that a violation has occurred shall be issued to the retail establishment. No penalty shall be imposed for the 1st violation.

"(2) Upon subsequent violations, the Mayor shall impose a penalty on the retail establishment. The penalty shall not exceed:

"(A) \$100 for the 1st violation after the written warning;

"(B) \$200 for the 2nd violation; or

"(C) \$500 for the 3rd and each subsequent violation.

"(3) No more than one penalty shall be imposed upon a retail establishment within a 7-day period."

Legislative History of Laws

For Law 18-55, see notes following § 8-102.01.

For history of Law 19-21, see notes under § 8-102.03.

Law 19-188, the "Anacostia River Clean Up and Protection Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-244, which was referred to the Committee on Environment, Public Works and Transportation. The Bill was adopted on first and second readings on June 5, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 6, 2012, it was assigned Act No. 19-441 and transmitted to both Houses of Congress for its review. D.C. Law 19-188 became effective on October 23, 2012.

§ 8-102.05. ESTABLISHMENT OF THE ANACOSTIA RIVER CLEAN UP AND PROTECTION FUND.

(a) There is established as a nonlapsing fund the Anacostia River Clean Up and Protection Fund. The fees established by § 8-102.03 for disposable carryout bags and transmitted to the Office of Tax and Revenue, the net proceeds from the issuance of Anacostia River Commemorative License Plates, and the net proceeds from the voluntary tax check-off provided in § 47-1812.111c shall be deposited in the Fund. The Fund shall be used solely for the purposes set forth in subsection (b) of this section and shall be administered by the Office of the Director of the District Department of the Environment.

(b) The Fund shall be used solely for the purposes of cleaning and protecting the Anacostia River and other impaired waterways. Funds shall be used for the following projects in the following order of priority:

(1) A public education campaign to educate residents, businesses, and tourists about the impact of trash on the District's environmental health;

- (1A) The pilot program described in § 8-102.06a, and, at the discretion of the District Department of the Environment, the pilot program's full implementation;
- (2) Providing reusable carryout bags to District residents, with priority distribution to seniors and low-income residents;
- (3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment;
- (4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;
- (5) Monitoring and recording pollution indices;
- (6) Preserving or enhancing water quality and fishery or wildlife habitat;
- (7) Promoting conservation programs, including programs for wildlife and endangered species;
- (8) Purchasing and installing signs and equipment designed to minimize trash pollution, including anti-littering signs to be installed in areas where littering would impact the Anacostia River, recycling containers, and covered trash receptacles;
- (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;
- (10) Funding community cleanup events and other activities that reduce trash, such as increased litter collection;
- (11) Funding a circuit rider program with neighboring jurisdictions to focus river and tributary clean-up efforts upstream;
- (12) Supporting vocational and job training experiences in environmental and sustainable professions that enhance the health of the watershed;
- (13) Maintaining a public website that educates District residents on the progress of clean-up efforts; and
- (14) Paying for the administration of this program.

(c)(1) The Fund shall not be used to supplant funds appropriated as part of an approved annual budget for Anacostia River cleaning activities.

(2) The Fund shall not be used to fund street sweeping activities.

(d) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of the fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization from Congress.

(Sept. 23, 2009, D.C. Law 18-55, § 6, 56 DCR 5703; Sept. 24, 2010, D.C. Law 18-223, § 1132, 57 DCR 6242; Oct. 23, 2012, D.C. Law 19-188, § 2(b), 59 DCR 10151.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-223, in subsec. (c), designated the existing text as par. (1) and added par. (2).

D.C. Law 19-188 added subsec. (b)(1A); and rewrote subsec. (b)(8), which formerly read:

"(8) Purchasing and installing equipment designed to minimize trash pollution, including, recycling containers, and covered trash receptacles;"

Temporary Amendments of Section

Section 802 of D.C. Law 18-222 rewrote subsec. (c) to read as follows:

"(c)(1) The Fund shall not be used to supplant funds appropriated as part of an approved annual budget for Anacostia River cleaning activities.

"(2) The Fund shall not be used to fund street sweeping activities."

Section 2002(b) of D.C. Law 18-222 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 1132 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

For Law 18-55, see notes following § 8-102.01.

Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

For history of Law 19-188, see notes under § 8-102.04.

Miscellaneous Notes

Short title: Section 1131 of D.C. Law 18-223 provided that subtitle N of title I of the act may be cited as the "Anacostia River Clean Up and Protection Clarification Amendment Act of 2010".

§ 8-102.06. PUBLIC INFORMATION AND OUTREACH CAMPAIGNS.

Beginning on or before October 1, 2009, the District Department of the Environment shall:

- (1) Conduct an intensive public information campaign aimed at educating the public on the importance of reducing the number of disposable carryout bags entering the waste stream and the impact of disposable carryout bags on the rivers, tributaries, and environmental health of the District; and
- (2) Conduct an outreach campaign that includes:
 - (A) A public-private partnership to provide reusable carryout bags to District residents; and
 - (B) Working with service providers that assist seniors and low-income residents to distribute information and multiple reusable carryout bags to low-income households.

(Sept. 23, 2009, D.C. Law 18-55, § 7, 56 DCR 5703.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-55, see notes following § 8-102.01.

§ 8-102.06A. ESTABLISHMENT OF ANACOSTIA PILOT PROGRAM.

- (a) The District Department of the Environment shall:
 - (1) Establish a pilot program that permits entities to adopt a section of the Anacostia River for the purpose of removing bottles and other trash; and
 - (2) Select an entity to participate in the pilot program whose organizational mission is related to the restoration and preservation of District waterways.
- (b) The pilot program shall include financial incentives and continue for at least 6 months.
- (c) After completion of the pilot program, the District Department of the Environment may extend the program indefinitely and expand it to include other District waterways.

(Sept. 23, 2009, D.C. Law 19-188, § 7a, as added Oct. 23, 2012, D.C. Law 19-188, § 2(c), 59 DCR 10151.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 19-188, see notes under § 8-102.04.

§ 8-102.07. ISSUANCE OF ANACOSTIA RIVER COMMEMORATIVE LICENSE PLATES.

- (a) The Mayor shall issue reflectorized motor vehicle identification tags of a design to enhance public awareness of the District of Columbia's efforts to restore and protect the Anacostia River and these identification tags may be called Anacostia River Commemorative License Plates. These identification tags shall retain and display the "TAXATION WITHOUT REPRESENTATION" slogan of the current District of Columbia motor vehicle identification tags.
- (b) In addition to the annual registration fee required by § 50-1501.03(a), a one-time fee of \$25 shall be

charged each time new Anacostia River Commemorative License Plates are issued. There shall also be a \$20 renewal fee for Anacostia River Commemorative License Plates, which fee shall be charged biennially.

(c) The Mayor shall recover the cost of producing and issuing the Anacostia River Commemorative License Plates from the proceeds collected from the one-time \$25 fee and the biennial \$20 renewal fee established under subsection (b) of this section,

(d) The balance shall be paid into the Anacostia River Clean Up and Protection Fund established by § 8-102.05(a) and used for the purposes described therein.

(e) The Mayor shall implement this section within 180 days after September 23, 2009. If an extension is necessary, the Mayor shall notify the Council prior to the implementation date.

(Sept. 23, 2009, D.C. Law 18-55, § 8, 56 DCR 5703.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-55, see notes following § 8-102.01.

SUBCHAPTER II. WATER POLLUTION CONTROL.

§ 8-103.01. DEFINITIONS.

For the purposes of this subchapter, the term:

(1) "Act" means the Water Pollution Control Act of 1984.

(1A) "Abandon" means to cease using a functioning well, to fill or plug a well to render it unproductive, to permanently disconnect a well from a water system, to allow a well to fall into a state of disrepair so extensive that it is impractical to obtain ground water, or to fail to renew a permit pursuant to § 8-103.13a within 90 days after expiration.

(2) "Aquatic animals and plants" and "aquatic life" mean the animals and plants which have typically lived in or otherwise established as a habitat the waters of the District of Columbia.

(3) "Combined sewer" means a sewer which conveys both sanitary sewage and storm water and may also convey industrial wastewater.

(4) "Criteria" means any of the group of physical, chemical, biological, and radiological water quality parameters and the associated numerical concentrations or levels which compose the numerical standards of the water quality standards and which define a component of the quality of the water needed for a designated beneficial use.

(5) "Discharge" means the spilling, leaking, releasing, pumping, pouring, emitting, emptying, or dumping of any pollutant or hazardous substance, including a discharge from a storm sewer, into or so that it may enter District of Columbia waters.

(6) "District" means the District of Columbia.

(7) "Dredge and fill activity" means the removal of dirt, sediment, sand, gravel, rock, or other solid matter from the underwater lands, and the placement of solid or semi-solid material into the waters of the District so that the material is or may be deposited on the underwater lands; the placement of pipelines, electrical cables, communication lines, tunnels, bulkheads, riprap, structural members of bridges, buildings, piers, and other facilities, and other man-made objects into the waters of the District or the underwater lands. The following activities are excluded: Federal or District navigational aids, permitted discharges of wastewater, removal of floating debris, stormwater discharges, recreational activities of individual private citizens other than mechanized mineral recovery, and the removal of materials accidentally placed in the waters of the District.

(8) "Federal Water Pollution Control Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 466 et seq.

(9) "Groundwater" means underground water, but excludes water in pipes, tanks, and other containers created or set up by people.

(10) "Hazardous substance" means any toxic pollutant referenced in or designated in or pursuant to § 307(a) of the Federal Water Pollution Control Act; any substance designated pursuant to § 311(b)(2)(A) of the Federal Water Pollution Control Act; or any hazardous waste having the characteristics of those identified under or listed pursuant to the District of Columbia Hazardous Waste Management Act of 1977, as amended.

(11) "Industrial wastewater" means water that has been used and contains pollutants but does not contain significant amounts of human body waste and disease-causing bacteria and viruses.

(12) "Mayor" means the Mayor of the District of Columbia or any representative or agency designated by the Mayor to carry out the provisions of this subchapter.

(13) "Nonpoint source" means any source from which pollutants are or may be discharged other than a point source.

(14) "Offshore facility" means vessels, pipelines, and other equipment operated in the District of Columbia waters.

(15) "Onshore facility" means equipment, instruments, buildings, vehicles, or other structures not in the water.

(16) "Owner" or "operator" means for a vessel or onshore or offshore facilities, a person owning, operating, or chartering by demise the vessel or the facilities, except that, for the purpose of §§ 8-103.13a and 8-103.13b, the term "owner" means a person who has the legal right to construct a well for personal use or for the use of another person.

(17) "Person" means any individual, including any owner or operator as defined in this section; partnership; corporation, including a government corporation; trust association; firm; joint stock company; organization; commission; the District or federal government; or any other entity.

(18) "Point source" means any discrete source of quantifiable pollutants, including but not limited to a municipal treatment facility discharge, residential, commercial or industrial waste discharge or a combined sewer overflow; or any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(19) "Pollutant" means any substance which may alter or interfere with the restoration or maintenance of the chemical, physical, radiological, and biological integrity of the waters of the District; or any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemicals, chemical wastes, hazardous wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, oil, gasoline and related petroleum products, and industrial, municipal, and agricultural wastes.

(20) "Sanitary sewage" or "municipal wastewater" means draining or flushing liquids used to flush or rinse away human body waste from people, liquids used for washing and other household activities, and other liquids or rinsed away waste which may have been contaminated with disease-causing bacteria and viruses.

(21) "Sanitary sewer" means a sewer for waste materials, but not one for rain water.

(22) "Sludge" means the solid or semi-solid material removed from wastewater during treatment, including but not limited to grit, screenings, grease, oil, settleable solids, and chemicals added to the treatment processes.

(23) "Treatment facility" means the plant, the equipment, and the operations used to eliminate pollutants in wastewater, and includes the facilities and the activities administering to or supplying the treatment of wastewater.

(23A) "Underground injection" means discharging any substance through a well into ground water, or into the subsurface where the substance has the potential to enter the waters of the District.

(24) "Underwater land" means the land beneath the waters of the District at mean high tide or the ordinary high waterline or the elevation of the highest water stage that occurs at a frequency of once per year.

(25) "Wastewater" means the waters which have been removed from their normal course or place and have been used in a manner that pollutants have been added or increased during the use, or have been altered so that discharge into the waters of the District may result in pollution.

(26) "Waters of the District" or "District waters" means flowing and still bodies of water, whether artificial or natural, whether underground or on land, so long as in the District of Columbia, but excludes water on private property prevented from reaching underground or land watercourses, and also excludes water in closed collection or distribution systems.

(26A) "Well" means any test hole, shaft, or soil excavation created by any means including, but not limited to, drilling, coring, boring, washing, driving, digging, or jetting, for purposes including, but not limited to, locating, testing, diverting, artificially recharging, or withdrawing fluids, or for the purpose of underground injection.

(27) "Wetland" means a marsh, swamp or other area periodically inundated by tides or having saturated soil conditions for prolonged periods of time and capable of supporting aquatic vegetation.

(Mar. 16, 1985, D.C. Law 5-188, § 2, 32 DCR 919; Nov. 13, 2003, D.C. Law 15-39, § 612(a), 50 DCR 5668.)

Prior Codifications

1981 Ed., § 6-921.

Effect of Amendments

D.C. Law 15-39 added pars. (1A), (23A), and (26A); and rewrote par. (16) which had read as follows:

"(16) 'Owner' or 'operator' means for a vessel or onshore or offshore facilities, a person owning, operating or chartering by demise the vessel or the facilities."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 612(a) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(a) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

Law 5-188, the "Water Pollution Control Act of 1984," was introduced in Council and assigned Bill No. 5-326, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-253 and transmitted to both Houses of Congress for its review.

Law 15-39, the "Fiscal Year 2004 Budget Support Act of 2003", was introduced in Council and assigned Bill No. 15-218, which was referred to Committee on Whole. The Bill was adopted on first and second readings on May 6, 2003, and June 3, 2003, respectively. Signed by the Mayor on June 20, 2003, it was assigned Act No. 15-106 and transmitted to both Houses of Congress for its review. D.C. Law 15-39 became effective on November 13, 2003.

References in Text

The "Water Pollution Control Act of 1984," referred to in paragraph (1) of this section, is D.C. Law 5-188.

The Federal Water Pollution Control Act, referred to in paragraph (8), is now codified at 33 U.S.C § 1251 et seq.

"Section 307(a) of the Federal Water Pollution Control Act," referred to in paragraph (10) of this section, is classified as 33 U.S.C. § 1317 (a).

"Section 311(b)(2)(A) of the Federal Water Pollution Control Act," referred to in paragraph (10) of this section, is classified as 33 U.S.C. § 1321(b)(2)(A).

The "District of Columbia Hazardous Waste Management Act of 1977," referred to in paragraph (10) of this section, is D.C. Law 2-64.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 5-188, see Mayor's Order 85-152, September 12, 1985.

Delegation of authority pursuant to D.C. Law 5-188, the "Water Pollution Control Act of 1984", see Mayor's Order 98-50, April 15, 1998 (45 DCR 2696).

Miscellaneous Notes

Spring Valley Scientific Advisory Panel, see Mayor's Order 2001-32, March 1, 2001 (48 DCR 2387).

Short title of subtitle B of title VI of Law 15-39: Section 611 of D.C. Law 15-39 provided that subtitle B of title VI of the act may be cited as the Water Pollution Control Amendment Act of 2003.

§ 8-103.02. DISCHARGE OF POLLUTANTS PROHIBITED; EXCEPTION.

Except as provided in § 8-103.06, no person shall discharge a pollutant to the waters of the District. (Mar. 16, 1985, D.C. Law 5-188, § 3, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-922.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

§ 8-103.03. PROTECTION OF AQUATIC LIFE.

(a) While regulating against water pollution and except as provided in subsection (d) of this section, the Mayor shall protect aquatic animals and plants, and shall preserve and restore aquatic life in District waters for aesthetic enjoyment, for recreation, and for industry.

(b)(1) The Mayor shall study the number and the well-being of aquatic plants and animals, and shall determine the need to license or otherwise limit fishing and other forms of hunting, sports or industry which take or destroy aquatic life or the aquatic habitat. The Mayor shall consider the economic impact upon the various segments of the public before establishing fees for licenses.

(2) The Mayor may establish fishing seasons and other seasons for hunting, sports or industry, which take or destroy aquatic life or the aquatic habitat.

(3) Revenues from licensing regulatory schemes under this section shall not be used for purposes other than the administration and management of the District's fisheries and wildlife resources. License fees paid by anglers and other users of these resources shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division.

(c) The Mayor may enter into agreements with state and federal agencies to manage and protect aquatic life.

(d) The Mayor may protect against aquatic life which creates a nuisance in the District.

(Mar. 16, 1985, D.C. Law 5-188, § 4, 32 DCR 919; Mar. 8, 2006, D.C. Law 16-57, § 2, 53 DCR 12.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-923.

Effect of Amendments

D.C. Law 16-57 rewrote subsec. (b)(3) which had read as follows:

"(3) Revenues from a licensing regulatory scheme under this section shall be used only for protecting and managing aquatic life."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of Water Pollution Control Temporary Amendment Act of 2004 (D.C. Law 15-321, April 8, 2005, law notification 52 DCR 4710).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Emergency Amendment Act of 2004 (D.C. Act 15-655, December 29, 2004, 52 DCR 477).

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-54, March 17, 2005, 52 DCR 3172).

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Emergency Amendment Act of 2005 (D.C. Act 16-201, November 17, 2005, 52 DCR 10509).

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-280, February 27, 2006, 53 DCR 1626).

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

Law 16-57, the "Water Pollution Control Amendment Act of 2005", was introduced in Council and assigned Bill No. 16-361 which was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on November 1, 2005, and December 6, 2005, respectively. Signed by the Mayor on December 22, 2005, it was assigned Act No. 16-219 and transmitted to both Houses of Congress for its review. D.C. Law 16-57 became effective on March 8, 2006.

§ 8-103.04. CLASSIFICATION OF BENEFICIAL USES OF WATERS.

(a) At least once every 3 years, the Mayor shall review the water quality standards and if appropriate revise the classification of the beneficial uses of the waters and the criteria for water needed for the particular classes of beneficial uses.

(b) The classifications and the criteria shall accompany guidelines for preserving the waters for the beneficial uses and for preventing harm to the water quality.

(c) Before promulgating the classifications, criteria, and guidelines, the Mayor shall consider the environmental, technological, institutional, and socio-economic impact of applying and enforcing them.

(d) The Mayor shall regularly monitor District waters, according to their classification under subsection (a) of this section, to determine whether the water fulfills the quality standards established under this subchapter.

(Mar. 16, 1985, D.C. Law 5-188, § 5, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-924.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

§ 8-103.05. MONITORING FOR COMPLIANCE WITH SUBCHAPTER.

(a) The Mayor shall ensure that all monitoring for compliance under this subchapter acquires accurate data and forms the basis for valid and reliable determinations.

(b) Monitoring for compliance as a condition for a permit under this subchapter shall comply with a quality assurance plan approved by the Mayor.

(Mar. 16, 1985, D.C. Law 5-188, § 6, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-925.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

§ 8-103.06. CERTAIN DISCHARGES PERMITTED; TERMS OF PERMIT; ADDITIONAL ENFORCEMENT PROCEDURES; EFFECT OF FEDERAL PERMIT; PUBLIC HEARING ON PERMIT; SPECIAL REQUIREMENTS FOR TREATMENT FACILITIES; PERMITS FOR INDUSTRIAL DISCHARGES; CERTAIN DISCHARGES FROM WATERCRAFT PROHIBITED.

(a) Except that no one may discharge into a sewer corrosive, flammable, or explosive material, or material that may adversely affect the structure of a sewer line, the Mayor may:

- (1) Allow activity which, from a point source, discharges a hazardous substance, oil or other pollutant;
- (2) Limit pollution from nonpoint sources to a feasible degree;
- (3) Allow dredge and fill activities or construction activities in wetlands and on underwater lands; provided, that:

- (A) The activities do not interfere with fish migration and the aquatic habitat remains preserved; or
- (B) Damage to, or destruction of, the habitat is mitigated to the extent the Mayor requires through onsite or offsite replacement of the habitat or through payment of an amount determined by the Mayor that shall be deposited into the fund established under § 8-103.09(d); and

- (4) Allow underground injection, except for any hazardous waste as defined by § 6-702(2), and the rules and regulations promulgated thereunder.

(b) If the Mayor permits any discharge under subsection (a)(1) of this section, then the Mayor shall:

- (1) Permit the discharge and the regulated activity according to this subchapter, the Federal Water Pollution Control Act, and regulations related to these acts of legislation;
- (2) Explicitly list the conditions under which the discharge will be permitted;
- (3) Explicitly determine the amount of wastewater and pollutants that will be permitted under the permit referred to in this section;
- (4) Clearly establish the location of the discharge;
- (5) Require any monitoring and reporting by the permittee to ensure compliance with the terms and conditions of the permit;
- (6) Limit any other types or sources of pollution that may occur as a result of the operation;

- (7) Ensure that District waters, waters in adjacent and downstream states, and the beneficial uses of these waters will not be harmed or degraded by the discharge or a combination of discharges; and
- (8) Permit the discharge according to the most stringent of the following:
- (A) The maintenance or attainment of water quality standards; or
 - (B) Removing pollutants with control technology.
- (c)(1) If the Mayor limits pollution from nonpoint sources under subsection (a)(2) of this section, then the regulation of the nonpoint sources shall apply to real estate construction and development.
- (2) Before any real estate construction takes place, the person performing the construction or the development shall obtain a permit for controlling pollution from the nonpoint source.
- (d) Before any permit is issued under subsection (a)(1), (3), or (4) of this section, or any federal permit is certified under subsection (j) of this section, the Mayor may require the person seeking the permit or certification to perform studies to ensure conformance with this subchapter.
- (e)(1) The permit shall be valid for a period not to exceed 5 years and may be renewed for up to 5-year increments; provided the Mayor may by regulation provide for modification, revocation and reissuance, and termination of permits.
- (2) If the permittee timely files a complete application for renewal according to the renewal terms of the permit, then, during any delay before the permit is renewed, the Mayor may extend the validity of the expired permit for 6-month periods until the renewal takes place.
- (f)(1) If an affected state protests against a permit or a term in a permit, then the Mayor shall include the protest in the record concerning the application for the permit and shall duly consider the protest.
- (2) The Mayor shall deliver to the United States Environmental Protection Agency a copy of the protest and the Mayor's preliminary determination concerning the protest.
- (g) In addition to the enforcement procedures otherwise provided for in this subchapter, if any person violates a permit condition, discharges without a permit, or submits a fraudulent report to the Mayor, the Mayor may:
- (1) Revoke or modify the permit; or
 - (2) Require the permittee to submit for approval a plan to eliminate the violation and in this plan describe the personnel, engineering, and the operations necessary to eliminate any further violation of this subchapter.
- (h) Those persons having a permit which has been issued by the United States Environmental Protection Agency prior to March 16, 1985, shall be exempted from the requirement for obtaining a permit under the provisions of this subchapter until the expiration date of the United States Environmental Protection Agency permit, at which time a permit from the District will be required. However, the conditions of the permit issued by the United States shall continue in force until the effective date of a permit issued by the Mayor if:
- (1) The expired permit would remain in effect pursuant to applicable federal regulations;
 - (2) Either the regulations to implement this subsection are not yet effective; or
 - (3) The permittee has submitted a timely and complete application for a District permit; and, the Mayor, through no fault of the permittee, does not issue a new permit on or before the expiration date of the previous permit.
- (i) Before issuing any permit, the Mayor shall provide notice of the intent to issue the permit and the opportunity for a public hearing.
- (j) Before a federal permit is issued, the Mayor shall certify whether the permit conforms with this subchapter, the Federal Water Pollution Control Act, and the related regulations.
- (k)(1) Treatment facilities shall keep and have available a current manual describing the operation and maintenance procedures for the facility.
- (2) The Mayor shall periodically inspect and monitor permitted facilities to evaluate the operation and maintenance of the facility.
- (l) The Mayor may issue permits for industrial discharges to sanitary sewers flowing to municipal treatment facilities.
- (m) The discharge of sanitary sewage, wash or process water, oil laden bilge water, refuse, or litter from watercraft is prohibited.
- (Mar. 16, 1985, D.C. Law 5-188, § 7, 32 DCR 919; Nov. 13, 2003, D.C. Law 15-39, § 612(b), 50 DCR 5668; Apr. 13, 2005, D.C. Law 15-354, §§ 18, 84(d)(1), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-926.

Effect of Amendments

D.C. Law 15-39, in subsec. (a), made a nonsubstantive change in par. (2), rewrote par. (3), and added par. (4); and rewrote subsec. (d). Prior to amendment, par. (3) of subsec. (a) and subsec. (d) had read as follows:

"(3) Except as provided in subsection (d) of this section, allow dredging and filling activities on underwater lands to the extent that the activities do not interfere with fish migration, and to the extent that the aquatic habitat remains preserved or the mitigation of the destruction of the habitat takes place."

"(d) Before the permit is issued under subsection (a)(1) or (3) of this section, the Mayor may require the person to be permitted to perform studies to ensure conformance with this subchapter."

D.C. Law 15-354, in subsecs. (b)(2) and (d), validated previously made technical corrections.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 612(b) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(b) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

For Law 15-39, see notes following § 8-103.01.

Law 15-354, the "Technical Amendments Act of 2004", was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

References in Text

The Federal Water Pollution Control Act, referred to in subsections (b)(1) and (j), is codified at 33 U.S.C. § 1251 et seq.

§ 8-103.07. LOCATION OF DISCHARGE; RECOGNITION OF REDUCTION OF POLLUTANTS; RESTRICTIONS ON QUANTITY OF MATERIALS DISCHARGED; DISCHARGE OF USED MOTOR OIL TO SEWER PROHIBITED.

(a) While pollution from point sources into storm sewers shall be considered discharges into District waters, the location of the discharge of the storm sewer wastewater into the waters of the District or other jurisdictions shall be the location of the discharge for any permit issued by the Mayor.

(b) Except for loss of heat, no reduction of pollutants in the discharged wastewater while flowing in the storm sewer will be recognized by the Mayor.

(c) No person shall discharge to a sanitary or combined sewer any material in a quantity which would interfere with or pass through a municipal treatment facility or a unit process of the facility, cause or contribute to a violation of any permit or water quality standard, or interfere with the potential to use sludge for a beneficial purpose.

(d) The discharge of oil, gasoline, anti-freeze, acid, or other hazardous substance, pollutant or nuisance material to any street, alley, sidewalk or other public space in quantities sufficient to constitute a hazard or nuisance is prohibited.

(e) The discharge of used motor oil to any sewer is prohibited.

(Mar. 16, 1985, D.C. Law 5-188, § 8, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-927.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

§ 8-103.08. DISCHARGE OF POLLUTANT FROM VESSEL OR ONSHORE OR OFFSHORE FACILITY; REMOVAL OF THESE POLLUTANTS; CONTINGENCY PLAN FOR ENVIRONMENTAL EMERGENCIES.

(a)(1) A person in charge of a vessel or an onshore or an offshore facility shall, as soon as a discharge of a pollutant from the vessel or the facility has been discovered, notify the Mayor about the discharge.

(2) Notice or information resulting from the notice shall not be used against a person in a criminal case, except a prosecution for perjury or for giving a false statement.

(b) Whenever there is a discharge or a substantial threat of discharge into the waters of the District of a hazardous substance, or there is a discharge or substantial threat of discharge into the waters of the District of a pollutant which may present an imminent and substantial danger to the public health or welfare, including danger to the livelihood of members of the public health or welfare, the Mayor is authorized to act to remove or arrange for the removal of the pollutant, and the Corporation Counsel of the District may bring suit on behalf of the District in the Superior Court of the District of Columbia or any other court of competent jurisdiction to restrain immediately any person causing or contributing to a discharge or threat of discharge, to recover any costs of removal incurred by the District, to impose civil penalties or to seek any other relief as the public interest may require.

(c)(1) By September 1, 1985, the Mayor shall establish a contingency plan for responding to environmental emergencies pursuant to the authority granted in this section.

(2) The plan shall provide for the following:

(A) Organize and assign duties among District agencies;

(B) Manage the procurement and use of emergency equipment and supplies;

(C) Establish a special group of trained personnel to carry out the plan;

(D) Develop surveillance designed to watch for emergencies and to provide the earliest possible notice to the appropriate District and federal agencies;

(E) Establish a control center to direct the operations of the plan;

(F) Establish procedures and techniques for removing the pollutant; and

(G) Establish or cooperate in a system for state and local coordination.

(Mar. 16, 1985, D.C. Law 5-188, § 9, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-928.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

§ 8-103.09. ACCOUNTING FOR REVENUES AND EXPENSES OF POLLUTANT REMOVAL; AVAILABLE FUNDS FOR FUTURE YEARS; DISTRICT OF COLUMBIA WETLAND AND STREAM MITIGATION TRUST FUND.

(a)(1) The Mayor shall establish a financial system to account for revenues and expenses associated with removing pollutants.

(2) Civil penalties and other charges recovered under §§ 8-103.15 through 8-103.19 shall finance the pollution removal when the person responsible for the pollution cannot be found and the Mayor determines that the pollution should be removed, and may be used to purchase equipment and supplies for the § 8-103.08(c) plan.

(3) Agencies may be reimbursed after incurring expenses for removing or preventing the spread of pollution.

(b) After reimbursements and discretionary equipment purchases under subsection (a) of this section at the end of the fiscal year, the Mayor shall make available for use in future years subsection (a)(2) of this section funds up to \$250,000.

(c) Repealed.

(d)(1) The District of Columbia Wetland and Stream Mitigation Trust Fund ("Wetland Fund") is hereby established as a nonlapsing, revolving fund pursuant to an act of Congress, to be administered by the Mayor and used for restoration, creation, and enhancement of wetlands and the waters of the District.

Excluding monies collected in the current year, any money deposited in the Wetland Fund in the year prior to the current year and the interest earned on that money remaining in the Fund after the payment of the costs accrued in the prior year, less 10% of the remainder amount that shall be retained as a reserve operating balance, shall be transferred or revert to the General Fund of the District of Columbia.

(2) The Wetland Fund shall be financed by payments received to mitigate the damage to or destruction of habitat pursuant to § 8-103.06(a)(3).

(3) The Wetland Fund shall be accounted for under the procedures established pursuant to subchapter V of Chapter 3 of Title 47, and any other applicable law.

(4) The Mayor may use the Wetland Fund to repair or replace aquatic habitat that is damaged or destroyed by activities in wetlands or on underwater lands including, but not limited to, dredge and fill activity, or construction activities.

(Mar. 16, 1985, D.C. Law 5-188, § 10, 32 DCR 919; Mar. 15, 1990, D.C. Law 8-83, § 2, 37 DCR 41; Nov. 13, 2003, D.C. Law 15-39, § 612(c), 50 DCR 5668; Apr. 13, 2005, D.C. Law 15-354, §§ 84(d)(2), 90, 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-929.

Effect of Amendments

D.C. Law 15-39, in the section heading, substituted "District of Columbia Wetland and Stream Mitigation Trust Fund" for "District of Columbia Water Pollution Control Fund"; repealed subsec. (c); and added subsec. (d). Prior to repeal, subsec. (c) had read as follows:

"(c)(1) The District of Columbia Revolving Water Pollution Control Fund ('DCRF') to be administered by the water pollution control agency of the District of Columbia, as designated by the Mayor, is established to provide financial assistance under the Water Quality Act of 1987 (33 U.S.C. § 1251 et seq.) ('Water Quality Act'), to finance planning, design, and construction of publicly owned water pollution control projects; to develop and implement management programs for non-point source pollution control established under § 319 of the Water Quality Act; and to develop and implement estuary conservation and management programs under § 320 of the Water Quality Act.

"(2) The Mayor shall enter into an operating agreement with the Administrator of the United States Environmental Protection Agency ('Administrator') and accept capitalization grants for the DCRF in accordance with the payment schedule policy established by the Administrator.

"(3) A separate account or accounts, as necessary, shall be established for DCRF transactions.

"(4) All payments from the Administrator pursuant to paragraph (2) of this subsection shall be deposited in the revolving fund account or accounts established pursuant to paragraph (3) of this subsection.

"(5) The Mayor shall seek an appropriation of funds from the United States Congress to deposit into the DCRF account in an amount equal to or greater than 20% of each capitalization grant payment from the Administrator no later than the date of each federal payment.

"(6) The Mayor shall seek an appropriation of the required funds from the United States Congress for the administration of the DCRF program.

"(7) The DCRF monies shall be used only for the following purposes in accordance with the requirements of § 603(d)(1) of the Water Quality Act:

"(A) To make loans;

"(B) To buy or refinance debt obligations of the District;

"(C) To guarantee or purchase insurance for debt obligations of the District;

"(D) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the District for the DCRF;

"(E) To earn interest on DCRF accounts; or

"(F) For DCRF administrative expenses.

"(8) The revolving fund shall be maintained and credited with repayments, and the fund balances shall be available in perpetuity for the purposes stated in paragraph (1) of this subsection.

"(9) The Mayor shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for payments received by the DCRF, disbursements made by the DCRF, and fund balances, at the beginning and end of each accounting period.

"(10) Financial assistance from DCRF shall be provided only for those projects that the District's water pollution control agency has determined to be a priority, in accordance with this subchapter and the Water Quality Act.

"(11) The Mayor shall provide the Administrator with any records reasonably required to review and determine compliance with applicable provisions of the Water Quality Act.

"(12) The DCRF shall be subject to applicable provisions of title VI of the Water Quality Act, the United States Environmental Protection Agency Guidance on the State Revolving Fund, and all other applicable federal and District laws.

"(13) The DCRF shall be subject to the Tax Reform Act of 1986 (26 U.S.C. § 101 et seq.), to benefit from the applicable tax regulations.

"(14) The Mayor shall issue rules, pursuant to subchapter I of Chapter 5 of Title 2, for the operation of the DCRF and for conducting environmental reviews and evaluations of DCRF projects. The rules shall ensure that:

"(A) Provisions are made to implement mitigation measures to make a project environmentally acceptable; and

"(B) The public is provided a right to challenge environmental review determinations."

D.C. Law 15-354, in the section heading, validated previously made technical corrections.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 612(c) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(c) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

Law 8-83, the "Water Pollution Control Act of 1984 Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-370, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 21, 1989, and December 5, 1989, respectively. Signed by the Mayor on December 21, 1989, it was assigned Act No. 8-133 and transmitted to both Houses of Congress for its review.

For Law 15-39, see notes following § 8-103.01.

For Law 15-354, see notes following § 8-103.06.

Miscellaneous Notes

Sections 9087 and 9088 of D.C. Law 19-21 provide:

"Sec. 9087. Adjudication Hearings (Air Quality) Fund.

"Notwithstanding any other law, the funds which are deposited in the fund designated for accounting purposes by the Office of the Chief Financial Officer as fund 0664 within the District Department of the Environment pursuant to the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5- 188; D.C. Official Code § 8-103.01 *et seq.*), shall be deposited in the General Fund of the District of Columbia and shall not be accounted for by a separate fund or account within the General Fund of the District of Columbia. Any unexpended funds in the fund on the effective date of this subtitle shall be transferred to the unrestricted fund balance of the General Fund of the District of Columbia.

"Sec. 9088. Adjudication Hearings (Water Quality) Fund.

"Notwithstanding any other law, the funds which are deposited in the fund designated for accounting purposes by the Office of the Chief Financial Officer as fund 0665 within the District Department of the Environment pursuant to the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5- 188; D.C. Official Code § 8-103.01 *et seq.*), shall be deposited in the General Fund of the District of Columbia and shall not be accounted for by a separate fund or account within the General Fund of the District of Columbia. Any unexpended funds in the fund on the effective date of this subtitle shall be transferred to the unrestricted fund balance of the General Fund of the District of Columbia."

§ 8-103.09A. DISTRICT OF COLUMBIA WELLS MAINTENANCE FUND; ESTABLISHMENT; FINANCING.[REPEALED]

(Mar. 16, 1985, D.C. Law 5-188, § 10a, as added Nov. 13, 2003, D.C. Law 15-39, § 612(d), 50 DCR 5668; Sept. 14, 2011, D.C. Law 19-21, § 9089, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 612(d) of Fiscal Year 2004 Budget Support Emergency Act of 2003

(D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 612(d) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For Law 15-39, see notes following § 8-103.01.

For history of Law 19-21, see notes under § 8-102.03.

§ 8-103.10. SPILL PREVENTION AND CLEANUP PLAN FOR ONSHORE OR OFFSHORE FACILITY; DISCHARGE FROM UNDERGROUND FACILITY; TESTING OF UNDERGROUND TANKS FOR LEAKS.

(a)(1) No person shall store a pollutant or hazardous substance at an onshore or offshore facility until the Mayor has approved a spill prevention and cleanup plan for the pollutant or hazardous substance.

(2) The plan shall describe the procedures and the equipment, as well as the personnel preparations, for preventing and cleaning up a spill of the pollutant into District waters.

(b)(1) If information indicates that a discharge exists from an underground facility then the Mayor may require the owner or operator to monitor to determine if the discharge exists and the extent of the discharge.

(2) The Mayor may also require the owner or operator to remove and prevent the spread of the discharge.

(c) The owner or operator of an underground storage tank containing oil, gasoline, or any other pollutant shall test the tank at regular intervals for leaks in conformity with the requirements of subchapter VII of this chapter.

(Mar. 16, 1985, D.C. Law 5-188, § 11, 32 DCR 919; Mar. 8, 1991, D.C. Law 8-242, § 14, 38 DCR 344.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-930.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

§ 8-103.11. WATER QUALITY MANAGEMENT PLAN.

(a) The Mayor shall establish a water quality management plan according with which activities regulated under this subchapter shall comply.

(b) The plan should include pollution control alternatives, evaluation of the attainment of the water quality standards, the population affected, the costs of implementing the plan, the designation of agencies to implement the various portions of the plan, and the benefits of implementing the plan.

(c) The plan shall be reviewed periodically.

(d) The Mayor may certify that water quality management plans from the state, the local, or the federal government are acceptable.

(e) The Mayor shall review environmental impact statements and assessments, feasibility studies, facility plans, and other proposals in order to determine if the activity conforms with the water quality management plans of the District.

(Mar. 16, 1985, D.C. Law 5-188, § 12, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-931.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

§ 8-103.12. MAYOR AUTHORIZED TO ISSUE RESEARCH GRANTS.

The Mayor may issue grants for research concerning the quality of the District waters to universities and institutions.

(Mar. 16, 1985, D.C. Law 5-188, § 13, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-932.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

Delegation of Authority

Delegation of authority pursuant to Law 5-188, see Mayor's Order 87-278, December 11, 1987.

Delegation of authority pursuant to D.C. Law 5-188, the "Water Pollution Control Act of 1984", see Mayor's Order 98-50, April 15, 1998 (45 DCR 2696).

Miscellaneous Notes

Extension of authority: The authority of the Mayor to issue grants under this section was extended to both the Department of Regulatory Affairs and the Department of Public Works by Reorganization Plan No. 2 of 1987, effective July 3, 1987.

§ 8-103.13. MAYOR AUTHORIZED TO REGULATE CONSTRUCTION.

- (a) The Mayor may regulate construction that bears upon the quality of the waters of the District.
- (b) No person shall construct a treatment facility which has not been approved by the Mayor before construction begins.

(Mar. 16, 1985, D.C. Law 5-188, § 14, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-933.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

§ 8-103.13A. WELL CONSTRUCTION, MAINTENANCE, AND ABANDONMENT.

- (a) Except as provided in subsection (d) of this section, no person may construct a well without first obtaining a permit subject to the terms, conditions, or restrictions the Mayor deems necessary including the right to inspect the permittee's property during reasonable times and in a reasonable manner, to ensure compliance with this subchapter or any rules promulgated thereunder. A permit issued pursuant to this subsection shall be valid for a period of 2 years after the date of issue. The Mayor may issue rules for modifying, revoking, reissuing, or terminating permits.
- (b) The owner of a well shall maintain the well in accordance with the rules promulgated by the Mayor.
- (c) A person shall provide at least 30 days written notice to the Mayor before abandoning the well. Within 30 days of the date of this notice, the person shall seal and fill the well pursuant to rules issued by the Mayor. A person who fails to renew a permit within 90 days after the expiration date of the permit shall be deemed to have provided notice of abandoning the well and shall seal and fill the well within 120 days of the permit's expiration date.
- (d) The Mayor may create categories of wells and exempt certain categories of wells from the requirements of this section and § 8-103.13b.

(Mar. 16, 1985, D.C. Law 5-188, § 14a, as added Nov. 13, 2003, D.C. Law 15-39, § 612(e), 50 DCR 5668.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Emergency Act of 2003

(D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For Law 15-39, see notes following § 8-103.01.

§ 8-103.13B. FEES, REIMBURSEMENTS, AND COSTS.

(a) The Mayor shall establish a schedule of fees for permits required by § 8-103.13a.

(b) The Mayor may require reimbursement of costs for services including, inspections, sample collection, or document review pursuant to § 8-103.13a.

(c) The Mayor may charge a fee for any permit issued pursuant to § 8-103.06.

(Mar. 16, 1985, D.C. Law 5-188, § 14b, as added Nov. 13, 2003, D.C. Law 15-39, § 612(e), 50 DCR 5668.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For Law 15-39, see notes following § 8-103.01.

§ 8-103.14. USE OF SLUDGE FROM TREATMENT FACILITIES.

(a) The Mayor may review and, as appropriate, approve studies, plans and specifications, operating manuals, and procedures for the disposal or use of sludge from treatment facilities and shall issue construction or operation permits.

(b) If the use of the sludge involves distribution to the public, then a distribution permit will also be required specifying the quality control and health protection conditions which must be met prior to distribution.

(c) For sludge originating outside of the District, a permit by reciprocity may be issued based upon an evaluation of the regulations of the originating state.

(Mar. 16, 1985, D.C. Law 5-188, § 15, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-934.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

§ 8-103.15. SUBPOENA AND INSPECTION POWERS OF MAYOR.

(a) The Mayor may issue a subpoena to compel the presentation of information pertinent to the regulation of the quality of District waters. If any person neglects or refuses to obey the subpoena, the Mayor may invoke the aid of a court of competent jurisdiction to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Mayor to produce the information requested. The court may punish any failure to obey an order issued pursuant to this subsection as a contempt thereof.

(b) For the purpose of enforcing this subchapter or any rule issued pursuant to this subchapter, the Mayor or his or her designated representative may, at any reasonable time, upon the presentation of appropriate credentials to the owner, operator, or agent in charge:

(1) Enter without delay any place to inspect any facilities, discharges, activities, equipment, wells, wetlands, underwater lands, or any other item that reasonably relates to the regulation of the quality of District waters;

(2) Inspect and obtain samples of any water or soil that will assist in regulating the quality of District

waters; and

(3) Inspect and copy any record, report, information, or test result required to be maintained pursuant to the rules issued pursuant to this subchapter.

(c) If the Mayor is denied access to any place, that reasonably relates to the regulation of the quality of District waters, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(Mar. 16, 1985, D.C. Law 5-188, § 16, 32 DCR 919; Nov. 13, 2003, D.C. Law 15-39, § 612(f), 50 DCR 5668.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-935.

Effect of Amendments

D.C. Law 15-39, rewrote subsecs. (a) and (b); and added subsec. (c). Prior to amendment, subsecs. (a) and (b) had read as follows:

"(a) The Mayor may issue subpoenas to compel the presentation of information pertinent to the regulation of the quality of District waters."

"(b)(1) The Mayor may inspect and monitor facilities, discharges, activities, equipment, waters, and other items pertinent to the regulation of the quality of District waters.

"(2) The inspection shall be reasonably calculated to ensure compliance with the purposes of this subchapter."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 612(f) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(f) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

For Law 15-39, see notes following § 8-103.01.

§ 8-103.16. PENALTIES.

(a)(1) A person who willfully or negligently violates this subchapter or the regulations promulgated pursuant to this subchapter shall be guilty of a misdemeanor.

(2) The person shall be fined at least \$2,500 or no more than \$25,000 for each day of the violation, imprisoned for no more than 1 year, or both fined and imprisoned according to this paragraph, except that any person who violates § 8-103.13a, or the regulations promulgated thereunder, shall be fined not more than \$5,000, imprisoned for no more than 90 days, or both.

(3) If the person has been previously convicted under this subsection, then the person shall be fined at least \$2,500 or no more than \$50,000 for each day of the violation, imprisoned for no more than 2 years, or both fined and imprisoned according to this paragraph, except that any person who violates § 8-103.13a, or the regulations promulgated thereunder, shall be fined not more than \$10,000, imprisoned for no more than one year, or both.

(b)(1) Any person who knowingly makes a false statement in an application, record, report, plan, or other document maintained under this subchapter shall be guilty of a misdemeanor.

(2) The person shall be fined no more than \$10,000, imprisoned no more than 6 months, or both fined and imprisoned according to this paragraph.

(c) Any person who violates § 8-103.08(a)(1) shall be guilty of a misdemeanor.

(d) For the purposes of this section, the term "person" shall mean, in addition to the definition contained in § 8-103.01, any responsible corporate officer.

(e) The Corporation Counsel shall prosecute violations of this subchapter in the Superior Court of the District of Columbia or any other court of competent jurisdiction.

(f) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(Mar. 16, 1985, D.C. Law 5-188, § 17, 32 DCR 919; Oct. 5, 1985, D.C. Law 6-42, § 401, 32 DCR 4450; Nov. 13, 2003, D.C. Law 15-39, § 612(g), 50 DCR 5668.)

Prior Codifications

1981 Ed., § 6-936.

Effect of Amendments

D.C. Law 15-39, in subsec. (a), inserted "except that any person who violates § 8-103.14a, or the regulations promulgated thereunder, shall be fined not more than \$5,000, imprisoned for no more than 90 days, or both" before the period in par. (2), and inserted "except that any person who violates § 8-103.14a, or the regulations promulgated thereunder, shall be fined not more than \$10,000, imprisoned for no more than one year, or both" before the period in par. (3).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 612(g) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(g) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 7-1706.

For Law 15-39, see notes following § 8-103.01.

§ 8-103.17. ENFORCEMENT OF SUBCHAPTER.

(a) When the Mayor has reason to believe that a person has violated this subchapter or regulations or orders established under this subchapter, the Mayor shall enforce this subchapter by use of any measure, or combination of measures, authorized by this subchapter; provided, however, that a person shall not, for the same violation, be assessed a civil penalty through both the judicial and the administrative processes.

(b)(1) For violations of the law referred to in subsection (a) of this section, the Mayor may order the following:

- (A) That the person comply with this subchapter;
- (B) Order the person to eliminate the violation; and
- (C) Set a deadline for the person's compliance with the commands under subparagraphs (A) and (B) of this paragraph.

(2)(A) The Mayor shall with the order notify the person that the person has a right to timely challenge the order at a hearing before the Mayor, where the hearing will determine whether the order shall become effective.

- (B) The order shall state with reasonable specificity the nature of the violation.
- (C) The order shall set forth the corrective or remedial action to be taken.
- (D) The order shall clearly explain when it shall become effective.
- (E) The order shall clearly state the deadline for the person to request a hearing with the Mayor under subparagraph (F) of this paragraph.
- (F) If the person requests a hearing, then the Mayor shall conduct a hearing within 10 days of receiving the request and shall render a decision concerning the order within 10 days of the hearing.

(3) Any compliance order issued by the Mayor may be served personally or by registered mail to the person's last known address, as shown on the Mayor's records.

(c)(1) If water quality sufficient for a designated beneficial use of the water quality standards is not being attained or maintained and there is reason to believe that the use represents a health hazard to the public, the Mayor shall issue an order forbidding the use.

(2) The orders shall contain the following to the extent needed:

- (A) The use which is forbidden;
- (B) The waters affected by the order;
- (C) The duration of the order;
- (D) The health hazard involved;
- (E) The reason the health hazard is believed to exist;

(F) The penalty for violating the order; and

(G) The measures needed to implement the order and to improve the water quality.

(d)(1) A civil penalty under § 8-103.18(b)(2) may be assessed by the Mayor after the Mayor notifies and provides an opportunity for a hearing to the person charged with the violation.

(2) If the Mayor charges a civil penalty under this subsection, then the Mayor shall consider the following while determining the amount of the penalty:

(A) The gravity of the offense;

(B) The care shown by the owner, operator, or person in charge; and

(C) The extent of the success in mitigating the effects of the discharge.

(e) Except where an owner or operator can prove that an unauthorized discharge was caused solely by (1) an act of God, (2) negligence on the part of the District, (3) an act of war, (4) an act or omission of a 3rd party, or (5) any combination of the foregoing causes, an owner or operator of any vessel or onshore or offshore facility from which a hazardous substance or pollutant is discharged shall be liable for the full costs of removal, or for the cost of any assistance provided or arranged by the Mayor, in accordance with § 8-103.08(b), and for such amount as represents the damage to water quality and the aquatic life, in addition to any civil penalty.

(Mar. 16, 1985, D.C. Law 5-188, § 18, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-937.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

§ 8-103.18. CIVIL ACTIONS.

(a)(1) The Mayor is authorized to institute a civil action for a prohibitory or mandatory injunction or other appropriate relief by way of a temporary restraining order, preliminary or permanent injunction, or other judicial decree.

(2) The action shall be brought in the Superior Court of the District of Columbia or any other court of competent jurisdiction.

(3) In any action under this subsection, upon a showing that any person is violating or is about to violate any provision of this subchapter or any regulations promulgated pursuant to this subchapter or any order, permit, or permit condition established according to this subchapter, the court may grant an injunction without requiring a showing of a lack of an adequate remedy at law.

(b)(1) For violations of this subchapter or related regulations or orders, the Mayor may bring civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction.

(2)(A) A person who violates the laws referred to in paragraph (1) of this subsection shall be subject to a civil penalty of no more than \$50,000 for each violation.

(B) A person who willfully violates the laws referred to in paragraph (1) of this subsection shall be subject to a civil penalty of no more than \$250,000 for each violation.

(C) The court shall determine the amount of the civil penalty under this paragraph based on consideration of the following factors:

(i) The size of the person's business;

(ii) The ability of the person to continue the business despite the penalty;

(iii) The seriousness of the violation; and

(iv) The nature and the extent of success in the person's efforts to mitigate the effects of the discharge.

(3) If the Mayor does not apply the administrative remedy under § 8-103.17(d)(1), then the Mayor may bring suit in the Superior Court of the District of Columbia or any other court of competent jurisdiction to charge the penalty described in paragraph (2) of this subsection.

(4) Each violation of the laws referred to in paragraph (1) of this subsection shall be considered a separate offense.

(Mar. 16, 1985, D.C. Law 5-188, § 19, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-938.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

§ 8-103.19. PRIVATE RIGHTS OF ACTION PERMITTED; PRIOR NOTICE TO MAYOR; REGULATIONS AND INVESTIGATIONS CONCERNING REPORTED VIOLATIONS.

(a) Any citizen of the District, private party, company, business, or citizen group may commence a civil action against any person who is in violation of any provision of this subchapter; provided, that no such action may be commenced unless:

(1) The complaining person has, at least 90 days prior to the commencement of such action, given the Mayor and the alleged violator notice of the alleged violation and of the intention to sue; and

(2) The Mayor has not within the 90-day period either taken reasonable action to bring the alleged violator into compliance or initiated enforcement proceedings in accordance with this subchapter.

(b)(1) The Mayor shall promulgate regulations for receiving and ensuring proper consideration of information submitted by the public about violations.

(2) The Mayor shall investigate and provide a written response to all reports submitted in accord with the procedures promulgated pursuant to paragraph (1) of this subsection.

(3) The Mayor shall not oppose intervention by any citizen in a civil action brought pursuant to this section.

(4) Before settlement of any enforcement action brought pursuant to this section the Mayor shall publish notice of the proposed settlement in the District of Columbia Register and shall allow at least 30 days for public comment.

(Mar. 16, 1985, D.C. Law 5-188, § 20, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-939.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

§ 8-103.20. RULES.

The Mayor shall issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2.

(Mar. 16, 1985, D.C. Law 5-188, § 21, 32 DCR 919.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-940.

Legislative History of Laws

For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.03.

SUBCHAPTER III. WASTEWATER CONTROL.

§ 8-105.01. PURPOSE.

In enacting this subchapter, the Council of the District of Columbia supports the following statutory purposes and objectives:

(1) To provide for the maximum possible beneficial public use of the District's wastewater system;

(2) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or the use or disposal of sludge and residue;

(3) To prevent the introduction of pollutants into the wastewater system which will pass through the system inadequately treated and into receiving waters or into the atmosphere or will otherwise be incompatible with the system;

(4) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

(5) To prevent tampering or misuse of the wastewater system; and

(6) To provide procedures for complying with the requirements contained in this statute.

(Mar. 12, 1986, D.C. Law 6-95, § 2, 33 DCR 577.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-951.

Legislative History of Laws

Law 6-76, the "Wastewater System Regulation Temporary Act of 1985," was introduced in Council and assigned Bill No. 6-314, which was retained by Council. The Bill was adopted on first and second readings on September 24, 1985, and October 8, 1985, respectively. Signed by the Mayor on November 4, 1985, it was assigned Act No. 6-99 and transmitted to both Houses of Congress for its review.

Law 6-95, the "Wastewater System Regulation Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-189, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on December 3, 1985, and December 17, 1985, respectively. Signed by the Mayor on January 15, 1986, it was assigned Act No. 6-124 and transmitted to both Houses of Congress for its review.

§ 8-105.02. DEFINITIONS.

For the purposes of this subchapter, the term:

(1) Repealed.

(1A) Repealed.

(1B) Repealed.

(1C) "Best Management Practices" or "BMPs" means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR § 403.5(a)(1) and (b), § 8-105.06 and local pretreatment requirements established pursuant to §§ 8-105.07 and 8-105.15. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(1D) "Blue Plains" means the District of Columbia's Wastewater Treatment Plant at Blue Plains, a POTW.

(1E) "Categorical Pretreatment Standards" or "Categorical Standards" or "National Categorical Pretreatment Standards" means any regulation promulgated by the Environmental Protection Agency ("EPA") in accordance with section 307(b) and (c) of the Clean Water Act which specifies quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new Industrial Users in specific industrial categories provided in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(1F) "Categorical wastewater" means wastewater subject to National Categorical Pretreatment Standards.

(1G) "Clean Water Act" means the Federal Water Pollution Control Act, approved October 18, 1972 (86 Stat. 816; 33 U.S.C. § 1251 *et seq.*).

(1H) "CFR" means the Code of Federal Regulations.

(1I) "Cooling water" means the wastewaters discharged from any system of heat transfer, such as condensation, air conditioning, cooling, or refrigeration to which the only pollutant added is heat.

(2) "Discharge" means any solid, liquid, or gas introduced into the wastewater system, including indirect discharges.

(3) "District" means the District of Columbia.

(3A) Repealed.

(3B) "District pretreatment standards" or "Local limits" means those limits established pursuant to §§ 8-105.07 and 8-105.15.

(3C) "Hazardous waste" means any waste defined as hazardous waste in § 8- 1302(2).

(3D) "High strength wastes" means wastewater containing concentrations of organic matter, solids, or nutrients that are higher than domestic (residential) strength wastewater.

(3E) "Indirect discharge" means the introduction of pollutants into a POTW or the District's wastewater system from any non-domestic source regulated under sections 307(b), (c), or (d) of the Clean Water Act, and this subchapter.

(3F) "Industrial User" means a source of indirect discharge from a non-domestic user who discharges, causes, or permits the discharge of wastewater into the District's wastewater system.

(3G) "Infectious waste" means any waste defined as infectious waste in § 8- 1051(21).

(4) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(A) Inhibits or disrupts the District's wastewater system, its treatment processes or operations, or its sludge processes, use, or disposal; and

(B) Therefore is a cause of a violation of any requirement of WASA's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

(i) Section 405 of the Clean Water Act (33 U.S.C. § 1345);

(ii) The Solid Waste Disposal Act ("SWDA"), more commonly known as the Resource Conservation and Recovery Act of 1976, approved October 21, 1976 (90 Stat. 2795; 42 U.S.C. § 6901 *et seq.*), and including State or District regulations contained in any State or District sludge management plan prepared pursuant to subtitle D of the SWDA;

(iii) The Clean Air Act, approved December 17, 1963 (77 Stat. 392; 42 U.S.C. § 7401 *et seq.*);

(iv) The Toxic Substances Control Act, approved October 11, 1976 (90 Stat. 2003; 15 U.S.C. § 2601 *et seq.*); and

(v) The Marine Protection, Research, and Sanctuaries Act of 1972, approved October 23, 1972 (86 Stat. 1052; 33 U.S.C. § 1401 *et seq.*).

(5) "Mayor" means the Mayor of the District of Columbia or any representative or agency designated by the Mayor to carry out the provisions of this subchapter.

(5A) Repealed.

(5B) Repealed.

(5C) Repealed.

(5D) "Medical waste" means any waste defined as medical waste in § 8- 901(3A).

(5E) "National Pretreatment Standards", "Pretreatment standards", or "Standards" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act, which applies to Industrial Users. National Pretreatment Standards, pretreatment standards, or standards, includes prohibitive discharge limits and local limits established pursuant to 40 CFR § 403.5.

(5F) "Natural outlet" means any outlet into a watercourse, pond, ditch, river, lake, or other body of surface water.

(5G) "NPDES" means the National Pollutant Discharge Elimination System.

(5H) "NPDES permit" means the National Pollution Discharge Elimination System permit issued by the EPA Region III to WASA for the operation of the Blue Plains Wastewater Treatment Facility in effect on June 4, 2007 and as it may be amended or modified in the future, and any successor permits issued by the EPA Region III to either the District or to WASA.

(6) "Objectionable color" means a color inappropriate for the normal characteristics of the receiving water.

(7) "Pass through" means any discharge which exits the District's wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the NPDES permit (including an increase in the magnitude or duration of a violation).

(8) "Person" means any natural person, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns.

(9) "Pollutant" means any substance which induces or may induce an alteration of the chemical, physical, biological, or radiological integrity of water, which has or may have a detrimental effect on a

subsequent use of that water, or which interferes or may interfere with the wastewater system.

(10) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants to the District's wastewater system. This reduction or alteration may be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 CFR § 403.6(d) and § 8-105.06(h). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the District's wastewater system. However, if wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR § 403.6(e).

(10A) "Pretreatment requirements" means any District pretreatment standard or federal, state, or local substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

(10B) "Prohibited Discharge Standards" or "Prohibitive Discharge limits" means any statute or regulation containing prohibitions on pollutant discharges including regulations promulgated by the EPA and the prohibitions in § 8-105.06 and local pretreatment requirements established pursuant to §§ 8-105.07 and 8-105.15.

(10C) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by section 212 of the Clean Water Act (33 U.S.C. § 1292), which is owned by a State or municipality, such as the District of Columbia. The term includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances which convey wastewater to a treatment plant.

(10D) "POTW treatment plant" means that portion of a POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(11) "Septic tank" means a watertight receptacle which receives the discharge from a drainage system or a part of the drainage system, and is designed and constructed to separate solids from the liquid, decompose organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank.

(11A) "Significant Industrial User" or "SIU" means:

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the term "Significant Industrial User" or "SIU" means:

(i) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR § 403.6, and 40 CFR Chapter I, Subchapter N; and

(ii) Any other Industrial User that:

(I) Discharges an average of 25,000 gallons per day or more of process wastewater to the District's wastewater system or other POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

(II) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of Blue Plains; or

(III) Is designated as a Significant Industrial User by WASA on the basis that the Industrial User has a reasonable potential for adversely affecting the operation of Blue Plains or for violating any pretreatment standard or requirement.

(B) WASA may determine that an Industrial User subject to Categorical Pretreatment Standards under 40 CFR § 403.6 and 40 CFR Chapter I, Subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) The Industrial User, prior to WASA's finding, has consistently complied with all applicable Categorical Pretreatment Standards and requirements;

(ii) The Industrial User annually submits the certification statement required in 40 CFR § 403.12(q) together with any additional information necessary to support the certification statement; and

(iii) The Industrial User never discharges any untreated concentrated wastewater.

(C) Upon a finding that an Industrial User meeting the criteria in subparagraph (A)(ii) of this paragraph has no reasonable potential for adversely affecting the operation of Blue Plains or for violating any pretreatment standards or requirements, WASA may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR §

403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

(11B) "Significant noncompliance" means a Significant Industrial User that is in significant noncompliance with the pretreatment standards and requirements if it violates a term of a discharge permit and its violation meets one or more of the criteria listed in § 8-105.13, or an Industrial User whose violation meets one or more of the criteria listed in § 8-105.13(c)(3), (7) or (8).

(12) "Sludge and residue" means the accumulated solids, grease, liquids, and scum separated from wastewater during the wastewater treatment process.

(13) "Slug discharge" or "Slug load" means any discharge of a non-routine, episodic nature, including an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate WASA's regulations, local limits, or permit conditions such that it is capable of violating the specific prohibitive discharge limits of § 8-105.06 and local pretreatment requirements established pursuant to §§ 8-105.07 and § 8-105.15.

(14) "User" means any person who discharges, causes, or permits the discharge of wastewater into the District's wastewater system.

(14A) "WASA" means the District of Columbia Water and Sewer Authority, as established by Chapter 22 of Title 34.

(15) "Wastewater" means the liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities, institutions, and swimming pools.

(16) "Wastewater system" means the devices, facilities, structures, equipment, or works owned, operated, maintained, or used by the District or WASA for the purpose of the transmission, storage, treatment, recycling, and reclamation of wastewater or to recycle or reuse water, including intercepting sewers, outfall sewers, wastewater collection systems, treatment, pumping, power, and other equipment and their appurtenances, extensions, improvements, remodeling of improvements, additions, and alterations to the additions, elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities, and any works, including land, that are or may be an integral part of the treatment process or that are or may be used for disposal of sludge and residue resulting from such treatment, and sewers designated as storm sewers shall be considered a part of the wastewater system for purposes of this subchapter.

(17) "Wastewater System Regulation Act" means this subchapter.

(Mar. 12, 1986, D.C. Law 6-95, § 3, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(a), 45 DCR 1724; May 8, 1998, D.C. Law 12-106, § 2(a), 45 DCR 1724; Apr. 12, 2000, D.C. Law 13-91, § 139(a), 47 DCR 520; Oct. 26, 2010, D.C. Law 18-256, § 2(a), 57 DCR 8082; Sept. 26, 2012, D.C. Law 19-171, § 57(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-952.

Effect of Amendments

D.C. Law 13-91, in subsec. (3A), validated a previously made technical amendment.

D.C. Law 18-256, rewrote the section, which formerly read:

"For the purposes of this subchapter, the term:

"(1) 'Categorical pretreatment standards' or 'Categorical standards' means any regulation promulgated by the Environmental Protection Agency ('EPA') which specifies quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial categories.

"(1A) 'Clean Water Act' means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.).

"(1B) 'CFR' means the Code of Federal Regulations.

"(2) 'Discharge' means any solid, liquid, or gas introduced into the wastewater system.

"(3) 'District' means the District of Columbia.

"(3A) 'Industrial user' means a non-domestic user who discharges, causes, or permits the discharge of wastewater into the District's wastewater system.

"(4) 'Interference' means the inhibition or disruption of the District's wastewater system processes or operations which causes, may cause, or contributes to a violation of any requirement of the District's National Pollutant Discharge Elimination System permit, or which threatens life, property, or environment. Interference includes inhibition or prevention of legitimate sludge use or disposal.

"(5) 'Mayor' means the Mayor of the District of Columbia.

"(5A) 'National pretreatment standards', 'Pretreatment standards', or 'Standards' means any regulation

containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Clean Water Act. National pretreatment standards, Pretreatment standards, or Standards, also includes the prohibitions in § 8-105.06.

"(5B) 'NPDES' means the National Pollutant Discharge Elimination System.

"(5C) 'NPDES permit' means the National Pollution Discharge Elimination System permit issued by the EPA to the District for the operation of the Blue Plains Wastewater Treatment Facility in effect on May 8, 1998, and as it may be amended in the future, and any successor permits issued by the EPA to either the District or to WASA.

"(6) 'Objectionable color' means a color inappropriate for the normal characteristics of the receiving water.

"(7) 'Pass through' means any discharge which exits the District's wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the NPDES permit (including an increase in the magnitude of duration of a violation).

"(8) 'Person' means any natural person, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns.

"(9) 'Pollutant' means any substance which induces or may induce an alteration of the chemical, physical, biological, or radiological integrity of water, which has or may have a detrimental effect on a subsequent use of that water, or which interferes or may interfere with the wastewater system.

"(10) 'Pretreatment' means the elimination of or reduction in the amount of pollutants or the alteration of the nature of pollutant properties in wastewater to a less detrimental state prior to discharge into the District's wastewater system.

"(10A) 'Pretreatment requirements' means any federal, state, or local substantive or procedural requirement related to pretreatment, other than National Pretreatment Standard, imposed on an Industrial User.

"(10B) 'Prohibited Discharge Standards' means any regulation containing prohibitions on pollutant discharges to include such regulations promulgated by the EPA. 'Prohibited Discharge Standards' also includes discharges prohibited in § 8-105.06.

"(11) 'Septic tank' means a watertight receptacle which receives the discharge from a drainage system or a part of the drainage system, and is designed and constructed to separate solids from the liquid, decompose organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank.

"(12) 'Sludge and residue' means the accumulated solids, grease, liquids, and scum separated from wastewater during the wastewater treatment process.

"(13) 'Slug Discharge' or 'Slug load' means a discharge capable of violating the specific prohibited discharge provisions of § 8-105.06.

"(14) 'User' means any person who discharges, causes, or permits the discharge of wastewater into the District's wastewater system.

"(14A) 'WASA' means the District of Columbia Water and Sewer Authority, as established by Chapter 22 of Title 34.

"(15) 'Wastewater' means the liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities, institutions, and swimming pools.

"(16) 'Wastewater system' means the devices, facilities, structures, equipment, or works owned, operated, maintained, or used by the District for the purpose of the transmission, storage, treatment, recycling, and reclamation of wastewater or to recycle or reuse water, including intercepting sewers, outfall sewers, wastewater collection systems, treatment, pumping, power, and other equipment and their appurtenances, extensions, improvements, remodeling of improvements, additions, and alterations to the additions, elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities, and any works, including land, that are or may be an integral part of the treatment process or that are or may be used for disposal of sludge and residue resulting from such treatment, and sewers designated as storm sewers shall be considered a part of the wastewater system for purposes of this subchapter.

"(17) 'Wastewater System Regulation Act' means this subchapter."

D.C. Law 19-171, in par. (3E), validated a previously made technical correction.

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

Law 12-106, the "Wastewater System Regulation Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-299, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on January 6, 1998, and February 3, 1998, respectively. Signed by

the Mayor on February 17, 1998, it was assigned Act No. 12-284 and transmitted to both Houses of Congress for its review. Law 12-106 became effective on May 8, 1998.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

Law 18-256, the "Wastewater System Regulation Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-252, which was referred to the Committee on Public Works and Transportation. The Bill was adopted on first and second readings on June 29, 2010, and July 13, 2010, respectively. Signed by the Mayor on August 3, 2010, it was assigned Act No. 18-527 and transmitted to both Houses of Congress for its review. D.C. Law 18-256 became effective on October 26, 2010.

Law 19-171, the "Technical Amendments Act of 2012", was introduced in Council and assigned Bill No. 19-397, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 20, 2012, and April 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to both Houses of Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

References in Text

"Section 307(b) and (c) of the Clean Water Act", referred to in (1E), (3E), (5E) and (5A), is 33 U.S.C. § 1317(b) and (c).

§ 8-105.03. SPECIAL AGREEMENTS.

(a) Nothing in this subchapter shall be construed as prohibiting any special agreements between WASA and any user of the wastewater system under which wastewater of specific strength or character is accepted into the wastewater system and treated subject to any payments or fees as may be applicable, provided, that:

(1) National categorical pretreatment standards set forth at 40 CFR § 403.6 and prohibited discharge standards set forth at 40 CFR §§ 403.5(a) and (b) shall not be waived, unless such waiver is granted by mechanisms established under the Federal pretreatment regulations (40 CFR § 403 *et seq.*).

(2) In no case shall a special agreement or waiver of local limits allow for an industrial user to discharge any pollutant which, alone or in combination with other regulated industrial user discharges, would reasonably be expected to exceed the mass loadings determined by WASA as acceptable to the sewage treatment plant based upon considerations of, among other things, interference, pass through, and sludge contamination. WASA may consider other factors (e.g., effect of the discharge on the POTW, future expansion, etc.), as it considers appropriate. In no event shall special agreement or waiver allow the sum of the loadings allocated to all industrial users for any pollutant to exceed the maximum allowable industrial loading set forth in any local limits analysis submitted by WASA and approved by EPA as part of WASA's pretreatment program.

(3) WASA may require an industrial user requesting a special agreement or waiver adjusting effluent limitations to submit supporting documentation indicating why the industrial user cannot reasonably expect to meet the effluent limitation contained in its wastewater discharge permit, setting forth an expeditious schedule for achieving compliance with such limitations, and including such other information as WASA may require. In granting any special agreement or waiver WASA may impose time limitations upon any reduced requirements and provide a compliance schedule for achieving compliance. In granting any special agreement or waiver, WASA may impose any other conditions it considers necessary to implement the purposes of this section.

(4) If granting a special agreement or waiver would result in increased costs to WASA, (e.g., treatment, monitoring, sludge disposal costs), WASA may condition the special agreement or waiver upon the agreement of the industrial user to pay those costs, and to provide security adequate in the judgment of WASA to assure payment of those costs.

(b) All special agreements or waivers shall be requested and granted in writing.

(Mar. 12, 1986, D.C. Law 6-95, § 4, 33 DCR 577; Oct. 26, 2010, D.C. Law 18-256, § 2(b), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-953.

Effect of Amendments

D.C. Law 18-256, rewrote the section, which formerly read:

"Nothing in this subchapter shall be construed as prohibiting any agreement between the District and any user of the wastewater system under which wastewater of specific strength or character is accepted into the wastewater system and treated subject to any payments or fees as may be applicable, except that national pretreatment standards shall not be waived."

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.04. FALSIFYING INFORMATION.

Any person who knowingly makes any false statement, representation, or certification in any information or data submitted to, or required by, the District or WASA under this subchapter, or the rules and regulations promulgated pursuant to this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method, upon conviction, shall be liable for the penalties provided in § 8-105.14.

(Mar. 12, 1986, D.C. Law 6-95, § 5, 33 DCR 577; Oct. 26, 2010, D.C. Law 18-256, § 2(c), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-954.

Effect of Amendments

D.C. Law 18-256 substituted "the District or WASA" for "the District".

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For history of Law 18-256, see notes under § 8-105.02

§ 8-105.05. TAMPERING AND MISUSE.

No person shall break, alter, damage, tamper with, or otherwise interfere with or impair the wastewater system.

(Mar. 12, 1986, D.C. Law 6-95, § 6, 33 DCR 577.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-955.

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

§ 8-105.06. REGULATION.

(a) The Mayor is authorized to establish a system of wastewater treatment allocation.

(b) All users shall comply with the following prohibitive discharge limits:

(1) *General prohibitions.* -- A user shall not introduce into the District's wastewater system any pollutant which causes pass through or interference. These general prohibitions and the specific prohibitions in paragraph (2) of this subsection apply to any user introducing pollutants into the District's wastewater system whether or not the user is subject to National Pretreatment Standards or National, State, District, or local pretreatment standards or requirements;

(2) *Specific prohibitions.* -- In addition, the following pollutants shall not be introduced into the District's wastewater system:

(A) Pollutants which create a fire or explosion hazard in the District's wastewater system, including waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR § 261.21 or waste streams causing 2

readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5% or any single reading over 10% of the Lower Explosive Limit of the meter. This prohibition includes any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create fire or explosion or to injure in any other way the wastewater system or the process or operation and maintenance of the wastewater system. Prohibited materials under this section include, but are not limited to, gasoline, kerosene, naphtha, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

(B) Pollutants which have a pH of less than 5.0 or more than 10.0, except when a waiver to the upper pH limit is authorized in writing by WASA, or which have any corrosive property capable of damaging or creating a hazard to structures, equipment, processes, and personnel of the District's wastewater system, including acids, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form acidic or alkaline products.

(C) Solid or viscous substances in amounts which may cause, or contribute to obstruction of the flow in a sewer or otherwise interfere with the operation of the District's wastewater system, including, but not limited to: substances which may solidify or become viscous at temperatures above 32 degrees Fahrenheit or 0 degrees Centigrade, solids having any linear dimensions greater than 1 inch, fats, oils, and grease, incompletely shredded garbage, animal remains, blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding, or polishing wastes.

(D) Any pollutant, including oxygen demanding pollutants, released in discharge at a flow rate, or concentration, or a combination of both, which causes interference with the District's wastewater system.

(E) Any wastewater with heat in such amounts as will inhibit the biological activity of processes in the District's wastewater system resulting in interference. In no case shall wastewater be discharged by a user in temperatures in excess of 140 degrees Fahrenheit or 60 degrees Centigrade, nor shall wastewater be discharged which causes individually or in combination with other wastewater, the influent at the District's wastewater treatment plant to have a temperature exceeding 104 degrees Fahrenheit or 40 degrees Centigrade, except where a variance from the 140 degrees Fahrenheit discharge limit is authorized in writing by WASA.

(F) Any wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference.

(G) Any wastewater containing pollutants which result in the presence of toxic, noxious or malodorous liquids, solids, gases, vapors, or fumes within the District's wastewater system which alone or in interaction with other wastes, are capable of creating a public nuisance or hazard to humans or animals, are sufficient to cause acute worker health and safety problems, or are sufficient to cause interference or pass through.

(H) Any wastewater of objectionable color or tint not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning wastes.

(I) Any trucked or hauled pollutants, except at discharge points designated by WASA.

(J) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by WASA or applicable State or National standards, cause pass through or interference or otherwise adversely impact the District's wastewater system or cause or contribute to pollution.

(K) Sludges, screenings, or other residues from the pretreatment of industrial wastes.

(L) Medical or infectious wastes, except as specifically authorized in writing by WASA.

(M) Wastewater causing, alone or in conjunction with other sources, the effluent from Blue Plains to fail toxicity tests.

(N) Detergents, surface-active agents, or other substances which might cause excessive foaming in the District's wastewater system.

(O) Any waste that if otherwise disposed of would be a hazardous waste, unless specifically authorized in writing by WASA.

(P) Any substance which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the Blue Plains Title V permit issued pursuant to the Clean Air Act.

(c) All users shall comply with the National Pretreatment Standards and any national or local pretreatment requirement. All users shall comply with the National Categorical Pretreatment Standards in 40 CFR Chapter I, Subchapter N, Parts 405 through 471 and any amendments thereto. Should any National standard, requirement, or limitation conflict with a matter regulated by this subchapter or its implementing

regulations, the more stringent standard shall govern.

(d) Storm waters (including snow), surface waters, ground waters, roof runoff, subsurface drainage, cooling waters, or other non-wastewater flow shall be discharged only into those sewers specifically designated as storm or combined sewers, or to a natural outlet. Discharge of any waters into any storm or combined sewer or to a natural outlet is prohibited if the discharge will create a detrimental effect upon the receiving water.

(e) Repealed.

(f) Unless specifically authorized by WASA, no user shall discharge directly into a manhole or catch basin or similar opening in or into a sewer, any substance including, but not limited to, septic tank sludge, restaurant grease, waste or discharge from fuel service stations, or boat holding tank or portable toilet effluent.

(g) The installation of septic tanks and the installation or continuing use of earth pit privies shall be prohibited. Whenever replacement or significant repair to a septic tank or discharge piping is necessary, the user shall notify WASA, which shall determine if the tank should be discontinued and the wastewater conducted to the wastewater system.

(h) Increased use of process water or dilution of a discharge shall not constitute either a partial or complete substitute for adequate or necessary pretreatment to achieve compliance with any discharge limitation.

(i) Provisions for storage of any substance in areas draining into a District sewer which, because of actual or potential discharge or leakage from the storage, creates or may create an explosion hazard in, or in any other way have a detrimental effect upon, the wastewater system, or otherwise constitute or pose a hazard to human beings, animals, property, or the receiving waters shall be subject to review by WASA, who shall require reasonable safeguards to eliminate or minimize the detrimental effect.

(j) All users shall notify WASA immediately of all discharges whether accidental or intentional, that violate these standards or that could otherwise cause problems in the District's wastewater system, including any slug load or slug discharges as defined in § 8-105.02. The notification shall include location of the discharge, type of waste, concentration, and volume, and corrective actions undertaken or to be undertaken by the user. Within 5 days following an accidental discharge, the user shall submit to WASA a detailed written report describing the cause of the discharge and the measures taken or to be taken by the user to prevent similar future occurrences. The notice shall not relieve the user of liability for any expense, loss, or damage which may be incurred or occasioned by damage to the wastewater system, injury to fish, or other damage to persons, property, or the environment caused by the user's act. Compliance with the provisions of this subsection shall not relieve the user of liability for any fines or penalties which may be imposed by this subchapter or other applicable law or regulation. Notices shall be permanently posted on the user's bulletin boards or other prominent places advising employees whom to notify in the event of an accidental discharge. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedures.

(k) All users shall provide wastewater pretreatment necessary to comply with this subchapter. Any facilities required to pretreat wastewater shall be provided, operated, monitored, and maintained at the user's expense.

(l) No user shall discharge pollutants into the District's wastewater system in excess of the limitations established and promulgated by WASA.

(m) No user shall discharge into the District's wastewater system any substance which, if otherwise disposed of, would be a hazardous waste under applicable federal, state, and municipal regulations without prior written notification to WASA, the Mayor, the Director of EPA Region III's Waste Management Division, and the appropriate city and state hazardous waste authorities in the jurisdiction in which the discharge will occur. Such notification shall include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge.

(n) All Significant Industrial Users shall notify WASA immediately of any changes at their facility affecting the potential for a slug discharge.

(Mar. 12, 1986, D.C. Law 6-95, § 7, 33 DCR 577; May 8, 1998, D.C. Law 12- 106, § 2(b), 45 DCR 1724; Apr. 12, 2000, D.C. Law 13-91, § 139(b), 47 DCR 520; Oct. 26, 2010, D.C. Law 18-256, § 2(d), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-956.

Effect of Amendments

D.C. Law 13-91, in subsec. (l), substituted "promulgated by WASA." for "promulgated by WASA; and".

D.C. Law 18-256 rewrote subsecs. (b) and (m); in subsec. (c), substituted "National standard" for "national standard"; repealed subsec. (e); and added subsec. (m). Prior to amendment or repeal, subsecs. (b), (e), and

(m) read as follows:

"(b) All users shall comply with the following standards which set forth prohibited discharges:

"(1) *General prohibitions.* -- A user shall not introduce into the District's wastewater system any pollutant which causes pass through or interference. This general prohibition applies to any user introducing pollutants into the District's wastewater system whether or not the user is subject to National Pretreatment Standards or national, state or local pretreatment requirements;

"(2) *Specific prohibitions.* -- In addition, the following pollutants shall not be introduced into the District's wastewater system:

"(A) Pollutants which create a fire or explosion hazard in the District's wastewater system, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR Chapter I, Subchapter N, Part 261.21. This prohibition includes any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create fire or explosion or to injure in any other way the wastewater system or the process or operation and maintenance of the wastewater system. Prohibited materials under this section include, but are not limited to, gasoline, kerosene, naphtha, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

"(B) Pollutants which have any corrosive property capable of damaging or creating a hazard to structures, equipment, processes and personnel of the District's wastewater system, including, but not limited to, discharges with pH (that is, a base 10 logarithm of the reciprocal of the concentration of hydrogen ions stated in grams per liter) of less than 5, or greater than 10.

"(C) Solid or viscous substances with a specific gravity greater than 2.50, or having any linear dimension greater than 1 inch, or which will or may cause, or contribute to obstruction of the flow in a sewer or otherwise interfere with the operation of the wastewater system including, but not limited to, grease, incompletely shredded garbage, animal remains, blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, spent grains, waste paper, wood, plastic, gas, tar, asphalt residue, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding, or polishing wastes.

"(D) Any pollutant, including oxygen demanding pollutants, released in discharge at a flow rate, or concentration, or a combination of both, which causes interference with the District's wastewater system.

"(E) Any wastewater with heat in such amounts as will inhibit the biological activity of processes in the District's wastewater system resulting in interference. In no case shall wastewater be discharged by a user in temperatures in excess of 140 degrees Fahrenheit or 60 degrees Centigrade, nor shall wastewater be discharged which causes individually or in combination with other wastewater, the influent at the District's wastewater treatment plant to have a temperature exceeding 104 degrees Fahrenheit or 40 degrees Centigrade.

"(F) Any wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference.

"(G) Any wastewater containing substances which may solidify or become viscous at temperatures above 32 degrees Fahrenheit or 0 degrees Centigrade.

"(H) Any wastewater containing pollutants which result in the presence of toxic, noxious or malodorous liquids, solids or gases, which alone or in interaction with other wastes, are capable of creating a public nuisance or hazard to humans or animals, or are sufficient to inhibit access of District personnel to any part of the District's wastewater system, or cause interference or pass through.

"(I) Any wastewater of objectionable color or tint not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning wastes.

"(J) Any trucked or hauled pollutants, except at discharge points designated by WASA."

"(e) Disposal of radioactive wastes shall comply with the regulations of the Nuclear Regulatory Commission, promulgated March 17, 1965 (31 Fed. R. 4502; 10 CFR, ch. 1)."

"(m) All users shall notify WASA, the Mayor, the Director of EPA's Region III Waste Management Division, and the appropriate city and state hazardous waste authorities in the jurisdiction in which the discharge emanated, in writing, of any discharge into the District's wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under applicable federal, state and municipal regulations. Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge."

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For Law 13-91, see notes following § 8-105.02.

§ 8-105.07. ADMINISTRATION.

(a) WASA shall administer, implement and enforce the provisions of this subchapter and ensure compliance with this subchapter and with federal laws and regulations governing the issuance of permits for the discharge or potential discharge of wastewater into publicly owned treatment plants, through individual or general permits, orders, or other similar means. In the case of Industrial Users, WASA shall use individual or general permits or equivalent individual or general control mechanisms. These permits, orders, or other similar means or individual or general control mechanisms shall comply with all applicable federal laws and regulations. WASA is authorized to set and collect fees and charges as may be necessary or appropriate to recoup costs associated with its responsibilities pursuant to this subchapter and pursuant to federal laws and regulations governing the issuance of permits for the discharge or potential discharge of wastewater into publicly owned treatment plants.

(b) WASA shall issue rules to implement the provisions of this subchapter under subchapter I of Chapter 5 of Title 2 and the rules may include, but not be limited to:

- (1) Regulations requiring users to submit information considered necessary by WASA to evaluate the user's actual or potential discharge status, including, but not limited to, description of facilities and plant processes, wastewater constituents and characteristics, discharge variations, and mechanical and plumbing plans and details;
- (2) Regulations imposing conditions on users, including, but not limited to, limits on new or increased contributions of pollutants, best management practices ("BMPs") in lieu of or in addition to numerical limits, changes in the nature of pollutants discharged, flow regulation or equalization, installation of sampling facilities and specifications for monitoring programs, installation and maintenance of pretreatment facilities and BMPs, and development and implementation of slug control plans;
- (3) Regulations requiring the development of compliance schedules for the installation of technology required to comply with this subchapter;
- (4) Regulations imposing fees to treat hauled wastes and high strength wastes as may be defined by WASA;
- (5) Regulations to effectively and safely dispose of wastes collected in portable collection systems, including, but not limited to, septic tank sludge, restaurant grease, and marine holding tank or portable toilet effluent;
- (6) Regulations providing for the issuance and renewal of certificates of water and sewer availability;
- (7) Regulations preventing tampering, other misuse, potential, or actual harm to the wastewater system;
- (8) Regulations imposing fees and charges for the issuance of wastewater pretreatment permits and the administration of the pretreatment program that reasonably and fairly meet the costs of the administration of the pretreatment program; and
- (9) Regulations for the publication of Industrial Users in significant noncompliance.

(Mar. 12, 1986, D.C. Law 6-95, § 8, 33 DCR 577; Dec. 10, 1987, D.C. Law 7-54, § 2, 34 DCR 6895; Aug. 10, 1988, D.C. Law 7-138, § 2(a)-(d), 35 DCR 4779; May 8, 1998, D.C. Law 12-106, § 2(c), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(e), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-957.

Effect of Amendments

D.C. Law 18-256 rewrote subsecs. (a), (b)(2), and (4); in the lead-in language of subsec. (b), substituted "may include" for "shall include"; in subsec. (b)(7), deleted "and" from the end; in subsec. (b)(8), substituted "; and" for a period; and added subsec. (b)(9). Prior to amendment, subsecs. (a), (b)(2), and (4) read as follows:

"(a) WASA shall administer, implement and enforce the provisions of this subchapter and ensure compliance with this subchapter and with federal laws and regulations governing the issuance of permits for the discharge of wastewater into publicly owned treatment plants, through permits, contracts, orders, or other similar means. In the case of industrial users, WASA shall use permits or equivalent individual control mechanisms issued to each user. These permits, contracts, orders, or other similar means or individual control mechanisms shall comply with all applicable federal laws and regulations. WASA is authorized to set and collect fees and charges as may be necessary or appropriate to recoup costs associated with its responsibilities pursuant to this subchapter and pursuant to federal laws and regulations governing the issuance of permits for the discharge of wastewater into publicly owned treatment plants."

"(2) Regulations imposing conditions on users, including, but not limited to, limits on new or increased contributions of pollutants, changes in the nature of pollutants discharged, flow regulation or equalization, installation of sampling facilities and specifications for monitoring programs, and installation of pretreatment facilities;"

"(4) Regulations imposing fees to treat high strength wastes as may be defined by WASA;"

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

Law 7-54, the "Wastewater System Regulation Amendment Temporary Act of 1987," was introduced in Council and assigned Bill No. 7-281. The Bill was adopted on first and second readings on July 14, 1987, and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No. 7-87 and transmitted to both Houses of Congress for its review.

Law 7-138, the "Wastewater System Regulation Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-278, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on May 17, 1988 and May 31, 1988, respectively. Signed by the Mayor on June 9, 1988, it was assigned Act No. 7-188 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For history of Law 18-256, see notes under § 8-105.02.

Delegation of Authority

Delegation of authority pursuant to Law 6-95, see Mayor's Order 86-88, May 30, 1986.

§ 8-105.08. INSPECTION AUTHORITY.

In order to determine compliance with this subchapter or any rule issued pursuant to this subchapter, WASA, a WASA authorized representative, and the Mayor shall have a right to enter upon or through any premises subject to this subchapter at reasonable times for the purpose of inspection, observation, measurement, sampling, and testing. The right to enter and inspect shall include the right to copy records related to compliance with this subchapter. Where a user has security measures in force which would require proper identification and clearance before entry, the user shall make necessary security arrangements so that, upon presentation of suitable identification, the Mayor or WASA will be permitted entry without delay.

(Mar. 12, 1986, D.C. Law 6-95, § 9, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(d), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(f), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-958.

Effect of Amendments

D.C. Law 18-256 substituted "WASA, a WASA authorized representative, and the Mayor" for "WASA and the Mayor".

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.09. INFORMATION AND CONFIDENTIALITY.

(a) Repealed.

(a-1) In accordance with 40 CFR Part 2, any information submitted to WASA may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim of confidentiality is made at the time of submission, WASA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

(a-2) User information and data provided to the District or WASA shall be available to the public or to any government agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Mayor or WASA that the release of the information would divulge information, processes, or methods of operation entitled to protection as trade secrets, pursuant to § 2-534(a)(1).

(b) When requested by the user in writing at the time of submission, information and data which might disclose trade secrets or secret processes shall not be made available for public inspection. However, the information and data shall be immediately available to the EPA for any purpose, and to WASA and the District in administrative and judicial review or enforcement proceedings to which the user is a party or in which the user has standing. Additionally, upon written request, WASA and the District may release such information and data to other government agencies in connection with uses related to this subchapter or to pretreatment programs.

(c) Effluent data, as defined in 40 CFR § 2.302, which is provided to WASA shall be available to the public without restriction.

(d) Information accepted by the Mayor or WASA as confidential shall not be transmitted to any governmental agency, except EPA as provided in subsection (b) of this section, unless written notification is sent to the user at least 10 days before transmitting the information.

(d-1) All other information submitted to WASA shall be available to the public at least to the extent provided by 40 CFR § 2.302.

(e)(1) All users shall retain, preserve and make available for inspection and copying any records, books, documents, memoranda, reports, correspondence, and any summaries of these materials relating to testing, internal or external monitoring, sampling, investigative and chemical analyses made by or on behalf of a user in connection with its discharge, and documentation associated with its Best Management Practices pursuant to this subchapter, for no less than 3 years from the date of preparation, drafting, or memorialization.

(2) All records which pertain to or may pertain to matters which are the subject of enforcement or litigation activities initiated by the District or WASA shall be retained and preserved by the user until all the enforcement activities have concluded and all periods of appeal have expired.

(Mar. 12, 1986, D.C. Law 6-95, § 10, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(e), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(g), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-959.

Effect of Amendments

D.C. Law 18-256, rewrote the section, which formerly read:

"(a) User information and data provided to the District shall be available to the public or to any government agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Mayor that the release of the information would divulge information, processes, or methods of operation entitled to protection as trade secrets, pursuant to § 2-534(a)(1).

"(b) When requested by the user in writing, information and data which might disclose trade secrets or secret processes shall not be made available for public inspection. However, the information and data shall be immediately available to the EPA for any purpose, and to WASA and the District in administrative and judicial review or enforcement proceedings to which the user is a party or in which the user has standing. Additionally, upon written request, WASA and the District may release such information and data to other government agencies in connection with uses related to this subchapter or to pretreatment programs.

"(c) Wastewater constituents and characteristics shall not be considered confidential information.

"(d) Information accepted by the Mayor as confidential shall not be transmitted to any governmental agency unless written notification is sent to the user at least 10 days before transmitting the information.

"(e)(1) All users shall retain and preserve any records, books, documents, memoranda, reports, correspondence, and any summaries of these materials relating to testing, internal or external monitoring, sampling, investigative and chemical analyses made by or in behalf of a user in connection with its discharge for no less than 3 years from the date of preparation, drafting, or memorialization.

"(2) All records which pertain to or may pertain to matters which are the subject of enforcement or litigation activities initiated by the District shall be retained and preserved by the user until all the enforcement activities have concluded and all periods of appeal have expired."

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.10. ADMINISTRATIVE ENFORCEMENT.

(a) Whenever WASA has reason to believe that there is a violation of this subchapter or rules issued pursuant to this subchapter, it may initiate an administrative enforcement action pursuant to this section, and any rules issued pursuant to this subchapter. WASA may initiate this administrative enforcement action in addition to any other enforcement action, civil or criminal, which has or will be undertaken to enforce this subchapter, provided that no user shall be assessed both a civil and administrative penalty for the same violation.

(b)(1) Whenever WASA has reason to believe that a person or user is violating this subchapter, or rules issued pursuant to this subchapter, it may issue a Notice of Infraction and Proposed Order. The Notice of Infraction shall include the following:

- (A) The nature, time, and place of the violation (with reasonable specificity);
- (B) The corrective or remedial action to be taken and any fines imposed or other amounts sought in accordance with this subchapter;
- (C) The date upon which the Proposed Order shall become effective; and
- (D) The procedure by which a person may answer a Notice of Infraction and Proposed Order and request a hearing, along with notification that failure to answer may lead to the adoption of some or all of the Proposed Order.

(2) The Proposed Order may direct the user to do the following:

- (A) Eliminate the violation;
- (B) Comply with the provisions of this subchapter;
- (C) Take specific actions to avoid future violations;
- (D) Pay fines, costs, or other amounts, as authorized by this subchapter; and
- (E) Comply with the schedule for completion of any of the directives of the Proposed Order.

(3) The Proposed Order may provide for the suspension or revocation of any permit issued by the District or WASA pursuant to this subchapter, or the suspension or revocation of any contract or agreement between the user and the District or WASA, to the extent that such permit, contract, or agreement authorizes the person to discharge into the District's wastewater system.

(4) An answer to a Notice of Infraction and Proposed Order shall be in writing. In that answer a respondent shall admit or deny the allegations included in the Notice of Infraction. Regardless of whether the respondent admits or denies the allegations, the respondent may also assert in the answer that some or all of the terms of the Proposed Order should be modified.

(5) If a respondent, in an answer, denies any of the allegations in the Notice of Infraction, or asks that any term in the Proposed Order be modified, WASA shall conduct a hearing within 30 days of receiving the answer, unless that time period is extended in accordance with any regulations providing for such extensions. The hearing shall be conducted by a hearing examiner, who shall be an attorney regularly employed by WASA or an attorney retained by WASA on a contractual basis. The hearing examiner shall have the power to:

- (A) Preside over hearings in matters arising under this subchapter;
- (B) Determine whether any notice, order, or other document, was properly served upon any party to an enforcement action;
- (C) Compel the attendance of witnesses by subpoena, administer oaths, and take testimony of witnesses under oath;
- (D) Dismiss, rehear, and continue cases;
- (E) Issue orders, including default orders, which require the respondent to provide evidence, submit pleadings, do some or all of the actions described in the Proposed Order, or to pay hearing and inspection costs, and to do any of the foregoing within specific time periods consistent with any regulations issued pursuant to this subchapter or to pay fines or penalties for the failure to do any of the foregoing; and
- (F) Suspend permits or licenses issued pursuant to this subchapter for the purpose of enforcing the payment of monetary fines, penalties, or hearing and inspection costs.

(c) WASA shall issue regulations which establish a schedule of escalating fines which may be imposed by WASA as part of its effort to enforce this subchapter through administrative action, provided that these fines may not exceed the fines which may be imposed in a civil proceeding brought pursuant to this

subchapter. WASA shall also issue regulations to implement this subchapter, including regulations to establish procedures for conducting administrative enforcement actions pursuant to subsection (a) of this section. These regulations shall include, but need not be limited to, procedures and, where applicable, deadlines, for:

- (1) Effecting service of any notice, order or other document produced by a person or issued by WASA pursuant to this subsection; provided, however, that WASA shall bear the burden of establishing by a preponderance of the evidence that the Notice of Infraction was not defective, that the Notice of Infraction was properly served, and that an infraction occurred;
- (2) Answering or otherwise responding to any notice, order, or other document issued pursuant to this subsection;
- (3) Holding any hearing conducted pursuant to this subsection, provided however, that hearings shall be conducted in accordance with subchapter I of Chapter 5 of Title 2; and
- (4) Issuing orders.

(d) The District of Columbia Court of Appeals ("Court") shall entertain and determine appeals timely filed by WASA or by any person aggrieved by a final order of a hearing examiner issued pursuant to this subchapter. The Court shall make a determination of each appeal on the basis of the record established before the hearing examiner, and may affirm, reverse, or modify the order of the hearing examiner, or may remand the case for further proceedings before the hearing examiner subject to the qualifications set forth in this subsection. The Court shall set aside any hearing examiner order that is unsupported by a preponderance of the evidence on the record. The Court shall also set aside any hearing examiner order that was made without observance of procedure required by law or regulations, except that in such instances, the Court shall apply the rule of harmless error. The Court may not modify a sanction imposed by the hearing examiner if that sanction is within the limits established by law or regulation.

(Mar. 12, 1986, D.C. Law 6-95, § 11, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(f), 45 DCR 1724; Apr. 13, 2005, D.C. Law 15-354, § 19(a), 52 DCR 2638; Oct. 26, 2010, D.C. Law 18-256, § 2(h), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-960.

Effect of Amendments

D.C. Law 15-354, in subsec. (d), substituted "Office of Administrative Hearings ('Office')" for "Board of Appeals and Review ('Board')" and substituted "Office" for "Board".

D.C. Law 18-256, in subsec. (b)(1), substituted "believe that a person or" for "believe that a"; in subsec. (b)(2)(E), substituted "Comply with the" for "A"; in subsec. (d), substituted "Court of Appeals ('Court')" for "Office of Administrative Hearings ('Office')" and "Court" for "Office".

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For Law 15-354, see notes following § 8-103.06.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.11. INJUNCTION.

Notwithstanding any other provision of this subchapter, WASA may seek appropriate civil action to secure a temporary restraining order, a preliminary or permanent injunction, or declaratory or other appropriate relief to restrain, minimize, halt, or eliminate the violation of, or attempted violation of, any provision of this subchapter or its implementing rules.

(Mar. 12, 1986, D.C. Law 6-95, § 12, 33 DCR 577; Oct. 26, 2010, D.C. Law 18-256, § 2(i), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-961.

Effect of Amendments

D.C. Law 18-256 substituted "WASA may seek" for "the Mayor may authorize".

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.12. EMERGENCY SUSPENSION OF SERVICE.

(a)(1) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the health or welfare of persons, WASA may, after informal notice to the discharger, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger. WASA is not required to conduct a hearing before taking such action.

(2) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the environment or the operation or integrity of the District's wastewater system, WASA may, after providing notice and an opportunity to respond to the user, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger.

(3) Any notice or opportunity to respond to which WASA is required under the United States Constitution to provide to a user as a result of any action taken by WASA pursuant to subsection (a)(1) or (2) of this section, is not required to be provided or conducted pursuant to subchapter I of Chapter 5 of Title 2.

(b) The services shall be restored by WASA as soon as practicable after the emergency situation has been corrected.

(c) WASA's decision to suspend service may be appealed by filing a petition for an administrative hearing as set forth in § 8-105.10.

(d) An appeal of WASA's decision shall not stay suspension of service.

(Mar. 12, 1986, D.C. Law 6-95, § 13, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(g), 45 DCR 1724; Apr. 12, 2000, D.C. Law 13-91, § 139(c), 47 DCR 520; Apr. 13, 2005, D.C. Law 15-354, § 19(b), 52 DCR 2638; Oct. 26, 2010, D.C. Law 18-256, § 2(j), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-962.

Effect of Amendments

D.C. Law 13-91, in subsec. (d), substituted "WASA" for "the Mayor".

D.C. Law 15-354, in subsec. (c), substituted "Office of Administrative Hearings" for "Board of Appeals and Review".

D.C. Law 18-256 rewrote subsec. (c), which had read as follows:

"(c) WASA's decision to suspend service may be appealed to the Office of Administrative Hearings as set forth in § 8-105.10."

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For Law 13-91, see notes following § 8-105.02.

For Law 15-354, see notes following § 8-103.06.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.13. ANNUAL PUBLICATION.

(a) A list of the Industrial Users in significant noncompliance with the pretreatment standards and requirements in the preceding calendar year shall be published annually by WASA in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by WASA.

(b) The notification shall summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

(c) For the purposes of this section, a Significant Industrial User is in significant noncompliance with the pretreatment standards and requirements if its violation meets one or more of the following criteria and any Industrial User is in significant noncompliance if its violation meets the criteria in paragraph (3), (7), or (8) of this subsection:

- (1) Chronic violations of wastewater discharge limits, which are violations in which 66% or more of all the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR § 403.3(1);
- (2) Technical Review Criteria ("TRC") violations, which are violations in which 33% or more of all of the measurements taken for the same pollutant parameter during a 6 month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR § 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for Biochemical Oxygen Demand, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR § 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that WASA determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WASA or District personnel or the general public);
- (4) Any violation of the terms of a wastewater discharge permit which remains uncorrected 45 days after notification of the violation is received by the user, or any failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a District or local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (5) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on progress with compliance schedules or orders, within 45 days after the due date;
- (6) Failure to timely and accurately report an instance of noncompliance with the pretreatment standards and requirements;
- (7) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in WASA's exercise of its emergency authority pursuant to 40 CFR § 403.8(f)(1)(vi)(B) and § 8- 105.12 to halt or prevent such a discharge; and
- (8) Any other violation or group of violations, which may include a violation of best management practices, which WASA determines will adversely affect the operation or implementation of the local pretreatment program or which WASA otherwise considers significant in light of the circumstances.

(Mar. 12, 1986, D.C. Law 6-95, § 14, 33 DCR 577; Aug. 10, 1988, D.C. Law 7-138, § 2(e), (f), 35 DCR 4779; May 8, 1998, D.C. Law 12-106, § 2(h), 45 DCR 1731; May 8, 1998, D.C. Law 12-106, § 2(h), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(k), 57 DCR 8082; Sept. 26, 2012, D.C. Law 19- 171, § 57(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-963.

Effect of Amendments

D.C. Law 18-256, rewrote the section, which formerly read:

"(a) A list of the users in significant noncompliance with the Pretreatment Standards and Requirements in the preceding 12 months shall be published annually by WASA in the local daily newspaper with the largest circulation.

"(b) The notification shall summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

"(c) For the purposes of this section, a user is in significant noncompliance with the Pretreatment Standards and Requirements if its violation meets one or more of the following criteria:

"(1) Chronic violations of wastewater discharge limits, are violations in which 66% or more of all the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

"(2) Technical Review Criteria ("TRC") violations, are violations in which 33% or more of all the measurements for each pollutant parameter taken during a 6- month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for Biochemical Oxygen Demand, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

"(3) Any other violation of pretreatment effluent limits (daily maximum or longer term average) that WASA determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WASA or District personnel or the general public);

"(4) Any violation of the terms of a wastewater discharge permit which remains uncorrected 45 days after notification of the violation is received by the user, or any failure to meet a compliance schedule milestone or enforcement order issued by WASA within 90 days after the scheduled date for achievement of the compliance schedule milestone;

"(5) Failure to provide required reports, such as baseline monitoring reports, periodic self-monitoring reports, and reports on progress with compliance schedules or orders, within 30 days after the due date;

"(6) Failure to timely and accurately report an instance of noncompliance with the Pretreatment Standards and Requirements;

"(7) Any violation which results in WASA exercising its emergency authority pursuant to § 8-105.12; and

"(8) Any violation WASA considers significant in light of the circumstances."

D.C. Law 19-171, in subsec. (c), validated a previously made technical correction.

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 7-138, see Historical and Statutory Notes following § 8-105.07.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For history of Law 18-256, see notes under § 8-105.02.

For history of Law 19-171, see notes under § 8-105.02.

§ 8-105.14. PENALTIES.

(a) Any person who violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be liable for a civil fine not exceeding \$10,000 for each day during which each violation continues, and shall be required to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions under this provision shall be in the Superior Court of the District of Columbia in the name of the District of Columbia, and shall be instituted by the Office of the Attorney General.

(b) Notwithstanding any other provision of this subchapter, any person who intentionally, willfully, or recklessly violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be punished by a criminal fine not to exceed \$10,000 for each day each violation continues, or imprisonment not to exceed one year for each day each violation continues, or both, and to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions pursuant to this provision shall be in the Superior Court of the District of Columbia.

(c) Any person who violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be liable to the District and WASA for all expenses, losses, or damages incurred by the District and WASA by reason of the violation.

(Mar. 12, 1986, D.C. Law 6-95, § 15, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(i), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(l), 57 DCR 8082.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-964.

Effect of Amendments

D.C. Law 18-256, in subsec. (a), substituted "Office of the Attorney General" for "Corporation Counsel"; and, in subsec. (c), substituted "the District and WASA" for "the District".

Legislative History of Laws

For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

For history of Law 18-256, see notes under § 8-105.02.

§ 8-105.15. AUTHORITY TO ISSUE REGULATIONS.

The Board of Directors of WASA is authorized to issue regulations consistent with the authority granted to

it by this subchapter, in order to implement the provisions of this subchapter.

(Mar. 12, 1986, D.C. Law 6-95, § 16, as added May 8, 1998, D.C. Law 12- 106, § 2(j), 45 DCR 1724.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-965.

Legislative History of Laws

For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

SUBCHAPTER IV. RESTRICTIONS ON PHOSPHATE CLEANERS.

§ 8-107.01. DEFINITIONS.

For the purposes of this subchapter, the term:

(1) "Cleaning agent" means soaps and detergents used for domestic or commercial cleaning purposes, including the purposes of cleaning fabrics, dishes, eating and cooking utensils, homes, or commercial premises, but the term does not include cosmetics and personal hygiene products like toothpaste, shampoo, and hand soap.

(2) "Trace quantity of phosphorus" means the portion of a cleaning agent, not more than 0.5% of the weight of the cleaning agent, that constitutes all of the phosphorus in the cleaning agent.

(Mar. 25, 1986, D.C. Law 6-98, § 2, 33 DCR 723.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-971.

Legislative History of Laws

Law 6-98, the "Phosphate Soaps and Detergent Restriction Act of 1985," was introduced in Council and assigned Bill No. 6-212, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on December 3, 1985, and December 17, 1985, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-126 and transmitted to both Houses of Congress for its review.

§ 8-107.02. SALE AND USE OF PHOSPHATE CLEANERS PROHIBITED; EXCEPTIONS; MANUFACTURER'S PACKAGE STATEMENT; TESTING OF PRODUCTS FOR COMPLIANCE; EXEMPTIONS FOR USE OF NONCOMPLYING CLEANERS; RULES AND REGULATIONS; ANNUAL REPORT BY MAYOR.

(a) Except as provided in subsection (e) of this section, after 180 days after March 25, 1986, no cleaning agent may be used, sold, or furnished in the District of Columbia if it contains a phosphorous compound in a concentration exceeding a trace quantity of phosphorus, except that a cleaning agent with more than a trace quantity of phosphorus may be used for cleaning health care equipment, for use by any commercial or institutional laundry in providing laundry services for a hospital or health care facility; for cleaning food processing equipment, beverage and dairy products handling and processing equipment, and other institutional and industrial applications meeting the requirements of subsection (e) of this section, and designed specifically for cleaning dishes washed in dishwashers.

(b) Except as provided in subsection (e) of this section, after 180 days after March 25, 1986, no cleaning agent for use in dishwashers may be used, sold, or furnished in the District of Columbia if it contains elemental phosphorus exceeding 0.5% by weight.

(c) A manufacturer may state on packages containing the cleaning agent which the manufacturer has produced either of the following:

(1) The percentage of the mass of the cleaning agent comprised of elemental phosphorus according to the chemical weight of the product as compared to the chemical weight of the cleaning agent itself; or

(2) That the cleaning agent conforms to the requirements stated in subsections (a) and (b) of this section.

(d)(1) If a package containing a cleaning agent does not, in writing, present either of the 2 statements

suggested in subsection (c) of this section, then the Mayor of the District of Columbia ("Mayor") shall test the cleaning agent to determine whether it complies with subsection (a) or (b) of this section.

(2) Except as provided in subsection (e) of this section, the Mayor shall prohibit from being marketed in the District of Columbia a cleaning agent that does not conform to this section.

(e) After the Mayor issues rules for applying for and receiving an exemption from the obligations in subsection (a) or (b) of this section, the Mayor may permit the use of cleaning agents that do not comply with subsection (a) or (b) under the following circumstances:

(1) Complying with subsection (a) or (b) of this section would create a significant hardship on the consumers using the cleaning agent;

(2) Complying with subsection (a) or (b) of this section would be unreasonable because an adequate substitute is not available;

(3) Complying with subsection (a) or (b) of this section would disrupt research clearly designed for scientific purposes and not intended to circumvent the purpose of this subchapter; or

(4) Complying with subsection (b) of this section may be impracticable for persons using commercial dishwashers; provided, that dishwashing detergents designed for use in commercial dishwashers shall not be used, sold, or furnished in the District of Columbia if it contains elemental phosphorus equal to or greater than 8.7% by weight.

(f)(1) The Mayor shall issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2.

(2) The Mayor shall transmit the rules required by this section to the Council of the District of Columbia ("Council") for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, during which the Council may approve or disapprove, in whole or in part, the rules by resolution. If the Council does not approve or disapprove the rules during the 30-day review period, then the rules shall be considered approved at the expiration of the 30 days.

(g) The Mayor shall report annually, in writing, to the Council on March 1 the reasons for and the number of exemptions granted pursuant to this section and shall identify each person or organization granted an exemption by name and address.

(Mar. 25, 1986, D.C. Law 6-98, § 3, 33 DCR 723; Mar. 31, 2011, D.C. Law 18-336, § 7, 58 DCR 605.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-972.

Effect of Amendments

D.C. Law 18-336, in subsec. (b), substituted "0.5%" for "8.7%"; in subsec. (e), deleted "or" from the end of par. (2), substituted "; or" for a period the end of par. (3), and added par. (4).

Legislative History of Laws

For legislative history of D.C. Law 6-98, see Historical and Statutory Notes following § 8-107.01.

Law 18-336, the "Human and Environmental Health Protection Act of 2010", was introduced in Council and assigned Bill No. 18-521, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-680 and transmitted to both Houses of Congress for its review. D.C. Law 18-336 became effective on March 31, 2011.

Delegation of Authority

Delegation of authority pursuant to Law 6-98, see Mayor's Orders 86-102, June 19, 1986; 87-48, February 17, 1987.

Miscellaneous Notes

Section 8 of D.C. Law 18-336 provides:

"Sec. 8. Applicability.

"This act shall apply as of July 1, 2011."

§ 8-107.03. SELLER'S BURDEN IN CIVIL ACTION.

Concerning a civil action against the seller for injuries resulting from violations of this subchapter, a seller has the burden of proving that the cleaning agent complies with § 8-107.02.

(Mar. 25, 1986, D.C. Law 6-98, § 4, 33 DCR 723; Feb. 24, 1987, D.C. Law 6-192, § 6, 33 DCR 7836.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-973.

Legislative History of Laws

For legislative history of D.C. Law 6-98, see Historical and Statutory Notes following § 8-107.01.

Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986 and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

§ 8-107.04. CRIMINAL PROSECUTIONS; PENALTIES FOR VIOLATIONS OF SUBCHAPTER.

(a) If the Mayor determines that a cleaning agent does not comply with § 8-107.02(a) or (b) and has not been exempted according to § 8-107.02(e), then the Mayor shall bring an action for criminal violation of this subchapter in the Superior Court of the District of Columbia.

(b) A person who uses a cleaning agent in violation of this subchapter shall be fined no more than \$15.

(c) A person who offers for sale at retail or furnishes a cleaning agent in violation of this subchapter shall be subject to a fine, upon conviction, not to exceed \$500 for the 1st offense and a fine not to exceed \$1,000 for the second and subsequent offenses.

(d) The Mayor may seize any cleaning agent held for sale in violation of this subchapter. Cleaning agents seized under this subsection shall be forfeited to the District of Columbia.

(e) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

(Mar. 25, 1986, D.C. Law 6-98, § 5, 33 DCR 723; Mar. 8, 1991, D.C. Law 8-237, § 17, 38 DCR 314.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-974.

Legislative History of Laws

For legislative history of D.C. Law 6-98, see Historical and Statutory Notes following § 8-107.01.

Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

Delegation of Authority

Delegation of authority pursuant to Law 6-98, see Mayor's Order 87-48, February 17, 1987.

**SUBCHAPTER IV-A. RESTRICTIONS ON
BISPHENOL-A, POLYBROMINATED DIPHENYL
ETHERS, AND PERCHLOROETHYLENE.**

§ 8-108.01. RESTRICTIONS ON BISPHENOL-A.

(a) Except as provided in subsection (b) of this section, no individual or legal entity shall manufacture, sell, offer for sale, or distribute in commerce any empty bottle, cup, or other container that:

(1) Contains bisphenol-A; and

(2) Is designed or intended by the manufacturer to be filled with food or liquid for consumption by a child under the age of 4.

(b) Facilities licensed to provide medical care may use Food and Drug Administration-approved, medically essential products containing bisphenol-A if a suitable alternative is unavailable.

(Mar. 31, 2011, D.C. Law 18-336, § 2, 58 DCR 605.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 18-336, the "Human and Environmental Health Protection Act of 2010", was introduced in Council and assigned Bill No. 18-521, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-680 and transmitted to both Houses of Congress for its review. D.C. Law 18-336 became effective on March 31, 2011.

Delegation of Authority

Delegation of Authority under D.C. Law 18-336, to the Director of the District Department of the Environment under the Human and Environmental Health Protection Act of 2010, see Mayor's Order 2011-153, September 7, 2011 (58 DCR 8091).

Miscellaneous Notes

Section 8 of D.C. Law 18-336 provides:

"Sec. 8. Applicability.

"This act shall apply as of July 1, 2011."

§ 8-108.02. PROHIBITIONS ON POLYBROMINATED DIPHENYL ETHERS.

(a) No person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing the penta or octa mixtures of polybrominated diphenyl ethers; provided, that subsection (a) of this section shall not apply to original equipment manufacturer replacement parts or equipment for vehicles manufactured prior to March 31, 20011, or to used vehicles.

(b) Except as provided in subsection (c) of this section, after January 1, 2013, no person or legal entity shall manufacture, sell, offer for sale, or distribute any of the following products:

- (1) A mattress or mattress pad that contains the deca mixture of polybrominated diphenyl ethers ("Deca-BDE");
- (2) Upholstered furniture intended for indoor use in a home or other residential occupancy that contains Deca-BDE; or
- (3) A television, monitor, or computer that has a plastic housing that contains Deca-BDE.

(c) The restrictions in subsection (b) of this section shall not apply to the following products containing Deca-BDE:

- (1) Transportation vehicles or products or parts for use in transportation vehicles or transportation equipment;
- (2) Products or equipment used in industrial or manufacturing processes;
- (3) Products for use in a medical context, including a hospital, treatment facility, or nursing home; or
- (4) Electronic wiring and cable used for power transmission.

(d) After January 1, 2014, no person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing Deca-BDE; provided, that this section shall not apply to the following:

- (1) A retailer that is in possession of a product prohibited for manufacture, lease, sale, or distribution for sale or lease under subsections (b) and (c) of this section from selling, recycling, or otherwise disposing of a product that is in the retailer's or lessor's inventory on or after the date that the prohibition takes effect;
- (2) A person or legal entity from recycling a product that contains Deca-BDE;
- (3) A person or legal entity from selling, leasing, recycling, or otherwise disposing of a product that contains recycled Deca-BDE;
- (4) Any activity involving a product that contains Deca-BDE that occurs subsequent to the 1st sale at retail;
- (5) Products for use in a medical context, including a hospital, treatment facility, or nursing home if a suitable substitute is not available;
- (6) Vehicles manufactured prior to model year 2016, replacement parts or equipment for vehicles

manufactured prior to model year 2016, or used vehicles; or

(7) Vehicles, replacements parts or replacement equipment for vehicles manufactured during or after model year 2016 if the use of a Deca-BDE-free alternative would create a substantial and unreasonable hardship for manufacturers or consumers.

(Mar. 31, 2011, D.C. Law 18-336, § 3, 58 DCR 605.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-336, see notes under § 8-108.01.

§ 8-108.03. PHASE OUT OF PERCHLOROETHYLENE IN DRY CLEANING.

(a) After January 1, 2014, no person or legal entity shall install a machine designed to use perchloroethylene as a cleaning agent for clothes or other fabrics.

(b) After January 1, 2029, no person or legal entity shall use perchloroethylene as a cleaning agent for clothes or other fabrics.

(Mar. 31, 2011, D.C. Law 18-336, § 4, 58 DCR 605.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-336, see notes under § 8-108.01.

§ 8-108.04. PENALTIES.

(a) A violation of this subchapter shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subchapter, or the rules issued under authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2. This section shall not limit the enforcement of subchapter IV of this chapter.

(b) Pursuant to § 8-108.05, the Mayor shall issue rules to implement the provisions of this section 90 days after March 31, 2011.

(Mar. 31, 2011, D.C. Law 18-336, § 5, 58 DCR 605.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-336, see notes under § 8-108.01.

§ 8-108.05. RULES.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this subchapter.

(Mar. 31, 2011, D.C. Law 18-336, § 6, 58 DCR 605.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-336, see notes under § 8-108.01.

SUBCHAPTER V. ENVIRONMENTAL IMPACT STATEMENTS.

§ 8-109.01. PURPOSE.

The purpose of this subchapter is to promote the health, safety and welfare of District of Columbia ("District") residents, to afford the fullest possible preservation and protection of the environment through a requirement that the environmental impact of proposed District government and privately initiated actions be examined before implementation and to require the Mayor, board, commission, or authority to

substitute or require an applicant to substitute an alternative action or mitigating measures for a proposed action, if the alternative action or mitigating measures will accomplish the same purposes as the proposed action with minimized or no adverse environmental effects.

(Oct. 18, 1989, D.C. Law 8-36, § 2, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-981.

Emergency Act Amendments

For temporary amendment of section, see § 12 of the Solid Waste Facility Permit Emergency Act of 1995 (D.C. Act 11-144, October 23, 1995, 42 DCR 6044).

Legislative History of Laws

Law 8-36, the "District of Columbia Environmental Policy Act of 1989," was introduced in Council and assigned Bill No. 8-8, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on July 27, 1989, it was assigned Act No. 8-65 and transmitted to both Houses of Congress for its review.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 8-36, see Mayor's Order 92-151, December 1, 1992.

Delegation of authority pursuant to D.C. Law 8-116, the "Asbestos Licensing and Control Act of 1990", see Mayor's Order 98-51, April 15, 1998 (45 DCR 2697).

Delegation of authority pursuant to D.C. Law 8-36, the "District of Columbia Environmental Policy Act of 1989", see Mayor's Order 98-86, May 29, 1998 (45 DCR 3980).

§ 8-109.02. DEFINITIONS.

For the purposes of this subchapter, the term:

(1) "Action" means (A) a new project or activity directly undertaken by the Mayor or a board, commission, or authority of the District government or (B) a project or activity that involves the issuance of a lease, permit, license, certificate, other entitlement, or permission to act by an agency of the District government.

(2) "Major action" means any action that costs over \$1,000,000 and that may have a significant impact on the environment, except that, subject to the exemptions in § 8-109.06, the Mayor, pursuant to rules issued in accordance with § 8-109.09, shall classify any action that costs less than \$1,000,000 as a major action, if the action imminently and substantially affects the public health, safety, or welfare. The cost level of \$1,000,000 shall be based on 1989 dollars adjusted annually according to the Consumer Price Index.

(3) "Environment" means the physical conditions that will be affected by a proposed action, including but not limited to, the land, air, water, minerals, flora and fauna.

(4) "Hazardous substance" means any solid, liquid, gaseous, or semisolid form or combination that, because of its nature, concentration, physical, chemical, or infectious characteristic, as established by the Mayor, may:

(A) Cause or significantly contribute to an increase in mortality or an increase in a serious, irreversible or incapacitating reversible illness; or

(B) Pose a substantial hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, including substances that are toxic, carcinogenic, flammable, irritants, strong sensitizers, or that generate pressure through decomposition, heat, or other means and containers and receptacles previously used in the transportation, storage, use, or application of hazardous substances.

(5) "Lead agency" means the District agency designated by the Mayor to have primary responsibility for the preparation of an Environmental Impact Statement ("EIS").

(6) "Functional equivalent" means the full and adequate description and analysis of the environmental impact of a proposed action by an agency, board, commission, or authority of the District government that examines or imposes environmental controls under procedures that provide for notice, opportunity for public comment, and the creation of a reviewable record.

(Oct. 18, 1989, D.C. Law 8-36, § 3, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.03. ENVIRONMENTAL IMPACT STATEMENT REQUIREMENTS.

(a) Whenever the Mayor or a board, commission, authority, or person proposes or approves a major action that is likely to have substantial negative impact on the environment, if implemented, the Mayor, board, commission, authority, or person shall prepare or cause to be prepared, and transmit, in accordance with subsection (b) of this section, a detailed EIS at least 60 days prior to implementation of the proposed major action, unless the Mayor determines that the proposed major action has been or is subject to the functional equivalent of an EIS. The EIS shall be written in a concise manner. The EIS shall describe and, where appropriate, analyze:

- (1) The goals and nature of the proposed major action and its environment;
- (2) The relationship of the proposed major action to the goals of the adopted Comprehensive Plan, requirements as promulgated by the Zoning Commission, and any District or federal environmental standards;
- (3) Any adverse environmental impact that cannot be avoided if the proposed major action is implemented;
- (4) Alternatives to the proposed major action, including alternative locations and the adverse and beneficial effects of the alternatives;
- (5) Any irreversible and irretrievable commitment of resources involved in the implementation of the proposed major action;
- (6) Mitigation measures proposed to minimize any adverse environmental impact;
- (7) The impact of the proposed major action on the use and conservation of energy resources, if applicable and significant;
- (8) The cumulative impact of the major action when considered in conjunction with other proposed actions;
- (9) The environmental effect of future expansion or action, if expansion or action is a reasonably foreseeable consequence of the initial major action and the future expansion or action will likely change the scope or nature of the initial major action or its environmental effects;
- (10) Responses to comments provided by the Council, any affected Advisory Neighborhood Commission, and interested members of the public; and
- (11) Any additional information that the Mayor or a board, commission, or authority determines to be helpful in assessing the environmental impact of any proposed major action and the suggested alternatives.

(b) The Mayor, board, commission, or authority shall transmit a copy of any EIS prepared pursuant to subsection (a) of this section to the Council, any District agency that has responsibility for implementing the major action or special expertise with respect to any environmental impact involved, and any affected Advisory Neighborhood Commission. A copy of the EIS shall be made available for review by the public in the main office of the agency primarily responsible for implementing or permitting the proposed major action. The Mayor, board, commission, or authority shall provide a reasonable period consistent with subchapter I of Chapter 5 of Title 2, for comment on any EIS required to be prepared pursuant to subsection (a) of this section. If 25 registered voters in an affected single member district request a public hearing on an EIS or supplemental EIS or there is significant public interest, the Mayor, board, commission, or authority shall conduct a public hearing pursuant to the rules issued in accordance with § 8-109.09(a).

(c)(1) The Mayor, board, agency, commission, or authority of the District government shall determine within 30 days, excluding Saturdays, Sundays, and legal holidays, of receipt of an application for a proposed major action whether an EIS is required, if the action involves the grant or issuance of a lease, permit, license, certificate, or other entitlement by a District agency.

- (2) If the Mayor, or a board, commission, or authority of the District government determines that an EIS is not required for a major action that is likely to involve the creation, use, transportation, storage, or disposal of a hazardous substance, the Mayor shall prepare, make available for public inspection, and transmit to the Council a written determination that describes why an EIS is not required prior to the grant or issuance of any applicable lease, permit, license, certificate, entitlement, or permission to act.
- (3) If the major action involves the grant or issuance to an applicant of a lease, permit, license, certificate, or other entitlement by a District agency:

(A) The agency shall notify the applicant, in writing, if a determination has been made that an EIS is required. Notice of the determination and the findings that support the determination shall be kept on file by the Mayor.

(B) The Mayor, board, commission, or authority may require an applicant to prepare an EIS. A nongovernmental applicant shall be charged a fee to cover the cost of agency review of the EIS. No lease, permit, license, certificate, or other entitlement shall be issued, unless the applicant required to prepare an EIS has completed the EIS in compliance with this subchapter and paid any fee charged pursuant to this paragraph.

(C) The applicant shall assist the Mayor, or the board, commission, or authority at any stage of the review of the proposed major action by timely submitting all relevant information concerning impact, costs, benefits, and alternatives. The Mayor, board, commission, or authority shall deny a proposed action, if the applicant fails to submit relevant information as specified in rules promulgated pursuant to § 8-109.09.

(Oct. 18, 1989, D.C. Law 8-36, § 4, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-983.

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.04. ADVERSE IMPACT FINDINGS.

If the EIS identifies an adverse effect from a proposed major action and contains a finding that the public health, safety, or welfare is imminently and substantially endangered by the action, the Mayor, board, commission, or authority of the District government shall disapprove the action, unless the applicant proposes mitigating measures or substitutes a reasonable alternative to avoid the danger.

(Oct. 18, 1989, D.C. Law 8-36, § 5, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-984.

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.05. SUPPLEMENTAL EIS.

(a) The Mayor, or a board, commission, authority, or person shall prepare a supplemental EIS if:

- (1) The agency or applicant makes or proposes a substantial change in the proposed action that is relevant to environmental concerns; or
- (2) There are significant new circumstances or information relevant to environmental concerns that affect the proposed action or the impact of the proposed action.

(b) The supplemental EIS shall be prepared, transmitted, and funded in accordance with the requirements of § 8-109.03.

(Oct. 18, 1989, D.C. Law 8-36, § 6, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-985.

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.06. EXEMPTIONS.

(a) No EIS shall be required by this subchapter with respect to an action:

(1) For which an EIS has been prepared in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.) ("NEPA"), and its implementing regulations, or a determination has been made under NEPA and its implementing regulations that no impact statement is required due to a finding of no significant impact or a finding that the proposed action is categorically excluded from consideration;

(2) For which a request has been made for the authorization or allocation of funds for a project that involves only a feasibility or planning study for a possible future action that has not been approved, adopted, or funded. The study, however, shall include consideration of environmental factors;

(3) Whose impact on the environment has been considered in the functional equivalent of an EIS;

(4) That has reached a critical stage of completion prior to October 18, 1989 and the cost of altering or abandoning the action for environmental reasons outweighs the benefits derived from the action;

(5) Of an environmentally protective regulatory nature;

(6) Exempted by rules approved pursuant to § 8-109.09(a);

(7) Within the Central Employment Area as defined in the Zoning Regulations of the District of Columbia;

(8) For which a lease, permit, certificate, or any other entitlement or permission to act by a District government agency has been approved before December 31, 1989; or

(9) Granting an interim operating permit to an existing solid waste facility pursuant to § 8-1053.

(b) The Mayor or a board, commission, authority, or person shall prepare a supplemental EIS for any action exempted pursuant to subsection (a)(1) or (a)(3) of this section, if a substantial and relevant question remains with regard to the impact of the action on the environment that would otherwise be addressed in an EIS prepared in accordance with this subchapter.

(Oct. 18, 1989, D.C. Law 8-36, § 7, 36 DCR 5741; Feb. 27, 1996, D.C. Law 11-94, § 12, 42 DCR 7172; Apr. 9, 1997, D.C. Law 11-255, § 13, 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-986.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 12 of Solid Waste Facility Permit Temporary Act of 1994 (D.C. Law 10-251, March 23, 1995, law notification 42 DCR 1650).

For temporary (225 day) amendment of section, see § 12 of Solid Waste Facility Permit Temporary Act of 1995 (D.C. Law 11-80, February 6, 1996, law notification 43 DCR 776).

Emergency Act Amendments

For temporary amendment of section, see § 12 of the Solid Waste Facility Permit Emergency Act of 1994 (D.C. Act 10-384, December 28, 1994, 42 DCR 45).

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

Law 11-94, the "Solid Waste Facility Permit Act of 1995," was introduced in Council and assigned Bill No. 11-036, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-177 and transmitted to both Houses of Congress for its review. D.C. Law 11-94 became effective on February 27, 1996.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 8-101.06.

§ 8-109.07. LEAD AGENCIES; FILES.

(a) The Mayor shall designate a lead agency to prepare an EIS or supplemental EIS when the preparation of the EIS requires the input of more than 1 agency. The lead agency shall, if necessary, oversee the preparation of a single, omnibus EIS, ensure reasoned consideration of and distinction among any inconsistent conclusions, and promote coordination with public and private organizations and individuals with a special expertise or recognized interest.

(b) The Mayor shall maintain a file of all EIS's and supplemental EIS's for public review.

(Oct. 18, 1989, D.C. Law 8-36, § 8, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-987.

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.08. JUDICIAL REVIEW.

Where an EIS is prepared in connection with the issuance or approval of a lease, permit, license, certificate, or any other entitlement or permission to act by a District government agency that is subject to administrative or judicial review under applicable laws or regulations, the administrative or judicial review shall be governed by the applicable laws and regulations.

(Oct. 18, 1989, D.C. Law 8-36, § 9, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-988.

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.09. RULES.

(a) Within 180 days of October 18, 1989, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the provisions of this subchapter, including rules that establish categorical exemptions for major actions that would have no significant impact on the environment. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) The District Department of the Environment shall issue rules to assist District agencies in the review of an environmental impact screening form and in the preparation of an EIS, pursuant to subchapter I of Chapter 5 of Title 2.

(Oct. 18, 1989, D.C. Law 8-36, § 10, 36 DCR 5741; Sept. 24, 2010, D.C. Law 18-223, § 6062(a), 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-989.

Effect of Amendments

D.C. Law 18-223 rewrote subsec. (b), which had read as follows:

"(b) Within 180 days of October 18, 1989, the Department of Consumer and Regulatory Affairs shall issue rules to assist District agencies in the preparation of an EIS, pursuant to subchapter I of Chapter 5 of Title 2."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 6062(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

For Law 18-223, see notes following § 8-102.05.

Miscellaneous Notes

Approval and disapproval of proposed Environmental Policy Act rules: Pursuant to Resolution 8-314, the "District of Columbia Environmental Policy Act of 1989 Proposed Rulemaking Approval & Disapproval Resolution of 1990," effective December 21, 1990, the Council approved, in part, and disapproved, in part, the proposed rules to implement the District of Columbia Environmental Policy Act of 1989.

District of Columbia Environmental Policy Act Proposed Rulemaking Approval Resolution of 1994: Pursuant to Proposed Resolution 11-25, deemed approved February 18, 1995, Council approved the proposed

rulemaking adopting Chapter 72 (Environmental Policy Act Regulations) of Title 20, DCMR, issued pursuant to the "District of Columbia Environmental Policy Act of 1989."

Short title: Section 6061 of D.C. Law 18-223 provided that subtitle G of title VI of the act may be cited as the "Environmental Impact Screening Forms and Environmental Impact Statements Amendment Act of 2010".

§ 8-109.10. CONSTRUCTION.

Nothing in this subchapter shall be construed to supercede the requirements of District government zoning statutes and regulations or federal and District government environmental statutes or regulations.

(Oct. 18, 1989, D.C. Law 8-36, § 11, 36 DCR 5741.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-990.

Legislative History of Laws

For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

§ 8-109.11. REQUIRED ENVIRONMENTAL IMPACT STATEMENTS.

Notwithstanding any other provision of this subchapter, a full EIS shall be required for the construction of any new solid waste facility or the substantial modification of an existing structure presently used as, or intended to be used as, a solid waste facility, as the term "solid waste facility" is defined in Chapter 10 of Title 8, regardless of the cost of construction or modification.

(Oct. 18, 1989, D.C. Law 8-36, § 11a, as added Apr. 29, 1998, D.C. Law 12-86, § 802, 45 DCR 1172.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-990.1.

Legislative History of Laws

Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 26, 1997, and December 19, 1997, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 8-109.12. FEES.

Whenever the Mayor reviews an environmental impact screening form or prepares, or causes to be prepared, an EIS or supplemental EIS under this subchapter, the Mayor may impose a fee on the applicant to compensate the Mayor for the costs of reviewing the environmental impact screening form or preparing the EIS or supplemental EIS.

(Oct. 18, 1989, D.C. Law 8-36, § 11b, as added Sept. 24, 2010, D.C. Law 18-223, § 6062(b), 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition of section, see § 6062(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

For Law 18-223, see notes following § 8-102.05.

SUBCHAPTER VI. ASBESTOS LICENSING AND CONTROL.

§ 8-111.01. DEFINITIONS.

For purposes of this subchapter, the term:

- (1) "Asbestos" means any material that contains more than 1% by weight of an asbestiform variety of serpentine or chrysotile, riebeckite or crocidolite, cummingtonite, grunerite, anthophyllite, or tremolite.
- (2) "Asbestos abatement" means the removal, encapsulation, enclosure, disposal, or transportation of asbestos or material that contains asbestos.
- (3) "Business entity" means a partnership, firm, association, corporation, or sole proprietorship that is engaged in asbestos abatement.
- (4) "Asbestos worker" means a person who is engaged in asbestos abatement.
- (5) "Demolition" means to wreck or remove a load-supporting structural member of a facility or handling operation.
- (6) "Encapsulate" means to coat, bind, or resurface a wall, ceiling, pipe, or other structure to prevent friable asbestos or material that contains asbestos from becoming airborne.
- (7) "Friable asbestos material" means any material that can be crumbled, pulverized, reduced to powder by hand pressure, or that emits or can be expected to emit fibers into the air under normal use or maintenance.
- (8) "Mayor" means the Mayor of the District of Columbia.
- (9) "Person" means an individual or nonbusiness entity, including a District of Columbia ("District") government employee.
- (10) "Structural member" means a load-supporting member, including a beam or load-supporting wall, or any non-supporting member, including a ceiling or nonload-supporting wall.

(May 1, 1990, D.C. Law 8-116, § 2, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.1.

Legislative History of Laws

Law 8-116, the "Asbestos Licensing and Control Act of 1990," was introduced in Council and assigned Bill No. 8-131, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on January 30, 1990, and February 13, 1990, respectively. Signed by the Mayor on February 28, 1990, it was assigned Act No. 8-170 and transmitted to both Houses of Congress for its review.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 8-116, the "Asbestos Licensing and Control Act of 1990", see Mayor's Order 98-51, April 15, 1998 (45 DCR 2697).

Delegation of authority under D.C. Act 8-116, the District of Columbia Asbestos Licensing and Control Act of 1990, see Mayor's Order 92-152, December 1, 1992.

§ 8-111.02. ASBESTOS WORKER LICENSE.

(a) To obtain a license as an asbestos worker, a person shall establish to the satisfaction of the Board of Industrial Trades that the applicant has:

- (1) Successfully completed a course of instruction on asbestos abatement that has been approved by the Board;
- (2) Provided such additional evidence as the Board or the federal government has determined is necessary for the occupation of asbestos workers; and
- (3) Complied with other standards required for licensure by the Non-Health Related Professions and Occupations Licensure Act of 1998.

(b) An asbestos worker license shall expire 2 years from the date of issuance. A license may be renewed for additional 2-year periods if the asbestos worker submits a renewal application with the renewal fee to the Mayor.

(May 1, 1990, D.C. Law 8-116, § 3, 37 DCR 1641; Apr. 20, 1999, D.C. Law 12-261, § 1240, 46 DCR 3142.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.2.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

References in Text

"The Non-Health Related Professions and Occupations Licensure Act of 1998," referenced in (a)(3), is title I of D.C. Law 12-261.

§ 8-111.03. BUSINESS ENTITY LICENSE AND PERMIT.

(a) To obtain or renew a license to engage in asbestos abatement, a business entity shall:

- (1) Train employees and agents to comply with federal standards for asbestos abatement;
- (2) Certify that employees and agents have completed a course of instruction on asbestos abatement that has been approved by the Mayor;
- (3) Provide certification to the Mayor that the business entity is able to comply with all applicable federal standards for asbestos abatement and all applicable District environmental, safety, and health laws or rules;
- (4) Provide certification to the Mayor that the business entity has access to an approved asbestos disposal site to deposit any asbestos waste that the business entity generates during the term of the license;
- (5) Utilize only licensed asbestos workers;
- (6) Provide certification to the Mayor that the business entity will use appropriate equipment and materials;
- (7) Provide the Mayor with a copy of the respiratory protection program of the business entity;
- (8) Provide evidence of a license to haul asbestos or material that contains asbestos or of an agreement with a commercial hauler who is licensed to transport asbestos or material that contains asbestos;
- (9) Provide disclosure to the Mayor of any violation of applicable federal or District environmental, safety, health, licensing, or construction code law, rule, or regulation relating to asbestos abatement for which the business entity has been cited, and provide certification to the Mayor that any penalty or fee assessed to the business entity by a federal or District agency has been paid in full; and
- (10) Meet any other standards that the Mayor deems necessary.

(b) A license for a business entity to engage in asbestos abatement shall expire 2 years from the date of issuance. A license may be renewed for 2-year periods if the business entity submits a renewal application with the renewal fee to the Mayor.

(c) A business entity shall apply for a permit prior to the commencement of each asbestos abatement project. Before a permit may be issued, the business entity must demonstrate that the business entity will perform the work in compliance with the Construction Code, this subchapter, and rules issued pursuant to this subchapter.

(d) Any license issued pursuant to this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(May 1, 1990, D.C. Law 8-116, § 4, 37 DCR 1641; Apr. 20, 1999, D.C. Law 12-261, § 2003(i), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(k), 50 DCR 6913.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.3.

Effect of Amendments

D.C. Law 15-38, in subsec. (d), substituted "an Environmental Materials endorsement to a basic business license under the basic" for "a Class A Environmental Materials endorsement to a master business license

under the master".

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(k) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 8-111.02.

Law 15-38, the "Streamlining Regulation Act of 2003", was introduced in Council and assigned Bill No. 15-19, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to both Houses of Congress for its review. D.C. Law 15-38 became effective on October 28, 2003.

§ 8-111.04. PROHIBITIONS.

(a) Except as provided in subsection (b) and (c) of this section, no business entity shall engage in the abatement of asbestos or material that contains asbestos without a permit and license that is issued by the Mayor. No person shall undertake or be employed on an asbestos abatement project unless the person is licensed as an asbestos worker by the Mayor.

(b) The Mayor, by rule, may waive the requirements for a license or permit in the case of an emergency that involves asbestos or material that contains asbestos if the emergency poses a threat to the public health or safety of the District.

(c)(1) The asbestos worker license, business entity license and permit, and recordkeeping requirements of this subchapter shall not apply to any removal or other activity involving resilient floor covering materials, including sheet vinyl, resilient tile, and associated adhesives, provided that the business entity or persons performing the removal:

(A) Follow the resilient floor covering manufacturers' recommended work practices for removal;

(B) Are not required to obtain asbestos accreditation under applicable federal asbestos requirements and regulations promulgated by the United States Environmental Protection Agency; and

(C) For removals involving more than 18 square feet of resilient floor covering material, notify the Mayor in writing at least 10 days prior to the removal of the time, place, and entity performing the removal, and certify that asbestos accreditation is not required under subparagraph (B) of this paragraph.

(2) Any other asbestos requirements promulgated by the Mayor shall treat removals and other activity involving resilient floor covering materials in the same manner as prescribed under applicable federal asbestos requirements, including the National Emission Standard for Hazardous Air Pollutants for Asbestos as promulgated by the United States Environmental Protection Agency.

(May 1, 1990, D.C. Law 8-116, § 5, 37 DCR 1641; Oct. 15, 1993, D.C. Law 10-37, § 2(a), 40 DCR 5817.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.4.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.02.

D.C. Law 10-37, the "Asbestos Licensing and Control Act of 1990 Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-138, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on July 29, 1993, it was assigned Act No. 10-70 and transmitted to both Houses of Congress for its review. D.C. Law 10-37 became effective on October 15, 1993.

§ 8-111.05. INSPECTION AND INVESTIGATION.

The Mayor is authorized to conduct an on-site inspection of any asbestos abatement project to determine compliance with all federal and District laws or rules applicable to asbestos abatement. The Mayor is authorized to investigate any report of noncompliance with the federal and District laws or rules applicable to asbestos abatement.

(May 1, 1990, D.C. Law 8-116, § 6, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.5.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.06. REPRIMANDS; SUSPENSIONS; REVOCATIONS.

The Mayor may reprimand an asbestos worker or business entity or suspend or revoke the license or permit of an asbestos worker or business entity, pursuant to § 2-509, if the asbestos worker or business entity:

- (1) Attempts to remove or encapsulate asbestos or material that contains asbestos without a license or permit required under this subchapter;
- (2) Fraudulently or deceptively obtains or attempts to obtain a license or permit;
- (3) Violates any provision of this subchapter or any rule promulgated pursuant to this subchapter; or
- (4) Fails to meet any applicable federal or District standard for asbestos abatement.

(May 1, 1990, D.C. Law 8-116, § 7, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.6.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.07. SUMMARY ACTION.

(a) If the Mayor determines that the conduct of an asbestos worker or business entity presents an imminent danger to the public health or safety of the residents of the District, the Mayor may suspend or restrict the license or permit of the asbestos worker or business entity prior to a hearing.

(b) At the time of the suspension or restriction of a license or permit, the Mayor shall provide the asbestos worker or business entity with written notice that states the action that is being taken, the basis for the action, and the right of the asbestos worker or business entity to request a hearing.

(c) An asbestos worker or business entity shall have the right to request a hearing within 3 days of service of notice of the suspension or restriction of the license or permit. The Mayor shall hold a hearing within 3 days of receipt of a timely request and shall issue a decision within 3 days of the hearing.

(d) The Mayor shall inform the asbestos worker or business entity of the decision in writing and provide findings of fact and conclusions of law. The findings shall be supported by reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision to each party to a case or to the party's attorney of record.

(e) Any person aggrieved by a decision pursuant to this section may file an appeal with the Mayor within 10 days of the decision.

(May 1, 1990, D.C. Law 8-116, § 8, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.7.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.08. CEASE AND DESIST ORDER.

If the Mayor determines that a hazardous condition exists that may endanger the public health or safety of

the District of Columbia due to noncompliance with federal or District laws or rules on asbestos abatement, the Mayor may issue a cease and desist order to require a violator to cease asbestos abatement operations immediately, remove asbestos workers from the asbestos abatement project area, evacuate appropriate areas of the asbestos abatement project site, or take emergency measures necessary to contain the hazardous condition. Any business entity subject to a cease and desist order may appeal the order within 15 days, but is required to comply with the order pending appeal.

(May 1, 1990, D.C. Law 8-116, § 9, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.8.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.09. CRIMINAL ACTION.

A person who willfully violates § 8-111.04 is guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$5,000 for the 1st offense or \$10,000 for the 2nd or subsequent offense, imprisoned for not more than 1 year, or both. Each day that a violation continues is a separate violation under this subchapter.

(May 1, 1990, D.C. Law 8-116, § 10, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.9.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.10. CIVIL INFRACTIONS.

Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subchapter, or the rules authorized by this subchapter, pursuant to Chapter 18 of Title 2.

(May 1, 1990, D.C. Law 8-116, § 11, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.10.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.11. RECORDS TO BE KEPT BY A BUSINESS ENTITY.

(a) A business entity that is engaged in asbestos abatement shall keep a record of each asbestos abatement project and make the record available to the Mayor.

(b) The records shall include:

- (1) The name and address of the person who supervised the asbestos abatement project;
- (2) The location of and a description of the asbestos abatement project;
- (3) The amount of asbestos or material that contains asbestos that was involved in the asbestos abatement project;
- (4) The commencement and completion date of the asbestos abatement project;
- (5) A summary of the procedures that were used to comply with all applicable District and federal standards for asbestos abatement;
- (6) The name and address of each asbestos disposal site that was used in the asbestos abatement project;

- (7) The location, date, and description of any fiber release episodes;
- (8) A report of any air sampling, including the location, date, method used, results, and the name and address of any worker who performed the air sampling;
- (9) Information that relates to asbestos worker training and licensing;
- (10) The name and address of a certified laboratory that is independent of the business entity and that will conduct analysis of bulk, dust, or air samples during an asbestos abatement project, and the name and address of the owner of the building in which the asbestos abatement project is being conducted; and
- (11) Any other information that the Mayor deems necessary.

(c) The business entity or any successor or assignee shall maintain the records required by this section for not less than 30 years.

(May 1, 1990, D.C. Law 8-116, § 12, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.11.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.12. MAYOR'S RESPONSIBILITIES.

(a) The Mayor shall make available application forms for asbestos abatement licenses to business entities. The application form shall:

- (1) Request the name and address of the business entity;
- (2) Request a description of the protective clothing and respirators to be used by the business entity and the procedure for use of the protective clothing and respirators;
- (3) Request the name and address of each asbestos disposal site to be used;
- (4) Request a description of the site decontamination procedures to be used;
- (5) Request a description of the asbestos abatement methods to be used by the business entity;
- (6) Request a description of the procedure to be used to handle waste that contains asbestos;
- (7) Request a description of the procedure to be used to monitor the air;
- (8) Request a description of the final cleanup procedure to be used;
- (9) Request the signature of the chief executive officer of the business entity or his or her agent;
- (10) Request evidence that any person to be utilized on an asbestos abatement project is a licensed asbestos worker;
- (11) Outline procedures for the business entity to follow to certify that the business entity is able to comply with applicable federal standards for asbestos abatement and District environmental, safety, or health laws or rules;
- (12) Outline procedures for the business entity to follow to certify that the business entity will use appropriate equipment and materials;
- (13) Outline procedures for the business entity to follow to certify that the business entity has access to an approved asbestos disposal site; and
- (14) Request any other information that the Mayor deems necessary.

(b) Prior to expiration of a license for an asbestos worker or for asbestos abatement by a business entity, the Mayor shall send to an asbestos worker or business entity a renewal notice that states:

- (1) The expiration date of the current license;
- (2) The date that the renewal application must be received by the Mayor for the renewal license to be issued and mailed to the asbestos worker or business entity before the current license expires; and
- (3) The amount of the renewal fee.

(May 1, 1990, D.C. Law 8-116, § 13, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.13. RULES.

(a) Within 180 days of May 1, 1990, the Mayor shall submit proposed rules on the control of asbestos and materials that contain asbestos to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed effective. The Mayor shall submit any amendment to the proposed rules to the Council for a 45-day period of review pursuant to this section.

(b) The proposed rules shall include, but not be limited to, the following:

- (1) Criteria for the display of caution signs at an asbestos abatement project site;
- (2) Requirements for wetting asbestos material;
- (3) Requirements for the disposal of asbestos or material that contains asbestos;
- (4) Requirements to clean and monitor an asbestos abatement project site where abatement has occurred;
- (5) Requirements to enclose and seal materials used in an asbestos abatement project;
- (6) Asbestos control procedures for demolition and renovation projects;
- (7) Appropriate exemption standards and alternative procedures for removal, including the use of resilient floor covering manufacturers' recommended work practices for the handling and removal of resilient floor covering materials;
- (8) A schedule of license and permit fees;
- (9) Criteria for asbestos health and safety training courses;
- (10) Continuing education requirements for asbestos workers, supervisory asbestos workers, or contractors that are engaged in asbestos abatement;
- (11) Reciprocity and endorsement provisions;
- (12) Procedures to notify the public that an asbestos abatement project is about to commence;
- (13) Requirements for asbestos worker protection, including provisions that require a business entity to:
 - (A) Submit to the Mayor a copy of the federally required respiratory protection program;
 - (B) Ensure that workers complete a training course on asbestos abatement that includes, but is not limited to, recognition of asbestos health hazards to the public, and federal and District asbestos requirements;
 - (C) Certify to the Mayor that the business entity provides workers with protective clothing and equipment; and
- (14) Requirements that provide protection of occupants of a building affected by an asbestos abatement project, including but not limited to, provisions that require:
 - (A) Certification that the level of asbestos fibers in affected units after an asbestos project is not more than .01 fibers per cubic centimeter;
 - (B) Certification by the business entity and District inspectors that the techniques used during the asbestos abatement project are safe and that an affected unit is safe for rehabilitation; and
 - (C) Procedures for the notification and education of occupants not less than 30 days prior to the commencement of an asbestos abatement project of the health or safety reasons that necessitate the asbestos abatement project and the procedures, including alternate accommodations and protection of belongings, that will be used to protect the health and safety of occupants of affected units.

(May 1, 1990, D.C. Law 8-116, § 14, 37 DCR 1641; Oct. 15, 1993, D.C. Law 10-37, § 2(b), 40 DCR 5817; May 16, 1995, D.C. Law 10-255, § 9, 41 DCR 5193.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

For legislative history of D.C. Law 10-37, see Historical and Statutory Notes following § 8-111.04.

Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

D.C. Act 10-302 which affected this section became Law 10-255, effective May 16, 1995. The historical citation and notes relating to D.C. Law 10-255 have been set out herein to clarify the law number and effective date of that act.

Miscellaneous Notes

District of Columbia Asbestos Licensing and Contract Act of 1990 Proposed Rulemaking Approval Resolution of 1997: Proposed Resolution 12-0112, the "District of Columbia Asbestos Licensing and Contract Act of 1990 Proposed Rulemaking Approval Resolution of 1997" was deemed approved, effective Jan. 25, 1997.

§ 8-111.14. REMEDIES CUMULATIVE.

The remedies provided for in this subchapter are cumulative of remedies already provided in law.

(May 1, 1990, D.C. Law 8-116, § 15, 37 DCR 1641.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-991.14.

Legislative History of Laws

For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

SUBCHAPTER VII. UNDERGROUND STORAGE TANK MANAGEMENT.

§ 8-113.01. DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Facility" means 1 or more underground storage tanks at a given location.
- (2) "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for the underground storage tank facility.
- (3) "Operator" means any person in control of, or having responsibility for, the daily operation of a facility.
- (4) "Owner" means:
 - (A) In the case of an underground storage tank in use on or after November 8, 1984, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; or
 - (B) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned a tank immediately before discontinuation of its use.
- (5) "Person" means any individual, partnership, corporation (including a government corporation), trust, firm, joint stock company, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, the District of Columbia ("District") government, the United States government, a foreign government, or any interstate body.
- (6) "Petroleum" means petroleum, including crude oil or any fraction of crude oil, that is liquid at standard conditions of temperature and pressure of 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.
- (7) "Regulated substance" means:
 - (A) Any substance defined in § 101(4) of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 U.S.C. § 9601(14)). The term "regulated substance" shall not include any substance regulated as a hazardous waste under subtitle C of title II of the Solid Waste Disposal Act, approved October 21, 1976 (90 Stat. 2806; 42 U.S.C. § 6921 et seq.);

(B) Petroleum; or

(C) Any other substance designated by the Mayor in accordance with rules issued pursuant to § 8-113.12.

(8) "Release" means any spill, leak, emission, discharge, escape, leach, or disposal from an underground storage tank.

(9)(A) "Responsible party" means:

(i) An owner or operator as defined in this section;

(ii) A person who caused or contributed to a release from an underground storage tank system;

(iii) A person who caused a release as a result of transfer of a regulated substance to or from an underground storage tank system;

(iv) A person found to be negligent, including any person who previously owned or operated an underground storage tank or facility, or who arranged for or agreed to the placement of an underground storage tank system by agreement or otherwise; or

(v) The owner of real property where an underground storage tank is or was located or where contamination from an underground storage tank is discovered if the owner or operator of the tank as defined in paragraphs 3 and 4 cannot be located or is insolvent, or, if the real property owner refuses without good cause to permit the owner or operator of the tank access to the property to investigate or remediate the site.

(B) If the owner and operator of a petroleum underground storage tank are separate persons, only the owner shall be required to demonstrate financial responsibility. Both the owner and operator shall be liable in the event of noncompliance with the requirements of 40 CFR 280.90 et seq.

(10) "Underground storage tank" means 1 or any combination of tanks, including underground pipes that connect tanks, that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground. "Underground storage tank" does not mean a tank that is exempted in accordance with rules issued pursuant to § 8-113.12.

(Mar. 8, 1991, D.C. Law 8-242, § 2, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(a), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.1.

Legislative History of Laws

Law 8-242, the "District of Columbia Underground Storage Tank Management Act of 1990," was introduced in Council and assigned Bill No. 8-382, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-325 and transmitted to both Houses of Congress for its review.

Law 9-159, the "District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992," was introduced in Council and assigned Bill No. 9- 286, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21, 1992, it was assigned Act No. 9-253 and transmitted to both Houses of Congress for its review. D.C. Law 9-159 became effective on September 29, 1992.

Delegation of Authority

Delegation of authority under D.C. Law 8-242, the "D.C. Underground Storage Tank Management Act of 1990", see Mayor's Order 91-160, October 9, 1991.

Delegation of authority pursuant to D.C. Law 8-242, the "District of Columbia Underground Storage Tank Management Act of 1990", see Mayor's Order 98-58, April 17, 1998 (45 DCR 2871).

§ 8-113.02. NOTIFICATION.

(a) Within 120 days after March 8, 1991, the owner of an underground storage tank shall notify the Mayor of the existence of any tank and specify the age, size, type, location, and use of the tank and any other

information required by the Mayor.

(b) Notice shall not be required if the owner of an underground storage tank has:

(1) Taken the tank out of operation on or before January 1, 1974; or

(2) Previously filed a federal underground storage tank notification form with the Mayor.

(c) Any owner who brings into use an underground storage tank after March 8, 1991, shall notify the Mayor within 30 days of the existence of the tank as provided in subsection (a) of this section.

(d) Any owner of tanks located at different facilities shall file a separate notification form for each facility.

(e) An owner shall submit notice to the Mayor 30 days prior to a permanent removal from service or a change in the reported use, contents, or ownership of an underground storage tank.

(f) Beginning 30 days after the Mayor issues rules pursuant to § 8-113.12 regarding performance standards for new underground storage tanks, any person who deposits regulated substances into an underground storage tank or sells or leases an underground storage tank shall notify the owner of the tank of the notification requirement pursuant to this section.

(g) Beginning 30 days after September 29, 1992, any person who sells real property in the District of Columbia upon which underground storage tanks are located, or from which underground storage tanks have been removed during the seller's ownership, shall inform each prospective buyer in writing, prior to entering into a contract for sale, of the existence or removal of any tanks of which the seller has knowledge.

(Mar. 8, 1991, D.C. Law 8-242, § 3, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(b), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.2.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.03. RELEASE NOTIFICATION REQUIREMENTS.

(a) Any responsible party or any authorized agent of a responsible party; any person who tests, installs, or removes tanks; any person who engages in site investigation, assessment, remediation, or geotechnical exploration; or any public utility company or authorized agent of a public utility company who knows, or has reason to know, of a release from an underground storage tank shall notify the Mayor of the release.

(b) The notification shall consist of, if known, the name of the owner, operator, and any other responsible party, as well as the location, date, time, volume, and substance of the release. The notification shall include, if known, any immediate and ongoing action taken to mitigate the release, any subsequent hazardous conditions caused by the release, and an evaluation of any potential environmental hazard evident by the condition or disposition of the tank.

(Mar. 8, 1991, D.C. Law 8-242, § 4, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(c), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.3.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.04. INTERIM PROHIBITION FOR INSTALLATION.

From March 8, 1991, until the effective date of the rules issued pursuant to § 8-113.12 regarding performance standards for new underground storage tanks, no person may install an underground storage tank to store a regulated substance unless the tank, whether of single or double wall construction, complies with the District of Columbia Fire Prevention Code and the new tank performance standards set forth in 40 CFR part 280.

(Mar. 8, 1991, D.C. Law 8-242, § 5, 38 DCR 344.)

HISTORICAL AND STATUTORY NOTES

1981 Ed., § 6-995.4.

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.05. UNDERGROUND STORAGE TANK TRUST FUND.[REPEALED]

(Mar. 8, 1991, D.C. Law 8-242, § 6, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(d), 39 DCR 5690; Sept. 14, 2011, D.C. Law 19-21, § 9083, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.5.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

For history of Law 19-21, see notes under § 8-102.03.

§ 8-113.06. CERTIFICATION, REGISTRATION, AND LICENSING.

(a) The Mayor may require the licensing of any business and the certification of any individual who installs, removes, or tests underground storage tanks. The Mayor may, by rules issued in accordance with § 8-113.12, establish prerequisites for licensing and certification including minimum qualifications, proof of financial responsibility, application fees, and procedures.

(b) Any owner of an underground storage tank that contains a regulated substance shall register the tank with the Mayor on an annual basis pursuant to the rules issued and shall pay the required fee. A copy of the registration certificate shall be kept conspicuously displayed and available for inspection at any facility where the underground storage tank is located.

(c) The annual registration fee shall be:

(1) \$500 for an initial registration and \$200 for a renewal registration for a tank over 10,000 gallons; and

(2) \$200 for an initial registration and \$100 for a renewal registration for a tank of 10,000 gallons or under.

(d) The Mayor may adjust fees in accordance with rules issued pursuant to § 8-113.12 beginning 2 years after March 8, 1991.

(Mar. 8, 1991, D.C. Law 8-242, § 7, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(e), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.6.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.07. DENIAL, SUSPENSION, OR REVOCATION.

The Mayor may suspend, revoke, or refuse to issue, renew, or restore a license or certificate issued under § 8-113.06 to protect the public health, safety, or welfare if the Mayor finds that the applicant or holder has:

(1) Failed to meet and maintain the standards established by this subchapter or rules issued pursuant to this subchapter;

(2) Submitted a false or fraudulent record, invoice, or report;

(3) Engaged in fraud or misrepresentation in the application for licensure or certification;

(4) Had a history of repeated violations; or

(5) Had his license or certification denied, revoked, or suspended in another state or jurisdiction.
(Mar. 8, 1991, D.C. Law 8-242, § 8, 38 DCR 344.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.7.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.08. RIGHT OF ENTRY; INSPECTIONS; ANALYSES; CORRECTIVE ACTION.

(a) For the purpose of enforcing this subchapter or any rule issued pursuant to this subchapter, the Mayor or his or her designated representative may, at any reasonable time, upon the presentation of appropriate credentials to the owner, operator, or agent in charge:

(1) Enter without delay any place where an underground storage tank is or has been located or where a release is suspected;

(2) Inspect and obtain samples of any regulated substance contained in the tank;

(3) Inspect and copy any record, report, information, or test result required to be maintained pursuant to this subchapter, rules issued pursuant to this subchapter, or relevant to the operation of any underground storage tank; and

(4) Conduct monitoring or testing of any tank, associated equipment, contents, surrounding soils, air, surface water, or groundwater.

(b) If the Mayor is denied access to any place where an underground storage tank is or has been located, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(c) If a designated representative or employee of the Mayor obtains any sample prior to leaving the premises, he or she shall give the owner, operator, or agent in charge, a receipt that describes the sample obtained, and if requested, a portion of the sample equal in volume or weight to the portion obtained. If any analysis is made of a sample, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

(d) The Mayor may require the responsible party to provide any information or record with respect to any underground storage tank or system if the information or record is necessary to determine compliance with the rules or to conduct monitoring or testing of the tanks, associated equipment, contents, surrounding soils, air, or surface water or groundwater. The Mayor may require the responsible party to take any necessary corrective action.

(d-1) The Mayor, or his or her designated agent, may enter upon property to perform, or cause to be performed, corrective actions necessary to protect human health or the environment under the circumstances set forth in § 8- 113.05(d). The Mayor shall give prior notice of the action to the owner or operator and the real property owner by first attempting personal service or service by registered mail, and, if unsuccessful, by providing notice by publication and conspicuous posting on the property.

(e) The Mayor may take summary corrective action if a release of a regulated substance from an underground storage tank creates an imminent threat to human health or the environment. The Mayor shall provide an opportunity for a hearing with respect to the summary action without prejudice to the authority of the Mayor to take and complete the action. The Mayor shall give prior notice of the action to the owner, operator, or agent in charge and the real property owner, by personal service or by registered mail, and by conspicuous posting on the property, unless the emergency nature of the situation makes prior notice by personal service or registered mail impractical. If the owner, operator, or agent in charge cannot be located, notice shall be provided by conspicuous posting on the property.

(Mar. 8, 1991, D.C. Law 8-242, § 9, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(f), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.8.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.09. ENFORCEMENT; PENALTIES.

(a) If the Mayor believes or has reason to believe that there is a violation or a threatened violation of this subchapter or the rules issued pursuant to this subchapter, the Mayor may give written notice of the violation or threatened violation to the owner, operator, or any other responsible party deemed appropriate by the Mayor, and may require the person to take the corrective measures the Mayor considers reasonable and necessary.

(1) Repealed.

(b) If a person fails to comply with a notice of violation issued pursuant to subsection (a) of this section within the time stated in the notice, the Mayor may issue a proposed compliance order, or a proposed cease and desist order, or may institute a court action for injunctive relief, damages, civil penalties, or recovery of any corrective action costs, necessary to promptly and effectively terminate the violation or threatened violation and protect life, property, or the environment.

(1) A proposed compliance order or proposed cease and desist order issued under this section shall include a statement of the nature of the violation, afford the right to a hearing, and allow a reasonable time for compliance with the order, consistent with the likelihood of harm and the need to protect health, safety, life, property, and the environment, and shall state any penalties to be assessed for failure to comply with the order.

(2) A proposed order issued under this section shall become effective and final unless the person or persons named therein request a hearing no later than 15 days after the order is served. If requested, the public hearing shall be conducted in compliance with the requirements of § 2-509.

(c)(1) The Mayor may issue an immediate compliance order, or an immediate cease and desist order, or may seek a temporary restraining order, without first issuing a notice of violation or threatened violation pursuant to subsection (a) of this section and without first providing reasonable notice and an opportunity to be heard pursuant to subsection (b) of this section, in order to require a person to correct a situation which immediately threatens public health or the environment or to restrain any person from engaging in any unauthorized activity that immediately endangers or causes damage to public health or the environment.

(2) A compliance order or cease and desist order issued under this section shall be effective upon issuance and shall become final unless the person named in the order requests a public hearing within 72 hours after the order is served. If requested, the Mayor shall hold a hearing within 15 days from the date the hearing request is received and shall issue a decision no later than 15 days after the hearing. The hearing shall be conducted in compliance with § 2-509.

(d) Any person who fails to comply with a final compliance order or a final cease and desist order issued pursuant to this section shall be liable for a civil penalty of not more than \$25,000 for each day of noncompliance.

(e) Any person who knowingly fails to notify or submits false information pursuant to § 8-113.02(a) through (f) shall be subject to a civil penalty not to exceed \$10,000 for each violation.

(f) Any person who fails to comply with any applicable rules issued pursuant to § 8-113.12 or with the requirements of § 8-113.04 shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation.

(g) A civil fine, penalty, or fee may be imposed as an alternative sanction for any infraction of the provisions of this subchapter or the rules issued in accordance with this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(h) Any action under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia, and shall be instituted by the Office of the Corporation Counsel.

(i) In any action brought for civil penalties, damage, or equitable relief under this subchapter, the statute of limitations shall not begin to toll until the injury is discovered or, with reasonable diligence, should have been discovered.

(j) The Mayor may cause to be entered any final order requiring a party to take corrective action or to pay fines, penalties, or costs as a judgment against the party in the Superior Court of the District of Columbia. The Mayor may enforce the judgment in the same manner as any other civil judgment may be enforced under District law.

(k) Any person adversely affected or aggrieved by a final order issued pursuant to this section may appeal to the District of Columbia Court of Appeals.

(Mar. 8, 1991, D.C. Law 8-242, § 10, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(g), 39 DCR 5690; Apr. 18, 1996, D.C. Law 11-110, § 12, 43 DCR 530; Apr. 20, 1999, D.C. Law 12-264, § 17, 46 DCR 2118.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.9.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Delegation of Authority

Delegation of Authority under the Underground Storage Tank Management Act of 1990, see Mayor's Order 2007-112, May 3, 2007 (54 DCR 9041).

§ 8-113.10. SUMMARY ACTION.

- (a) If the Mayor determines during or after an investigation that the conduct of any business or individual who installs, removes, or tests an underground storage tank presents an imminent danger to the health or safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license of the business or certificate of the individual.
- (b) At the time of the summary suspension or restriction, the Mayor shall provide the licensee or certificate holder with a written notice stating the action that is being taken, the basis for the action, and the right of the licensee or certificate holder to request a hearing.
- (c) A licensee or certificate holder shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of the license or certificate. The Mayor shall hold a hearing within 15 days of receipt of a timely request, and shall issue a decision within 15 days after the hearing.
- (d) Any decision and order adverse to a licensee or certified holder shall be in writing and accompanied by findings of fact and conclusions of law. The Mayor shall provide a copy of the decision and order and findings of fact and conclusions of law to each party or his or her attorney of record.
- (e) Any licensee or certificate holder aggrieved by a decision and order may file an appeal in accordance with § 2-510.

(Mar. 8, 1991, D.C. Law 8-242, § 11, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(h), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.10.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.11. CITIZEN'S RIGHT OF ACTION.

- (a) Any person aggrieved by a violation of any requirement of this subchapter or rule issued pursuant to this subchapter may commence a civil action on his or her own behalf against any person who is alleged to be in violation.
- (b) The Court shall have jurisdiction in any action brought pursuant to subsection (a) of this section to enforce the requirement or to order any action necessary to correct the violation, and to impose any civil penalty provided for the violation.
- (c) No action may be commenced under subsection (a) of this section until 30 days after the plaintiff has given notice of the violation to the Office of Corporation Counsel for the District of Columbia and to the alleged violator.
- (d) No action may be commenced under subsection (a) of this section if the Mayor has commenced and is

diligently prosecuting an action to obtain compliance with the requirements of this subchapter or rules issued pursuant to this subchapter.

(e) The Court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party if the court determines an award is appropriate.

(f) An owner or operator who enters on the property of another person in order to investigate or remediate a leaking underground storage tank site shall be liable for any damages to person or property which result from the action of the owner or operator or the agents of the owner or operator.

(Mar. 8, 1991, D.C. Law 8-242, § 12, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(i), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.11.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.12. RULES.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue and may revise, as appropriate, rules necessary to carry out the purposes and implement the provisions of this subchapter, including rules regarding requirements for:

- (1) The maintenance of leak detection, prevention, inventory control, and tank testing systems;
- (2) The maintenance of records of any monitoring or leak detection system or an inventory control or tank testing system;
- (3) The reporting of releases and any corrective action taken;
- (4) The abandonment in place, closure, or removal of underground storage tanks to prevent future releases of regulated substances into the environment;
- (5) The maintenance of evidence of financial responsibility in order to take corrective action and compensate any 3rd party for bodily injury or property damage which shall conform to the federal financial responsibility requirements issued pursuant to section 9004 of the Solid Waste Disposal Act, approved November 8, 1984 (98 Stat. 3282; 42 U.S.C. 6991c);
- (6) The establishment of standards of performance for new underground storage tanks;
- (7) The taking of corrective action in response to a release from an underground storage tank that meets District and federal cleanup objectives;
- (8) Public participation in the implementation and enforcement of this subchapter;
- (9) Standards and fees for the registration, installation, and abandonment of tanks; and
- (10) Tanks that are exempt from regulation.

(b) Until the Mayor, by rule, determines which tanks shall be exempt from regulation, the exemptions set forth in section 9001(1) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)) shall be applicable.

(Mar. 8, 1991, D.C. Law 8-242, § 13, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(j), 39 DCR 5690.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-995.12.

Legislative History of Laws

For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

SUBCHAPTER VIII. LEAD-BASED PAINT ABATEMENT AND CONTROL.

§ 8-115.01. DEFINITIONS.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 2, 43 DCR 6854; Apr. 20, 1999, D.C. Law 12-264, § 18, 46 DCR 2118; Apr. 12, 2005, D.C. Law 15-347, § 2(a), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.1.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(a) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(a) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(a) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(a) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

Legislative History of Laws

Law 11-221, the "Lead-Based Paint Abatement and Control Act of 1996," was introduced in Council and assigned Bill No. 11-640, which was referred to the Committee on Housing and Urban Affairs. The Bill was adopted on first and second readings on October 1, 1996, and November 17, 1996, respectively. Signed by the Mayor on November 20, 1996, it was assigned Act No. 11-438 and transmitted to both Houses of Congress for its review. D.C. Law 11-221 became effective April 9, 1997.

For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 8-113.09.

Law 15-347, the "Lead-Bases Paint Abatement and Control Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-769 which was referred to the Committee Human Services. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-769 and transmitted to both Houses of Congress for its review. D.C. Law 15-347 became effective on April 12, 2005.

Law 17-381, the "Lead-Hazard Prevention and Elimination Act of 2008", was introduced in Council and assigned Bill No. 17-936 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-722 and transmitted to both Houses of Congress for its review. D.C. Law 17-381 became effective on March 31, 2009.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 11-221, "Lead-Based Paint Abatement and Control Act of 1996", see Mayor's Order 98-54, April 15, 1998 (45 DCR 2702); Mayor's Order 98-124, August 7, 1998 (45 DCR 6386).

§ 8-115.02. ESTABLISHMENT OF LEAD-BASED PAINT ABATEMENT AND CONTROL PROGRAM.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 3, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(b), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.2.

Emergency Act Amendments

For temporary amendment of section, see § 101 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 11-221 the "Lead-Based Paint Abatement and Control Act of 1996", see Mayor's Order 97-118, June 25, 1997 (44 DCR 4137).

§ 8-115.03. PROHIBITION ON LEAD-BASED PAINT ACTIVITIES.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 4, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(c), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.3.

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.04. EXEMPTIONS FROM PROVISIONS OF THIS SUBCHAPTER.[REPEALED]

(Apr. 9 1997, D.C. Law 11-221, § 5, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(d), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.4.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(b) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(b) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(b) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(b) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

§ 8-115.05. CERTIFICATION REQUIREMENTS FOR INDIVIDUALS AND BUSINESS ENTITIES TO CONDUCT LEAD-BASED PAINT ABATEMENT; RISK ASSESSMENT AND INSPECTION OF LEAD-BASED PAINT HAZARDS, LEAD-CONTAMINATED DUST, AND LEAD-CONTAMINATED SOIL; OR PLANNING, PROJECT DESIGNING, AND SUPERVISION OF LEAD-BASED PAINT ACTIVITIES.[REPEALED]

(Apr. 9 1997, D.C. Law 11-221, § 6, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(e), 52 DCR 2627; Mar. 2, 2007, D.C. Law 16-191, § 36(a), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.5.

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.05A. REQUIRED TRAINING OF EMPLOYEES OF A BUSINESS ENTITY PERFORMING INTERIM CONTROLS AND CERTAIN LEAD-BASED PAINT ACTIVITIES.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 6a, as added Apr. 12, 2005, D.C. Law 15-347, § 2(f), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-347, see notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.06. ACCREDITATION OF TRAINING PROVIDERS.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 7, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(g), 52 DCR 2627; Mar. 2, 2007, D.C. Law 16-191, § 36(b), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.6.

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

For Law 16-191, see notes following § 8-115.05.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.07. PERMIT REQUIREMENTS.

(a) Prior to conducting a lead-based paint abatement as defined in § 8-115.01(1)(A), business entities and individuals shall obtain a permit from the Mayor. To obtain a permit, an application shall be submitted to the Mayor for approval with the appropriate fee. The application shall contain the following information:

- (1) The location of the lead-based paint abatement project;
- (2) The starting and completion dates of the lead-based paint abatement;
- (3) The approximate amount of lead-based paint or lead-based paint containing materials to be abated;
- (4) The method of abatement to be employed;
- (5) The provisions for medical surveillance and worker protection;
- (6) The manner in which the waste containing lead will be disposed and location of the disposal site;
- (7) A description of the areas immediately adjacent to the abatement site;
- (8) Proof of certification, pursuant to § 8-115.05, of the business entity and of all individuals who will be engaging in the lead-based paint abatement; and
- (9) Any other information required by the Mayor through the formal rulemaking and regulatory process of § 8-115.14.

(b) A permit fee determined by the Mayor shall be assessed for each lead-based paint abatement project. The Mayor may by rulemaking revise permit fees as necessary to recover the costs of administering and enforcing this subchapter. Permits shall be valid for a period not to exceed one year from the date of issuance. Each permit shall be limited to one site and shall not be transferable to another site.

(c) A single application and permit shall be sufficient for an entire abatement project. Separate permits for each unit or building are not required as long as the units and buildings are located on the same real property.

(Apr. 9, 1997, D.C. Law 11-221, § 8, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(h), 52 DCR 2627.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.7.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(c) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(c) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(c) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(c) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

Miscellaneous Notes

Section 21(b) of D.C. Law 17-381 provides that section 8 shall be deemed repealed upon issuance of rules by the Mayor under this act regarding abatement permit requirements.

§ 8-115.07A. CLEARANCE REPORT REQUIRED.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 8a, as added Apr. 12, 2005, D.C. Law 15-347, § 2(i), 52 DCR 2627, Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-347, see notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.08. RECORD KEEPING REQUIREMENTS.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 9, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(j), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.8.

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.09. INSPECTIONS BY THE MAYOR.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 10, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(k), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.9.

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.10. DENIAL, SUSPENSION, OR REVOCATION.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 11, 43 DCR 6854; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.10.

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.11. HEARINGS.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 12, 43 DCR 6854; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.11.

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 17-381, see notes following § 8-115.01.

§ 8-115.12. CRIMINAL PENALTIES/FINES.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 13, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(l), 52 DCR 2627; Mar. 2, 2007, D.C. Law 16-191, § 36(c), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.12.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(d) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(d) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(d) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(d) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

For Law 16-191, see notes following § 8-115.05.

For Law 17-381, see notes following § 8-115.01.

Miscellaneous Notes

Section 5 of D.C. Law 15-347 provides:

"Sec. 5. Applicability.

"Section 2(l) and (m) shall apply upon publication in the District of Columbia Register by the Mayor of a list of civil infraction fines and a recommended schedule of fines or penalties for the Superior Court of the District of Columbia to consider."

§ 8-115.13. CIVIL PENALTIES/FINES; CIVIL INFRACTIONS.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 14, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(m), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.13.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(e) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(e) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(e) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(e) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(e) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

For Law 15-347, see notes following § 8-115.01.

Miscellaneous Notes

Section 5 of D.C. Law 15-347 provides:

"Sec. 5. Applicability.

"Section 2(l) and (m) shall apply upon publication in the District of Columbia Register by the Mayor of a list of civil infraction fines and a recommended schedule of fines or penalties for the Superior Court of the District of Columbia to consider."

For Law 17-381, see notes following § 8-115.01.

§ 8-115.14. RULEMAKING.[REPEALED]

(Apr. 9, 1997, D.C. Law 11-221, § 15, 43 DCR 6854; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-997.14.

Emergency Act Amendments

For temporary (90 day) addition, see § 3 of the Multiple Dwelling Residence Water Lead Level Test Emergency Act of 2004 (D.C. Act 15-483, July 19, 2004, 51 DCR 7833).

For temporary (90 day) addition, see § 3 of Multiple Dwelling Residence Water Lead Level Test Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-560, October 26, 2004, 51 DCR 10382).

Legislative History of Laws

For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

Law 15-206, the "Multiple Dwelling Residence Water Lead Level Test Temporary Act of 2004", was introduced in Council and assigned Bill No. 15-907, and was retained by Council. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-488 and transmitted to both Houses of Congress for its review. D.C. Law 15-206 became effective on December 7, 2004.

For Law 17-381, see notes following § 8-115.01.