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COUNCIL OF THE DISTRICT OF COLUMBIA

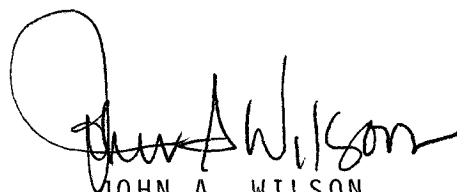
NOTICE

D.C. LAW 8-229

"Toxic Source Reduction Business Assistance
Amendment Act of 1990".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 8-695 on first and second readings, December 4, 1990, and December 18, 1990, respectively. Following the signature of the Mayor on December 27, 1990, this legislation was assigned Act No. 8-312, published in the January 11, 1991, edition of the D.C. Register, (Vol. 38 page 246) and transmitted to Congress on January 15, 1991 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 8-229, effective March 8, 1991.



JOHN A. WILSON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 15,16,17,18,22,23,24,25,28,29,30,31

February 1,4,5,6,7,19,20,21,22,25,26,27,28

March 1,4,5,6,7

Codification
District of Columbia Code
New Subchapter III of Chapter 7
of Title 6
(1991 Supplement)

AN ACT

D.C. ACT 8-312

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC. 27, 1990

To amend the District of Columbia Hazardous Waste Management Act of 1977 to require recognition of source reduction as the 1st choice for hazardous waste management in the District of Columbia, the provision of source reduction technical assistance to businesses, the identification of major generators of hazardous waste and releasers of toxic chemicals, the submission of hazardous waste and toxic chemical reports and reduction plans, and the establishment of a fee for the release of toxic materials and generation of hazardous waste; and to prevent the further deterioration by sedimentation of certain properties located in Square 6126 in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Toxic Source Reduction Business Assistance Amendment Act of 1990".

TITLE I
TOXIC SOURCE REDUCTION BUSINESS ASSISTANCE

Sec. 102. The District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Code, Sec. 6-701 et seq.), is amended as follows:

(a) Section 2 (D.C. Code, sec. 6-701) is amended as follows:

Section
6-701

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

(A) By amending paragraph (1) by striking the last word "and";

(B) By amending paragraph (2) by striking the period at the end and inserting the phrase "; and " in its place; and

(C) By adding a new paragraph (3) to read as follows:

"(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."

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

(A) By amending paragraph (3) by adding the phrase "to reduce and eliminate wastes generated, and" after the word "generators";

(B) By amending paragraph (4) by striking the word "and";

(C) By amending paragraph (5) by striking the period and inserting the phrase "; and" in its place; and

(D) By adding the following new paragraphs to read as follows:

"(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."

(b) Section 3 (D.C. Code, sec. 6-702) is amended as follows:

Section
6-702

(1) By adding a new paragraph (5A) to read as follows:

"(5A)(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."; and

(2) By adding a new paragraph (6A) to read as follows:

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

(c) The following new sections are added to read as follows:

New subchapter II
Section
6-731

"Sec. 17. Hazardous waste and toxic chemical source reduction.

"Within 1 year from the effective date of the Toxic Source Reduction Business Assistance Amendment Act of 1990 ("Toxic Source Reduction Act"), 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 act, 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 section 18.

"(3) Provide assistance to any business identified in section 18, as well as other businesses, through the transfer of technical information from other source reduction programs, databases, and research institutes. The Mayor may facilitate research relationships with universities or other institutions to promote the purposes of this act.

"(4) Establish, at a minimum, a library of source reduction literature pertinent to District businesses identified in accordance with section 18 that contains an on-line computer link-up with established pollution prevention databases that includes databases 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").

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

"Sec. 18. Identification of major generators of hazardous waste and releasers of toxic chemicals.

Section
6-732

"(a) Within 180 days of the effective date of the Toxic Source Reduction Act, 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 act.

"(c) Every 4 years following the effective date of the Toxic Source Reduction Act, 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.

"Sec. 19. Annual hazardous waste and toxic chemical reports.

Section
6-733

"(a) Within 270 days of the effective date of the Toxic Source Reduction Act, 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 section 18.

"(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.

"Sec. 20. Hazardous waste and toxic chemical source reduction plans.

Section
6-734

"(a) Pursuant to rules issued by the Mayor in accordance with section 23, 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 section 19, 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.

"Sec. 21. Establishment of a hazardous waste and toxic chemical release source reduction fund and fee.

Section
6-735

"(a) There is established within the District Treasury a non-lapsing revolving fund to be known as the Hazardous Waste and Toxic Chemical Source Reduction Fund ("Fund"). The Fund shall consist of any revenue collected pursuant to the Toxic Source Reduction Act and any funds paid to the District to assist in source reduction programs, including any grants received from EPA in accordance with section 6605 of the Pollution Prevention Act.

"(b) Pursuant to rules issued by the Mayor in accordance with section 23, beginning on June 1, 1992, and annually thereafter, any business identified in section 19 that generates hazardous waste or releases a toxic chemical shall pay a fee to offset the actual operating and administrative costs of the implementation of the hazardous waste and toxic chemical source reduction program. The fee shall take into account the amount of the hazardous waste generated or toxic chemical released, the size of the business, and consequent ability to pay.

"(c) On or before December 31, 1993, the Mayor shall review the income received from the fee, the assesement structure mandated by subsection (b) of this section, and propose any necessary amendment to the rules or the Toxic Source Reduction Act.

"Sec. 22. Hazardous waste and toxic chemical fee waivers.

Section
6-736

"(a) Pursuant to rules issued by the Mayor in accordance with section 23, 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 the Toxic Source Reduction Act 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 the section. At no time shall incineration, with or without energy recovery, be regarded as source reduction or recycling for the purposes of the Toxic Source Reduction Act.

"Sec. 23. Confidential business information.

Section
6-737

"No trade secret or commercial or financial information submitted by a business to the District government pursuant to the requirements of the Toxic Source Reduction Act 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 section 204(a)(1) of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Code, sec. 1-1524(a)(1)).

"Sec. 24. Rules.

Section
6-738

"(a) Within 180 days from the effective date of the Toxic Source Reduction Act, the Mayor shall, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.), issue rules to implement the provisions of the Toxic Source Reduction Act, 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 the Toxic Source Reduction Act.

"(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.

TITLE II
SOIL EROSION AND SEDIMENTATION CONTROL IN SQUARE 6126

Sec. 201. The Mayor may make an immediate determination as to the nature and cost of the remedial actions and permanent improvements necessary to prevent the further deterioration by soil erosion and sedimentation of properties located in Square 6126. The Mayor may undertake the remedial actions and provide the permanent improvements necessary to prevent the further deterioration by soil erosion and sedimentation of properties located in Square 6126. The remedial actions and permanent improvements may include, but are not limited to, the provision of retaining structures, water drainage and diversion systems, slope terracing, slope benching, landfill treatments and landscaping treatments, on or adjacent to private properties.

Note,
Sections
1-2801
5-601

Sec. 202. The Mayor may prohibit activities in Square 6126, including but not limited to, landfill treatments, water diversion, and construction that may contribute to the soil erosion and sedimentation problems in Square 6126.

Note,
Sections
1-2801
5-601

Sec. 203. The Mayor may enter private property in the District of Columbia to carry out the provisions of this title. The entry shall be in a reasonable time and manner, and shall be permitted after the provision of written notice to the affected property owner at least 2 weeks before entry unless the property owner gives written consent before that time.

Note,
Sections
1-2801
5-601

Sec. 204. The Mayor may levy an assessment on the property in Square 6126 upon which permanent improvements are made pursuant to this title, or on any property that abuts permanent improvements made pursuant to this title. The assessment may cover all repairs and maintenance to the permanent improvements and shall be at a rate determined by the Mayor. The Mayor may determine that the assessment may be financed over a period of not more than 10 years. Notice of the levying of the assessment shall be served upon the record owner of the property and shall become a lien upon the affected property.

Note,
Sections
1-2801
5-601

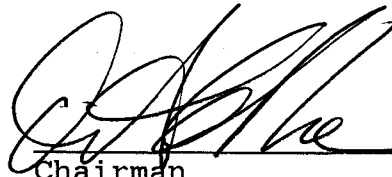
Sec. 205. Expenditure of funds for remedial actions or permanent improvements other than in Square 6126 is not authorized by this title. No claim or right of relief for

Note,
Sections
1-2801
5-601

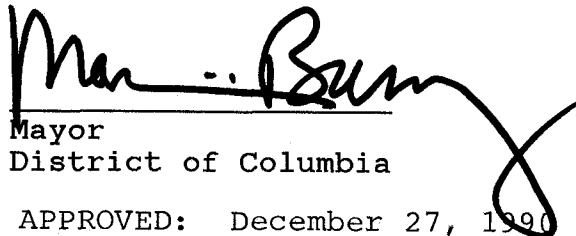
remedial actions, permanent improvements, repairs or maintenance is created in any person by this title.

TITLE III
EFFECTIVE DATE

Sec. 301. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: December 27, 1990



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Eight

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B8-695

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 12-04-90

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT _____ (/ /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell A. Smith (Signature)

Secretary to the Council

21 December 1990

Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-18-90

VOICE VOTE: Approved

Recorded vote on request

Absent: Thomas

ROLL CALL VOTE: — RESULT _____ (/ /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell A. Smith (Signature)

Secretary to the Council

21 December 1990

Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (/ /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date