DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16 (2012 Repl.)); and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)), hereby gives notice of amendments to Chapter 1 (Water Supply) and Chapter 4 (Contested Water and Sewer Bills) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

At its regularly scheduled meeting on May 2, 2019, the Board adopted Resolution #19-27 to propose the amendment of Sections 112 (Fees) and 199 (Definitions) of Chapter 1 (Water Supply), and amendment of Sections 400 (Right to Challenge General Manager’s Decisions and Bills), 401 (Notice of Right to Challenge Bills, and Practicability and Imminent and Threat Determinations), 402 (Initiating a Challenge) and 410 (Administrative Hearings) of Chapter 4 (Contested Water and Sewer Bills).

The purpose of this rulemaking is to establish the rules to implement the Fats, Oils & Grease (FOG) and Cross-Connection Control – Backflow Prevention Assembly (CCC-BPA) Fees promulgated pursuant to the Notice of Final Rulemaking, published in District of Columbia Register (D.C. Register) on February 22, 2019 at 66 DCR 2329.

The Board requests comments on this proposed rulemaking. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

This proposed rulemaking, if finalized, will be effective August 1, 2019.

Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Subsection 112.12 of Section 112, FEES, is amended to read as follows:

112.12 Cross-Connection/ Back Flow Prevention Fees and Turn-Off Charges

(a) The Cross-Connection/ Back Flow Prevention Fees and Turn-Off Charges shall be as follows:

<table>
<thead>
<tr>
<th>Fee Name</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Cross-Connection/Back Flow Prevention Monthly Fee per Assembly</td>
<td>$6.70</td>
</tr>
<tr>
<td>Cross-Connection Turn-off - 5/8” to 2”</td>
<td>$200</td>
</tr>
<tr>
<td>Cross-Connection Turn-off - 3” to 5”</td>
<td>$400</td>
</tr>
</tbody>
</table>
Cross-Connection Turn-off - 6” and larger $900

(b) Except as provided below, Residential, Multi-Family and Non-Residential Customers shall be charged the Cross-Connection/Back Flow Prevention Monthly Fee for each Backflow Prevention Assembly (BPA) on the premises subject to the District of Columbia Cross-Connection Control regulation provided in 21 DCMR Chapter 54 and the District of Columbia Construction Codes Supplement.

(c) Residential customers shall not be charged the Cross-Connection/Back Flow Prevention Monthly Fee for a BPA on fire service connections but shall be subject to the fee for other plumbing connections, including but not limited to, lawn irrigation systems, swimming pools, chillers/cooling towers, and other similar systems that have contaminants or pollutants that may contaminate the District’s potable water system.

A new Subsection 112.13 is added to read as follows:

112.13 Except as provided below, Non-Residential Customers shall be charged the FOG Facility Monthly fee as provided in 21 DCMR § 112.6 for each Food Service Establishment (FSE) that operates on the premises and has the potential to discharge oil or grease laden wastewater to the District’s wastewater system in accordance with the following requirements:

(a) Applicable Food Service Establishments (FSE) shall include, but not limited to: bakeries; bars; candy manufacturers; cafeterias, caterers; coffee shops; delicatessens; commercial kitchens operated in educational institutions, hospitals, hotels/motels, and religious institutions; grocery stores; wholesale or retail ice cream facilities; wholesale and retail marine food facilities; restaurants; and other wholesale or retail facilities that have the potential to discharge oil or grease laden wastewater to the District’s wastewater system; and subject to: the District’s Pretreatment Standards and limits provided in 21 DCMR §§ 1501.01 et seq. and the District of Columbia Consumer and Regulatory Affairs Food Establishment Wholesale or Retail Licensing and grease abatement requirements.

(b) The FOG Facility Monthly fee shall not be charged as follows:

(1) The Customer notifies General Manager that the FSE operates under an Industrial User Pretreatment Permit issued pursuant to the requirements in 21 DCMR Chapter 15, Discharges to Wastewater System;

(2) The Customer notifies the General Manager that the FSE does not exist or is permanently closed; or temporarily closed due to
construction or renovation and notifies DC Water thirty (30) days prior the opening/operation of the FSE; or

(3) The Customer requests a Zero FOG Discharge Exemption that the FSE does not have the potential to discharge oil or grease laden wastewater to the District’s wastewater system in accordance with the following requirements:

(A) The Customer submits a DC Water Food Service Establishment Wastewater Questionnaire to the General Manager that demonstrates the FSE on the premises does not have the potential to discharge oil or grease laden wastewater to the District’s wastewater system.

(B) Upon receipt of the DC Water Food Service Establishment Wastewater Questionnaire the General Manager shall conduct a site inspection to confirm that the FSE on the premises does not have the potential to discharge grease laden wastewater to the District’s wastewater system. Please note: During the review of the Zero FOG Discharge Exemption request, the account shall continue to be billed for the FOG Facility Monthly Fee, but shall not be subject to any penalty, or interest charge for nonpayment of the Fee.

(C) The General Manager shall issue a written determination approving or denying the Zero FOG Discharge Exemption and if approved, shall credit the account for amount of the FOG Monthly Fee billed as of the date of the request for exemption.

(c) The Customer may challenge the bill or the determination of the General Manager denying the Zero FOG Discharge Exemption in accordance with the procedures set forth in Chapter 4 of this title.

Section 199, DEFINITIONS, is amended by adding the following terms and definitions to Subsection 199.1 to read as follows:

Cross-Connection/Back Flow Prevention Monthly Fee – fee charged to Residential, Multi-Family and Non-Residential Customers to recover the facility inspection and oversight costs for each Backflow Prevention Assembly on the premises.

Fats, Oil and Grease (FOG) Facility Monthly Fee – fee charged to Non-Residential Customers to recover the facility inspection and oversight costs for each Food Service Establishment operating on the premises that
has the potential to discharge oil or grease laden wastewater to the District’s wastewater system.

Food Service Establishment (FSE) – Facility that has the potential to discharge oil or grease laden wastewater to the District’s wastewater system, including but not limited to, bakeries; bars; candy manufacturers; cafeterias, caterers; coffee shops; delicatessens; commercial kitchens operated in educational institutions, hospitals, hotels/motels, and religious institutions; grocery stores; wholesale or retail ice cream facilities; wholesale and retail marine food facilities; restaurants; and other wholesale or retail facilities that have the potential to discharge oil or grease laden wastewater to the District’s wastewater system; and subject to the District’s Pretreatment Standards and limits provided in 21 DCMR §§ 1501.01 et seq. and the District of Columbia Consumer and Regulatory Affairs (DCRA) Food Establishment Wholesale or Retail Licensing requirements.

Chapter 4, CONTESTED WATER AND SEWER BILLS, is amended as follows:

Section 400, RIGHT TO CHALLENGE GENERAL MANAGER’S DECISIONS AND BILLS, is amended by adding a new Subsection 400.7 to read as follows:

400.7 A Non-Residential Customer may appeal a determination issued by the General Manager denying a Zero FOG Discharge Exemption issued pursuant to Subsection 112.13 of this title by following the procedures set forth in this chapter.

Section 401, NOTICE OF RIGHT TO CHALLENGE BILLS, AND PRACTICABILITY AND IMMINENT THREAT DETERMINATIONS, is amended by adding a new Subsection 401.4 to read as follows:

401.4 A determination issued by the General Manager denying a Zero FOG Discharge Exemption shall contain a written statement advising the customer of the following:

(a) The Customer may challenge the denial in accordance with the provisions in Section 402;

(b) The Customer may request a hearing in writing, within fifteen (15) days of receipt of the General Manager’s written determination, if he or she is not satisfied with the General Manager’s determination; and

(c) The Customer shall be notified in writing of the date and time of any hearing, if requested.
Section 402, INITIATING A CHALLENGE, is amended by adding a new Subsection 402.10 to read as follows:

402.10 A Non-Residential Customer subject to the requirements of Subsection 112.13 of this title, may appeal the General Manager's determination denying a Zero FOG Discharge Exemption by filing a petition for an administrative hearing within fifteen (15) days of the date of the General Manager's written determination in accordance with the requirements set forth in Section 412 entitled "Petition for Administrative Hearing":

Section 410, ADMINISTRATIVE HEARINGS, is amended as follows:

Subsection 410.1, paragraph (h) and (i) are amended, and a new paragraph (j) is added to read as follows:

(h) Issuance, suspension, termination, or denial of a Temporary Discharge Authorization or Waste Hauler Discharge Permit, or the terms and conditions of a Temporary Discharge Authorization or Waste Hauler Discharge Permit;

(i) Suspension of water and sewer service due to an imminent danger to the environment or the operation or integrity of the District's wastewater system; and

(j) The Zero FOG Discharge Exemption determination that a Food Service Establishment has the potential to discharge oil and grease laden wastewater to the District's wastewater system.

Comments on these proposed rules should be submitted in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register to Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 1385 Canal Street, S.E., Washington, D.C. 20003, by email to L.manley@dewater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.