

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Wastewater System Regulation Amendment Act of 1985 to update the requirements for discharges into the District of Columbia's wastewater system and to conform to federal statutes and regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Wastewater System Regulation Amendment Act of 2010".

Sec. 2. The Wastewater System Regulation Amendment Act of 1985, effective March 12, 1986 (D.C. Law 6-95; D.C. Official Code § 8-105.01 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 8-105.02) is amended as follows:

(1) Paragraphs (1), (1A) and (1B) are repealed.

(2) New paragraphs (1C) through (1I) are added to read as follows:

“(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), section 7 and local pretreatment requirements established pursuant to sections 8 and 16. 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.*).

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“(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.”.

(3) Paragraph (2) is amended by striking the period and inserting the phrase “, including indirect discharges.” in its place.

(4) Paragraph (3A) is repealed.

(5) New paragraphs (3B) through (3G) are added to read as follows:

“(3B) “District pretreatment standards” or “Local limits” means those limits established pursuant to sections 8 and 16.

“(3C) “Hazardous waste” means any waste defined as hazardous waste in paragraph (2) of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Official Code § 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 act.

“(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 the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94; D.C. Official Code § 8-1051(21)).”.

(6) Paragraph (4) is amended to read as follows:

“(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.*).”.

(7) Paragraph (5) is amended by striking the period and inserting the phrase “or any representative or agency designated by the Mayor to carry out the provisions of this act.” in its place.

(8) Paragraphs (5A), (5B), and (5C) are repealed.

(9) New paragraphs (5D) through (5H) are added to read as follows:

“(5D) “Medical waste” means any waste defined as medical waste in section 2(3A) of the Illegal Dumping Enforcement Act of 1994, effective May 20, 1994 (D.C. Law 10-117; D.C. Official Code § 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.”.

(10) Paragraph (10) is amended to read as follows:

“(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 section 7(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).”.

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(11) Paragraph (10A) is amended to read as follows:

“(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.”.

(12) Paragraph (10B) is amended to read as follows:

“(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 section 7 and local pretreatment requirements established pursuant to sections 8 and 16.”.

(13) Paragraphs (10C) and (10D) are added to read as follows:

“(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.”.

(14) Paragraphs (11A) and (11B) are added to read as follows:

“(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 section 14, or an Industrial User whose violation meets one or more of the criteria listed in section 14(c)(3), (7) or (8).”.

(15) Paragraph (13) is amended to read as follows:

“(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 section 7 and local pretreatment requirements established pursuant to sections 8 and 16.”.

(16) Paragraph (16) is amended by striking the word “District” and inserting the phrase “District or WASA” in its place.

(b) Section 4 (D.C. Official Code § 8-105.03) is amended to read as follows:

“Sec. 4. Special agreements.

“(a) Nothing in this act 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.” .

(c) Section 5 (D.C. Official Code § 8-105.04) is amended by striking the phrase “the District” and inserting the phrase “the District or WASA” in its place “

(d) Section 7 (D.C. Official Code § 8-105.06) is amended as follows:

(1) Subsection (b) is amended to read as follows:

“(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,

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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.”.

(2) Subsection (c) is amended by striking the phrase “national standard” and inserting the phrase “National standard” in its place.

(3) Subsection (e) is repealed.

(4) Subsection (m) is amended to read as follows:

“(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.”.

(5) A new subsection (n) is added to read as follows:

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

(e) Section 8 (D.C. Official Code § 8-105.07) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) WASA shall administer, implement and enforce the provisions of this act and ensure compliance with this act 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 act 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.”.

(2) Subsection (b) is amended as follows:

(A) The lead-in language is amended by striking the phrase “shall include” and inserting the phrase “may include” in its place.

(B) Paragraph (2) is amended to read as follows:

“(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;”.

(4) Paragraph (4) is amended to read as follows:

“(4) Regulations imposing fees to treat hauled wastes and high strength wastes as may be defined by WASA;”.

(5) Paragraph (7) is amended by striking the word “and”.

(6) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its place.

(7) A new paragraph (9) is added to read as follows:

“(9) Regulations for the publication of Industrial Users in significant noncompliance.”.

(f) Section 9 (D.C. Official Code § 8-105.08) is amended by striking the phrase “WASA and the Mayor” and inserting the phrase “WASA, a WASA authorized representative, and the Mayor” in its place.

(g) Section 10 (D.C. Official Code § 8-105.09) is amended as follows:

(1) The heading is amended to read as follows:

“Sec. 10. Information and confidentiality.”.

(2) Subsection (a) is repealed.

(3) New subsections (a-1) and (a-2) are added to read as follows:

“(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 section 204(a)(1) of the Freedom of Information Act of 1976, effective March 25, 1972 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(1)).”

(4) Subsection (b) is amended by striking the phrase “When requested by the user in writing” and inserting the phrase “When requested by the user in writing at the time of submission” in its place.

(5) Subsections (c) and (d) are amended to read as follows:

“(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.”

(6) A new subsection (d-1) is added to read as follows:

“(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.”

(7) Subsection (e) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

“(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 act, for no less than 3 years from the date of preparation, drafting, or memorialization.”

(B) Paragraph (2) is amended by striking the phrase “the District” and inserting the phrase “the District or WASA” in its place.

(h) Section 11 (D.C. Official Code § 8-105.10) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “believe that a” and inserting the phrase “believe that a person or” in its place.

(B) Paragraph (2)(E) is amended by striking the word “A” and inserting the phrase “Comply with the” in its place.

(2) Subsection (d) is amended as follows:

(A) Strike the phrase “Office of Administrative Hearings (“Office”)” and insert the phrase “Court of Appeals (“Court”)” in its place.

(B) Strike the word “Office” wherever it appears and insert the word “Court” in its place.

(i) Section 12 (D.C. Official Code § 8-105.11) is amended by striking the phrase “the Mayor may authorize” and inserting the phrase “WASA may seek” in its place.

(j) Section 13(c) (D.C. Official Code § 8-105.12(c)) is amended to read as follows:

“(c) WASA's decision to suspend service may be appealed by filing a petition for an administrative hearing as set forth in section 11.”.

(k) Section 14 (D.C. Official Code 8-105.13) is amended to read as follows:

“Sec. 14. 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):

“(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(l);

“(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(l) 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(l) (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 section 13 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.”.

(1) Section 15 (D.C. Official Code § 8-105.14) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Corporation Counsel” and inserting “Office of the Attorney General” in its place.

(2) Subsection (c) is amended by striking the phrase “the District” wherever it appears and inserting the phrase “the District and WASA” in its place.

#### Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia