

TITLE 8. ENVIRONMENTAL AND ANIMAL CONTROL AND PROTECTION
SUBTITLE A. ENVIRONMENTAL CONTROL AND PROTECTION
CHAPTER I. ENVIRONMENTAL CONTROLS
SUBCHAPTER II. WATER POLLUTION CONTROL

United States Code Annotated

Comprehensive Environmental Response, Compensation and Liability Act of 1980, see 42 U.S.C.A. § 9601 et seq.
Pollution Prevention Act of 1990, see 42 U.S.C.A. § 13101 et seq.

Safety of public water system, public health service, see 42 U.S.C.A. § 300g et seq.

Underground storage tanks, Solid Waste Disposal Act, see 42 U.S.C.A. § 6991 et seq.

Water Pollution, Waste Treatment Management, grants, see 33 U.S.C.A. § 1281 et seq.

Water Pollution Prevention and Control, effluent limitations, see 33 U.S.C.A. § 1311 et seq.

Water Pollution Prevention and Control, generally, see 33 U.S.C.A. § 1251 et seq.

§ 8-103.01. Definitions [Formerly § 6-921]

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, storm water 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.S. § 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.

HISTORY: 1981 Ed., § 6-921; 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.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.16.

EFFECT OF AMENDMENTS. --D.C. Law 15-39 added (1A); in (16), inserted a comma following "operating" and added the exception; and added (23A) and (26A).

EMERGENCY ACT AMENDMENTS. --For temporary amendment of (16), and addition of (1A), (23A), and (26A), see § 612(a) of the Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary addition of (1A), (23A), and (26A), and amendment of (16), see § 612(a) of the 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 LAW 5-188. --Law 5-188, the "Water Pollution Control Act of 1984," was introduced in Council and assigned Bill No. 5-326. 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.

LEGISLATIVE HISTORY OF LAW 15-39. --Law 15-39, the "Fiscal Year 2004 Budget Support Act of 2003," was introduced in Council and assigned Bill No. 15-218. 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 Congress for its review. D.C. Law

15-39 became effective on November 13, 2003.

EDITOR'S NOTES. --The Water Pollution Control Act of 1984, referred to in (1), is D.C. Law 5-188.

The Federal Water Pollution Control Act, referred to in (8), has been transferred. See now 33 U.S.C.S. § 1251 et seq.

Sections 307(a) and 311(b)(2)(A) of the Federal Water Pollution Control Act, referred to in (10), are codified as 33 U.S.C.S. § 1317(a) and 33 U.S.C.S. § 1321(b)(2)(A), respectively.

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

§ 8-103.02. Discharge of pollutants prohibited; exception [Formerly § 6-922]

Except as provided in § 8-103.06, no person shall discharge a pollutant to the waters of the District.

HISTORY: 1981 Ed., § 6-922; Mar. 16, 1985, D.C. Law 5-188, § 3, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.03. Protection of aquatic life [Formerly § 6-923]

(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 a licensing regulatory scheme under this section shall be used only for protecting and managing aquatic life.

(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.

HISTORY: 1981 Ed., § 6-923; Mar. 16, 1985, D.C. Law 5-188, § 4, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.04. Classification of beneficial uses of waters [Formerly § 6-924]

(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.

HISTORY: 1981 Ed., § 6-924; Mar. 16, 1985, D.C. Law 5-188, § 5, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.05. Monitoring for compliance with subchapter [Formerly § 6-925]

(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.

HISTORY: 1981 Ed., § 6-925; Mar. 16, 1985, D.C. Law 5-188, § 6, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 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 [Formerly § 6-926]

(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 § 8-1302(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.

HISTORY: 1981 Ed., § 6-926; 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.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.02, § 8-103.09, and § 8-103.13b.

EFFECT OF AMENDMENTS. --D.C. Law 15-39 rewrote (a)(3); added (a)(4); and rewrote (d).

EMERGENCY ACT AMENDMENTS. --For temporary amendment of (a) and (d), see § 612(b) of the Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary amendment of (a) and (d), see § 612(b) of the 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 LAW 5-188. --See note to § 8-103.01.

LEGISLATIVE HISTORY OF LAW 15-39. --See note to § 8-103.01.

EDITOR'S NOTES. --The Federal Water Pollution Control Act, referred to in subsections (b)(1) and (j), is codified at 33 U.S.C.S. § 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 [Formerly § 6-927]

- (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.

HISTORY: 1981 Ed., § 6-927; Mar. 16, 1985, D.C. Law 5-188, § 8, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 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 [Formerly § 6-928]

(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.

HISTORY: 1981 Ed., § 6-928; Mar. 16, 1985, D.C. Law 5-188, § 9, 32 DCR 919.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.09, § 8-103.16, and § 8-103.17.

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 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 [Formerly § 6-929]

(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 non-lapsing, 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.

HISTORY: 1981 Ed., § 6-929; 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.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.06.

EFFECT OF AMENDMENTS. --D.C. Law 15-39 repealed (c); and added (d).

EMERGENCY ACT AMENDMENTS. --For temporary amendment of section heading, repeal of (c), and addition of (d), see § 612(c) of the Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary amendment of the section heading, repeal of (c), and addition of (d), see § 612(c) of the 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 LAW 5-188. --See note to § 8-103.01.

LEGISLATIVE HISTORY OF LAW 8-83. --Law 8-83, the "Water Pollution Control Act of 1984 Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-370. 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.

LEGISLATIVE HISTORY OF LAW 15-39. --See note to § 8-103.01.

§ 8-103.09a. District of Columbia Wells Maintenance Fund; establishment; financing.

(a) The District of Columbia Wells Maintenance Fund ("Wells Fund") is hereby established as a non-lapsing, revolving fund pursuant to an act of Congress, to be administered by the Mayor and used for administrative costs associated with regulating wells in the District of Columbia. Excluding monies collected in the current year, any money deposited in the Wells 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.

(b) The Wells Fund shall be financed by payments received pursuant to § 8-103.13b(a) and (b).

(c) The Wells Fund shall be accounted for under the procedures established pursuant to subchapter V of Chapter 3 of Title 37, and any other applicable law.

(d) The Mayor may use the Wells Fund to pay for administrative costs associated with groundwater protection including, but not limited to, personnel costs.

HISTORY: D.C. Law 5-188, § 10a, as added Nov. 13, 2003, D.C. Law 15-39, § 612(d), 50 DCR 5668.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-39 added this section.

EMERGENCY ACT AMENDMENTS. --For temporary addition of section, see § 612(d) of the Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary addition of section, see § 612(d) of the 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 LAW 15-39. --See note to § 8-103.01.

§ 8-103.10. Spill prevention and cleanup plan for onshore or offshore facility; discharge from underground facility; testing of underground tanks for leaks [Formerly § 6-930]

(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.

HISTORY: 1981 Ed., § 6-930; Mar. 16, 1985, D.C. Law 5-188, § 11, 32 DCR 919; Mar. 8, 1991, D.C. Law 8-242, § 14, 38 DCR 344.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

LEGISLATIVE HISTORY OF LAW 8-242. --See note to § 8-113.01.

§ 8-103.11. Water quality management plan [Formerly § 6-931]

(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.

HISTORY: 1981 Ed., § 6-931; Mar. 16, 1985, D.C. Law 5-188, § 12, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.12. Mayor authorized to issue research grants [Formerly § 6-932]

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

HISTORY: 1981 Ed., § 6-932; Mar. 16, 1985, D.C. Law 5-188, § 13, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.13. Mayor authorized to regulate construction [Formerly § 6-933]

(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.

HISTORY: 1981 Ed., § 6-933; Mar. 16, 1985, D.C. Law 5-188, § 14, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 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.

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

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.01, § 8-103.13b, and § 8-103.16.

EFFECT OF AMENDMENTS. --D.C. Law 15-39 added this section.

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

For temporary addition of section, see § 612(e) of the 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 LAW 15-39. --See note to § 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.

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

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.01, § 8-103.09a, and § 8-103.13a.

EFFECT OF AMENDMENTS. --D.C. Law 15-39 added this section.

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

For temporary addition of section, see § 612(e) of the 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 LAW 15-39. --See note to § 8-103.01.

§ 8-103.14. Use of sludge from treatment facilities [Formerly § 6-934]

- (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.

HISTORY: 1981 Ed., § 6-934; Mar. 16, 1985, D.C. Law 5-188, § 15, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.15. Subpoena and inspection powers of Mayor [Formerly § 6-935]

(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.

HISTORY: 1981 Ed., § 6-935; 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.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.09.

EFFECT OF AMENDMENTS. --D.C. Law 15-39 rewrote (a) and (b); and added (c).

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

For temporary amendment of section, see § 612(f) of the 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 LAW 5-188. --See note to § 8-103.01.

LEGISLATIVE HISTORY OF LAW 15-39. --See note to § 8-103.01.

§ 8-103.16. Penalties [Formerly § 6-936]

(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.

HISTORY: 1981 Ed., § 6-936; 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.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-39 added the exception at the end of (a)(2) and (3).

EMERGENCY ACT AMENDMENTS. --For temporary amendment of (a)(2) and (3), see § 612(g) of the Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary amendment of (a)(2) and (3), see § 612(g) of the 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 LAW 5-188. --See note to § 8-103.01.

LEGISLATIVE HISTORY OF LAW 6-42. --See note to § 7-1706.

LEGISLATIVE HISTORY OF LAW 15-39. --See note to § 8-103.01.

§ 8-103.17. Enforcement of subchapter [Formerly § 6-937]

(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.

HISTORY: 1981 Ed., § 6-937; Mar. 16, 1985, D.C. Law 5-188, § 18, 32 DCR 919.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.18.

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.18. Civil actions [Formerly § 6-938]

(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.

HISTORY: 1981 Ed., § 6-938; Mar. 16, 1985, D.C. Law 5-188, § 19, 32 DCR 919.

NOTES:

SECTION REFERENCES. --This section is referenced in § 8-103.17.

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.19. Private rights of action permitted; prior notice to Mayor; regulations and investigations concerning reported violations [Formerly § 6-939]

(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.

HISTORY: 1981 Ed., § 6-939; Mar. 16, 1985, D.C. Law 5-188, § 20, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.

§ 8-103.20. Rules [Formerly § 6-940]

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

HISTORY: 1981 Ed., § 6-940; Mar. 16, 1985, D.C. Law 5-188, § 21, 32 DCR 919.

NOTES:

LEGISLATIVE HISTORY OF LAW 5-188. --See note to § 8-103.01.