

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 8.**  
**ENVIRONMENTAL AND ANIMAL CONTROL**  
**AND PROTECTION.**

**CHAPTER 13.**  
**HAZARDOUS WASTE MANAGEMENT.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 13. HAZARDOUS WASTE MANAGEMENT.**

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# CHAPTER 13. HAZARDOUS WASTE MANAGEMENT.

## SUBCHAPTER I. GENERAL PROVISIONS.

### § 8-1301. PURPOSES AND FINDINGS.

(a) The purposes of this chapter are:

- (1) To insure safe and effective hazardous waste management;
- (2) To establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous waste and fuel containing hazardous waste and the production, marketing, distribution, and burning of fuel produced from or containing hazardous waste; and
- (3) To reduce or eliminate at the source, wherever feasible and as expeditiously as possible, the generation of hazardous waste and the release of toxic chemicals in the District of Columbia.

(b) The Council of the District of Columbia finds that:

- (1) Increasing production and consumption rates, continuing technological development, and energy requirements have led to the generation of greater quantities of hazardous waste;
- (2) The problems of disposing of hazardous waste are increasing as a result of air and water pollution controls and a shortage of available landfill sites;
- (3) While it is technologically and financially feasible for hazardous waste generators to reduce and eliminate wastes generated, and to dispose of their wastes in a manner which has a less adverse impact on the environment than current practices, such knowledge is not being utilized to the extent possible;
- (4) Even though the District of Columbia is not heavily industrialized, there is a significant daily hazardous waste disposal problem;
- (5) The public health and safety, and the environment, are threatened where hazardous wastes are not managed in an environmentally sound manner;
- (6) In accordance with section 101(b) of the Federal Solid Waste Disposal Act, approved November 8, 1984 (98 Stat. 3224; 42 U.S.C. 6902(b)), it is the policy of the District of Columbia that, wherever feasible, the generation of hazardous waste and the release of toxic chemicals is to be reduced or eliminated as expeditiously as possible; and
- (7) Other states and local jurisdictions that have implemented source reduction technical assistance programs for businesses have shown programs to be cost-effective.

(Mar. 16, 1978, D.C. Law 2-64, § 2, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(a), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(a), 36 DCR 5748; Mar. 8, 1991, D.C. Law 8-229, title I, § 102(a), 38 DCR 246.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-701.

1973 Ed., § 6-521.

##### *Legislative History of Laws*

Law 2-64, the "District of Columbia Hazardous Waste Management Act of 1977," was introduced in Council and assigned Bill No. 2-163, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 22, 1977 and December 6, 1977, respectively. Signed by the Mayor on January 20, 1978, it was assigned Act No. 2-133 and transmitted to both Houses of Congress for its review.

Law 5-103, the "Hazardous Waste Management Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-381, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on April 30, 1984, and May 15, 1984, respectively. Signed by the Mayor on June 6, 1984, it was assigned Act No. 5-144 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

#### *Delegation of Authority*

Delegation of authority pursuant to D.C. Law 2-64, the "District of Columbia Hazardous Waste Management Act of 1977", see Mayor's Order 98-55, April 15, 1998 (45 DCR 2704).

#### *Miscellaneous Notes*

Air quality control regulations enacted: Section 3 of D.C. Law 5-165, as amended by § 15 of D.C. Law 6-192, effective February 24, 1987, enacted air quality control regulations of the District of Columbia as Chapters 1 through 9 of Title 20 of the District of Columbia Municipal Regulations, "Environment and Energy".

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.

## **§ 8-1302. DEFINITIONS.**

For purposes of this chapter:

(1) The term "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including ground waters.

(1A) The term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator.

(2) The term "hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, as established by the Mayor, may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Such wastes include, but are not limited to, those which are toxic, carcinogenic, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat or other means, as well as containers and receptacles previously used in the transportation, storage, use or application of the substances described as a hazardous waste.

(3) The term "generation" means the act or process of producing hazardous waste.

(3A) The term "generator" means any person by site whose act or process produces hazardous waste or whose act first causes a hazardous waste to be subject to regulation.

(3B) The term "manifest" means the form used for identifying the quantity, composition, and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(4) The term "Mayor" means the Mayor of the District of Columbia or his or her designated agent.

(5) The term "person" means any individual, partnership, corporation (including a government corporation), trust, association, firm, joint-stock company, organization, commission, the District or federal government, or other entity.

(5A) The term "person responsible" means a person who is or has been the generator of hazardous waste, the owner or operator of a site that contains or a vehicle that transports hazardous waste, or a person who by contract, agreement, or otherwise arranges or has arranged for disposal or treatment of hazardous waste.

(5B)(A) The term "source reduction" means any practice that:

(i) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

(ii) Reduces the hazard to public health and the environment associated with the release of a hazardous substance, pollutant, or contaminant.

(B) The term "source reduction" includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(C) The term "source reduction" does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity that is not integral to and necessary for the production of a product or the provision of a service.

(6) The term "storage" means containment in such a manner as not to constitute disposal.

(6A) The term "toxic chemical" means a chemical or chemical category listed in 40 CFR 372.65.

(7) The term "transport" means the movement from the point of generation to any intermediate site, and finally to the point of ultimate storage or disposal.

(8) The term "treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous waste so as to neutralize or as to render it nonhazardous, safer for transport, amenable for recovery or storage, or reduced in volume.

(9) The term "treatment facility" means a location for treatment, including an incinerator or a facility where generation has occurred.

(Mar. 16, 1978, D.C. Law 2-64, § 3, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(b), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(b), 36 DCR 5748; Mar. 8, 1991, D.C. Law 8-229, title I, § 102(b), 38 DCR 246; Feb. 5, 1994, D.C. Law 10-68, § 15(a), 40 DCR 6311.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-702.

1973 Ed., § 6-522.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

Law 9-149, the "Environmental Policy and Hazardous and Solid Waste Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-522. The Bill was adopted on first and second readings on May 6, 1992, and June 2, 1992, respectively. Signed by the Mayor on June 19, 1992, it was assigned Act No. 9-229 and transmitted to both Houses of Congress for its review. D.C. Law 9-149 became effective on September 10, 1992.

D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

## **§ 8-1303. PERMITS.**

(a) It is unlawful to own, construct, substantially alter, or operate any hazardous waste treatment, storage, or disposal facility or site or to generate, store, transport, treat, or dispose of any hazardous waste except in accordance with the terms of the permit issued by the Mayor for the facility, site, or activity.

(b) The Mayor may issue, vary, or modify the terms of a permit or suspend, revoke, or deny a permit to achieve the purposes of this chapter, except that the Mayor may not issue a permit for a period that exceeds 10 years. The terms of any permit for a treatment, storage, or disposal facility shall require that the permit holder take corrective action within or beyond the facility boundary if necessary to protect human health and the environment. The Mayor may establish the appropriate permit fee according to costs associated with its issuance.

(c) 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.

(Mar. 16, 1978, D.C. Law 2-64, § 4, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(c), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(c), 36 DCR 5748; Apr. 20, 1999, D.C. Law 12-261, § 2003(h), 46 DCR

3142; Oct. 28, 2003, D.C. Law 15-38, § 3(m), 50 DCR 6913.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-703.

1973 Ed., § 6-523.

*Effect of Amendments*

D.C. Law 15-38, in subsec. (c), 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(m) 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 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

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 12-210 became effective on April 20, 1999.

For Law 15-38, see notes following § 8-111.03.

## **§ 8-1304. HAZARDOUS WASTE MANAGEMENT PLAN.**

Within 6 months of the effective date of this chapter, the Mayor shall publish in the District of Columbia Register a hazardous waste management plan for the District of Columbia, which shall include, as a minimum:

- (1) A description of the criteria for determining what constitutes a hazardous waste;
- (2) Identification of the types and quantities of hazardous wastes generated in the District of Columbia, of hazardous wastes which may be amenable for recycling or reuse, of current hazardous waste management practices, of proper procedures for the handling, storage and transportation of hazardous wastes and of the best methods and facilities or sites (including possible extrajurisdictional sites) for the storage, treatment or disposal of hazardous wastes; and
- (3) A comparison of the alternatives, costs and benefits of public and private transportation, storage, treatment, and disposal of hazardous wastes.

(Mar. 16, 1978, D.C. Law 2-64, § 5, 24 DCR 6289.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-704.

1973 Ed., § 6-524.

*Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

## **§ 8-1305. RULES AND REGULATIONS.**

(a) Within 3 months after publication of the plan required in § 8-1304, the Mayor shall adopt, in accordance with § 2-505, and may thereafter revise as appropriate, rules and regulations necessary to carry out the purposes and provisions of this chapter, including, but not limited to, rules and regulations regarding the following aspects of proper hazardous waste management:

- (1) Criteria for determining what constitutes a hazardous waste;
- (2) Generation, storage, treatment, and disposal of hazardous wastes;

- (3) Transportation, containerization, and labeling of hazardous wastes (consistent with those issued by the United States Department of Transportation);
- (4) On-site handling, including the separation and combination of hazardous wastes;
- (5) Operation and maintenance of hazardous waste treatment or disposal facilities or sites;
- (6) Certification of supervisory personnel at hazardous waste treatment or disposal facilities or sites;
- (7) Procedures and requirements for the use of a manifest or form which identifies the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (8) Marketing, distribution, and burning of fuel produced from a hazardous waste or containing a hazardous waste; and
- (9) Requirements for on-site and off-site corrective action by owners or operators of a disposal, storage, and treatment facility.

(b) At the time of publication of the proposed rules and regulations referred to in this section, a copy of the same shall be provided to the Council of the District of Columbia.

(c) 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.

(Mar. 16, 1978, D.C. Law 2-64, § 6, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(d), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(d), 36 DCR 5748.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-705.

1973 Ed., § 6-525.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

##### *Delegation of Authority*

Delegation of Authority pursuant to D.C. Law 2-64, the District of Columbia Hazardous Waste Management Act of 1977, see Mayor's Order 2005-70, April 19, 2005 (52 DCR 5495).

##### *Resolutions*

Resolution 16-95, the "Hazardous Waste Management Rulemaking Approval Resolution of 2005", was approved effective January 11, 2005.

Resolution 16-307, the "Hazardous Waste Management Rulemaking Approval Resolution of 2005", was approved effective September 23, 2005.

##### *Miscellaneous Notes*

District of Columbia Hazardous Waste Management Act Proposed Rulemaking Approval Resolution of 1995: Pursuant to Proposed Resolution 11-174, deemed approved October 11, 1995, Council approved the proposed rulemaking adopting Chapters 40 through 54 (Hazardous Waste Regulations) of Title 20 DCMR issued pursuant to the "District of Columbia Hazardous Waste Management Act of 1977", as amended.

## **§ 8-1306. VARIANCE.**

The Mayor may grant a variance not to exceed 180 days upon a showing that compliance with the requirements of this chapter or the rules and regulations promulgated pursuant thereto would result in an unreasonable financial hardship, and that the public health and welfare would not be endangered.

(Mar. 16, 1978, D.C. Law 2-64, § 7, 24 DCR 6289.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-706.

1973 Ed., § 6-526.

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

### **§ 8-1307. INSPECTIONS; ANALYSES; RIGHT OF ENTRY; NOTICE; POSTING.**

(a) For the purpose of enforcing this chapter or any rule or regulation promulgated pursuant to this chapter, the Mayor may at any reasonable time, within reasonable limits, and in a reasonable manner, upon presenting appropriate credentials to the owner, operator or agent in charge:

- (1) Enter without delay any place where hazardous wastes are or have been generated, stored, treated, transported, or disposed;
- (2) Inspect and obtain samples of any waste, or substance used in the treatment of waste;
- (3) Inspect and copy any records, reports, information, or test results relating to the purposes of this chapter. Each such inspection shall be commenced and completed with reasonable promptness.

(b) If the officer or employee obtains any samples prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge, a receipt describing the sample obtained, and if requested, a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(c) When there is a threat to human health or the environment, or a release of hazardous waste into the environment, and the responsible party or address is unknown, or cannot be located, written notice shall be served by conspicuously posting the notice on the property where the threat exists or the release occurred and sending a copy to the last known address via certified mail.

(d) When dangerous chemicals and hazardous waste on property pose an imminent threat to human health or the environment, the Mayor may post the property and restrict access. The posting shall provide the public with notice that a dangerous condition exists and shall prohibit the owner from removing or handling the waste without prior approval by the Mayor.

(Mar. 16, 1978, D.C. Law 2-64, § 8, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(e), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(e), 36 DCR 5748.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-707.

1973 Ed., § 6-527.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

### **§ 8-1308. APPEAL PROCEDURES.**

Any person adversely affected by an action taken pursuant to the provisions of this chapter or the rules and regulations promulgated thereto is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days of the date of such action, a written request for a hearing. Such hearing shall be held in accordance with other contested case procedures under the provisions of the District of Columbia Administrative Procedure Act (§ 2-509). The decision on the appeal shall be final.

(Mar. 16, 1978, D.C. Law 2-64, § 9, 24 DCR 6289.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-708.

1973 Ed., § 6-528.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.



## **§ 8-1309. SUSPENSION AND REVOCATION OF PERMIT.**

(a)(1) The Mayor may suspend a permit issued in accordance with § 8-1303 if the holder of the permit is in violation of this chapter or the rules promulgated pursuant to the chapter.

(2) Written notice of the suspension shall be served upon the affected party or the party's designated agent.

(b)(1) Where a permit has been suspended, the person affected has the right to reapply for a permit.

(2) If the person is able to demonstrate an ability and willingness to comply with the permit and with the provisions of this chapter and the rules, the Mayor may grant a new permit.

(c)(1) Where there is a history of repeated violations or where a permit has been previously suspended, the Mayor may revoke a permit, upon a showing of subsequent violation, and upon providing the affected party, or the party's designated agent, with written notice of the intent to revoke the permit and with an opportunity for a hearing prior to revocation.

(2) The revocation shall take effect 15 days after the notice has been given, unless a written request for a hearing is received by the Mayor within that period.

(d) The Mayor may immediately revoke a permit upon an initial violation of the chapter or the rules where the violation presents an imminent and substantial endangerment to the public health, the public welfare, or the environment.

(Mar. 16, 1978, D.C. Law 2-64, § 10, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(f), 31 DCR 3032.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 6-709.

1973 Ed., § 6-529.

#### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

## **§ 8-1310. INJUNCTION.**

If the Mayor finds that any person is operating a storage, treatment, or disposal facility, or is generating or transporting hazardous wastes in an illegal, unsafe, or otherwise improper manner that endangers the public health, the public welfare, or the environment, the Mayor may request the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief.

(Mar. 16, 1978, D.C. Law 2-64, § 11, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(g), 31 DCR 3032.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 6-710.

1973 Ed., § 6-530.

#### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

## **§ 8-1311. PENALTIES.**

(a)(1) Whenever the Mayor has reason to believe that there has been a violation of this chapter, the rules promulgated pursuant to this chapter, a threat to human health or the environment, or a release of hazardous waste into the environment, the Mayor may give written notice of the alleged violation, threat, or release to the person responsible and order the person to monitor, test, or take corrective measures that the Mayor considers reasonable and necessary.

(2) The notice shall state the nature of the violation, threat, or release and allow a reasonable time for the performance of the necessary corrective measures.

(A) If a person fails to comply with the notice within the time period stated in the notice, the Mayor shall take corrective action necessary to alleviate or terminate the violation, threat, or release to

protect human health or the environment.

(B) The Mayor may recover the costs of corrective action incurred by the District of Columbia government from any person responsible by requesting the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia.

(b)(1) Any person who violates this chapter or the rules shall be liable for a civil penalty in an amount not to exceed \$25,000 for each violation.

(2) For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each offense.

(c)(1) Any person who knowingly violates this chapter or the rules shall be punished by a fine not to exceed \$25,000 or imprisonment not to exceed 1 year, or both.

(2) For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each offense.

(3) Prosecutions for violations of this subsection shall be brought by the Corporation Counsel.

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

(Mar. 16, 1978, D.C. Law 2-64, § 12, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(h), 31 DCR 3032; Oct. 5, 1985, D.C. Law 6-42, § 418, 32 DCR 4450; Oct. 18, 1989, D.C. Law 8-37, § 2(f), 36 DCR 5748.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-711.

1973 Ed., § 6-531.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

### **§ 8-1312. SEVERABILITY.**

Each separate provision of this chapter shall be deemed independent of any other provision of this chapter, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this chapter or their application to other parts or circumstances. It is hereby declared to be the legislative intent that this chapter would have been enacted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which this chapter or any part thereof is inapplicable had been specifically exempted therefrom.

(Mar. 16, 1978, D.C. Law 2-64, § 13, 24 DCR 6289.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-712.

1973 Ed., § 6-532.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

### **§ 8-1313. DUST SUPPRESSION AND ROAD TREATMENT.**

The use of waste, used oil, or other material, which is contaminated or mixed with dioxin or any other hazardous waste for dust suppression or road treatment in the District of Columbia, is prohibited.

(Mar. 16, 1978, D.C. Law 2-64, § 15, as added Oct. 18, 1989, D.C. Law 8-37, § 2(g), 36 DCR 5748.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-713.

*Legislative History of Laws*

Law 8-37, the "District of Columbia Hazardous Waste Management Act of 1977 Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-216, 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. 8-66 and transmitted to both Houses of Congress for its review.

## **§ 8-1314. ACTIONS AGAINST GUARANTOR.**

(a) Any claim arising from conduct of an owner or operator of a hazardous waste treatment, storage, or disposal facility for which evidence of financial responsibility is required, may be asserted directly against the guarantor that provides evidence of financial responsibility if:

(1) The owner or operator is in bankruptcy, reorganization, or arrangement pursuant to 11 U.S.C. § 101 et seq.; or

(2) The owner or operator is likely to be solvent at the time of judgment, but jurisdiction cannot be obtained with reasonable diligence in any state or federal court.

(b) In any claim asserted against a guarantor pursuant to subsection (a) of this section, the guarantor shall be entitled to invoke all rights and defenses that would have been available to the owner or operator of the hazardous waste storage, treatment, or disposal facility if an action had been brought against the owner or operator by the claimant and that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(c) The total liability of any guarantor shall be limited to the aggregate amount that the guarantor has provided as evidence of financial responsibility to the owner or operator.

(Mar. 16, 1978, D.C. Law 2-64, § 16, as added Oct. 18, 1989, D.C. Law 8-37, § 2(g), 36 DCR 5748.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-714.

*Legislative History of Laws*

For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1013.

## **SUBCHAPTER II. TOXIC SOURCE REDUCTION.**

### **§ 8-1315. HAZARDOUS WASTE AND TOXIC CHEMICAL SOURCE REDUCTION.**

Within 1 year from March 8, 1991, the Mayor shall:

(1) Provide general information that publicizes the advantages of and opportunities for hazardous waste and toxic chemical source reduction, including the requirements of this subchapter, to government agencies, business and trade associations, business conferences, and trade fairs;

(2) Prioritize and target business sectors that require the greatest assistance in accordance with § 8-1316;

(3) Provide assistance to any business identified in § 8-1316, as well as other businesses, through the transfer of technical information from other source reduction programs, data bases, and research institutes. The Mayor may facilitate research relationships with universities or other institutions to promote the purposes of this subchapter;

(4) Establish, at a minimum, a library of source reduction literature pertinent to District businesses identified in accordance with § 8-1316 that contains an on-line computer link-up with established pollution prevention data bases that include data bases operated by the United States Environmental

Protection Agency ("EPA");

(5) Prepare and present conferences, seminars, publications, and other programs as may be appropriate to provide targeted businesses with access to the information available on hazardous waste and toxic chemical source reduction;

(6) Train designated inspectors to assess hazardous waste and toxic chemical source reduction plans and audits;

(7) Secure funding and provide for coordination to the maximum extent practicable between designated District government agencies and the EPA to promote the use of source reduction techniques by businesses, training, and other programs in accordance with section 6605 of the Omnibus Budget Reconciliation Act of 1990, approved November 5, 1990 (Pub.L. No. 101-508) ("Pollution Prevention Act"); and

(8) Assess and collect a fee on the generation of hazardous waste and emission of toxic chemicals.

(Mar. 16, 1978, D.C. Law 2-64, § 17, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-731.

##### *Legislative History of Laws*

Law 8-229, the "Toxic Source Reduction Business Assistance Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-695, which was referred to the Committee on Public Works. 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. 8-312 and transmitted to both Houses of Congress for its review.

##### *References in Text*

Section 6605 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508, the Pollution Prevention Act, referred to in (7), is codified as 42 U.S.C. § 13104.

### **§ 8-1316. IDENTIFICATION OF MAJOR GENERATORS OF HAZARDOUS WASTE AND RELEASERS OF TOXIC CHEMICALS.**

(a) Within 180 days of March 8, 1991, the Mayor shall determine and present to the Council a report that identifies the following:

- (1) Businesses that belong to the 3 largest 3-digit United States Department of Commerce Standard Industrial Classifications ("SICs") of generators of hazardous waste in the District;
- (2) Businesses that belong to the 3 largest 3-digit SIC users of toxic chemicals in the District;
- (3) Businesses that belong to the 3 largest 3-digit SIC releasers of toxic chemicals in the District; and
- (4) The top 25% of businesses, including any District or United States government operations, that generate or release the largest amount of hazardous waste or toxic chemicals in the District.

(b) Within 30 days after the Mayor has presented the report specified in subsection (a) of this section to the Council, the Mayor shall notify in writing each business identified that the business is subject to the provisions of this subchapter.

(c) Every 4 years following March 8, 1991, the Mayor shall reassess the findings required by subsection (a) of this section and make any change in the reporting or targeting of technical assistance indicated.

(Mar. 16, 1978, D.C. Law 2-64, § 18, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 6-732.

##### *Legislative History of Laws*

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

### **§ 8-1317. ANNUAL HAZARDOUS WASTE AND TOXIC CHEMICAL REPORTS.**

(a) Within 270 days of March 8, 1991, and annually thereafter, a business shall submit EPA Form R to the Mayor, including Part III #8, pursuant to 40 CFR 372.85, if the business:

- (1) Releases a toxic chemical subject to regulation in accordance with 40 CFR 372;
- (2) Generates hazardous waste subject to regulation in accordance with 40 CFR 261, 262, 263, or 264; or
- (3) Is identified in § 8-1316.

(b) The Mayor shall require the submission of additional source reduction and recycling data collected in accordance with section 6607 of the Pollution Prevention Act, or other federal legislation or regulations.

(c) EPA Form R, and any additional data required, shall be signed by a senior-level manager who shall be liable for any inaccuracies contained in the submission.

(Mar. 16, 1978, D.C. Law 2-64, § 19, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-733.

*Legislative History of Laws*

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

*References in Text*

The "Pollution Prevention Act", referred to in (b), is Pub. L. 101-508, § 6601 et seq., codified at 42 U.S.C. § 13101 et seq. Section 6607 of the Pollution Prevention Act, referred to in (b), is codified at 42 U.S.C. § 13106.

### **§ 8-1318. HAZARDOUS WASTE AND TOXIC CHEMICAL SOURCE REDUCTION PLANS.**

(a) Pursuant to rules issued by the Mayor in accordance with § 8-1322, beginning on January 1, 1992, and every 4 years thereafter, each business required to submit EPA Form R, and any additional data required, in accordance with § 8-1317, including any District or federal government operations where applicable, shall submit a source reduction plan to the Mayor.

(b) Any source reduction plan submitted to the Mayor shall include the following:

- (1) A statement of facility-wide management policy regarding hazardous waste and toxic chemical reduction;
- (2) A statement of the scope and objectives of the plan, including the anticipated facility-wide reduction for each hazardous waste generated or toxic chemical used during the next 4 years;
- (3) An identification of the type and amount of any hazardous waste generated or toxic chemical released into the environment; and
- (4) A comprehensive economic and technical evaluation of appropriate technologies, procedures, and training programs to achieve hazardous waste and toxic chemical source reduction, including a schedule for and the estimated costs of implementation of the reduction.

(Mar. 16, 1978, D.C. Law 2-64, § 20, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-734.

*Legislative History of Laws*

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

### **§ 8-1319. ESTABLISHMENT OF A HAZARDOUS WASTE AND TOXIC CHEMICAL RELEASE SOURCE REDUCTION FUND AND FEE.[REPEALED]**

(Mar. 16, 1978, D.C. Law 2-64, § 21, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246; Feb. 5, 1994, D.C. Law 10-68, § 15(b), 40 DCR 6311; Sept. 14, 2011, D.C. Law 19-21, § 9091, 58 DCR 6226.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-735.

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 8-1302.

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

## **§ 8-1320. HAZARDOUS WASTE AND TOXIC CHEMICAL FEE WAIVERS.**

(a) Pursuant to rules issued by the Mayor in accordance with § 8-1322, any business may receive a waiver of the fee if the Mayor finds that the business has met the following conditions:

- (1) Satisfied the requirements of this subchapter that pertain to the business;
- (2) Performed and submitted a hazardous waste and toxic chemical source reduction audit to the Mayor; and
- (3) Successfully implemented source reduction techniques so that the generation of hazardous waste or toxic chemical usage has been significantly reduced to levels identified in the technical literature for that standard industrial classification as representative of the best source reduction practice.

(b) Industrial classifications that engage in off-site recycling to reclaim the resource value of waste as the best management strategy for minimizing waste may substitute recycling for the source reduction techniques specified in subsection (a)(3) of this section. At no time shall incineration, with or without energy recovery, be regarded as source reduction or recycling for the purposes of this subchapter.

(Mar. 16, 1978, D.C. Law 2-64, § 22, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 6-736.

#### *Legislative History of Laws*

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

## **§ 8-1321. CONFIDENTIAL BUSINESS INFORMATION.**

No trade secret or commercial or financial information submitted by a business to the District government pursuant to the requirements of this subchapter shall be disclosed to the public, if the Mayor determines that the disclosure would result in a substantial harm to the competitive position of the business in accordance with § 2-534(a)(1).

(Mar. 16, 1978, D.C. Law 2-64, § 23, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 6-737.

#### *Legislative History of Laws*

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

## **§ 8-1322. RULES.**

(a) Within 180 days from March 8, 1991, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this subchapter, including rules regarding the criteria for preparation of source reduction plans and the imposition of source reduction fees. The Mayor shall consult and give significant weight to the recommendations of the Litter and Solid Waste Reduction Commission in the issuance of rules to implement this subchapter.

(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 review period, the proposed rules shall be deemed approved.

(Mar. 16, 1978, D.C. Law 2-64, § 24, as added Mar. 8, 1991, D.C. Law 8- 229, title I, § 102(c), 38 DCR 246.)

### *HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 6-738.

*Legislative History of Laws*

For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.