



**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY  
17<sup>th</sup> SPECIAL MEETING OF THE BOARD OF DIRECTORS  
Thursday, August 1, 2019  
9:30 a.m.  
1385 Canal Street, S.E.  
2<sup>nd</sup> Floor- Board Room**

**I. Call to Order (Chairman Tommy Wells)**

**II. Roll Call (Linda Manley, Board Secretary)**

**III. Consent Item Non-Joint Use**

1. [Approval to Publish Notice of Final Rulemaking to Amend the Rules and Operational Functions to Implement the Fats, Oils & Grease \(FOG\) and Cross-Connection Control-Backflow Prevention Assembly \(CCC-BPA\) Monthly Fees – Resolution No. 19-46](#)  
(Recommended by the Environmental Quality and Operations Committee 06/20/19)

**IV. Executive Session - to discuss legal, confidential or privileged matters under D.C. Official § 2-575(b)(4)**

**V. Adjournment (Chairman Tommy Wells)**

1 The DC Water Board of Directors may go into executive session at this meeting pursuant to the District of Columbia Open Meetings Act of 2010, if such action is approved by a majority vote of the Board members who constitute a quorum to discuss: matters prohibited from public disclosure pursuant to a court order or law under D.C. Official Code § 2-575(b)(1); contract negotiations under D.C. Official Code § 2-575(b)(2); legal, confidential or privileged matters under D.C. Official Code § 2-575(b)(4); collective bargaining negotiations under D.C. Official Code § 2-575(b)(5); facility security under D.C. Official Code § 2-575(b)(8); disciplinary matters under D.C. Official Code § 2-575(b)(9); personnel matters under D.C. Official Code § 2-575(b)(10); proprietary matters under D.C. Official Code § 2-575(b)(11); decision in an adjudication action under D.C. Official Code § 2-575(b)(13); civil or criminal matters where disclosure to the public may harm the investigation under D.C. Official Code § 2-575(b)(14), and other matters provided in the Act.

**Presented and Adopted: August 1, 2019**

**SUBJECT: Approval to Publish Notice of Final Rulemaking to Amend the Rules and Operational Functions to Implement the Fats, Oils & Grease (FOG) and Cross-Connection Control-Backflow Prevention Assembly (CCC-BPA) Monthly Fees**

**#19-46  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

The District members of the Board of Directors (“Board”) of the District of Columbia Water and Sewer Authority (“the Authority or DC Water”) at the Board meeting held on August 1, 2019 upon consideration of a non-joint use matter, decided by a vote of \_\_\_ (0) in favor and \_\_\_(0) opposed, to take the following action to amend the rules and operational functions to implement the Fats, Oils & Grease (FOG) and Cross-Connection Control-Backflow Prevention Assembly (CCC-BPA) Monthly Fees.

**WHEREAS**, sections 203(3) 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); D.C. Code § 34-2202.03(3) (the “Enabling Legislation”) authorizes DC Water to make, adopt, and alter by-laws, rule, and regulations for the administration and regulation of its business and affairs; and

**WHEREAS**, section 203(11) of the Enabling Legislation authorizes DC Water to establish, adjust and collect charges for services, facilities, or commodities furnished or supplied by DC Water; and

**WHEREAS**, the Board establishes rates, fees and charges in accordance with its Rate Setting Policy (Board Resolution #11-10), including the recovery of current costs to provide water and sewer services; and

**WHEREAS**, on February 7, 2019, the Board through Resolution #19-07, approved for publication the Notice of Final Rulemaking for new and amended miscellaneous fees and charges, including the Fats, Oils & Grease (FOG) monthly fee and Cross-Connection Control-Backflow Prevention Assembly (CCC-BPA) monthly fee, which was published in the *D.C. Register* on February 22, 2019 at 66 DCR 2329; and

**WHEREAS**, on April 18, 2019, the Environmental Quality and Operations (EQ&O) Committee met to consider the recommendations from the General Manager and to make a recommendation to amend the rules and operational functions to implement the FOG monthly fee and CCC-BPA monthly fee to be effective August 1, 2019; and

**WHEREAS**, on April 18, 2019, the EQ&O Committee recommended that the Board approve the publication of the proposed amendments to the rules to implement the FOG and CCC-BPA monthly fees for public comment; and

**WHEREAS**, on May 2, 2019, the Board through Resolution #19-27, approved for publication the Notice of Proposed Rulemaking (NOPR) regulations to implement the FOG and CCC-BPA Fees, which were published for public in the *D.C Register* on May 17, 2019 at 66 DCR 6203 to receive comments on the NOPR; and

**WHEREAS**, the EQ&O Committee met to consider the comments received during the public comment period and the recommendations from General Manager to amend the rules to implement the FOG and CCC-BPA Fees; and

**WHEREAS**, on June 20, 2019, upon considering that there were no comments received during the public comment period and the recommendation from the General Manager, the EQ& Ops Committee recommended that the Board approve the publication of the final rules to implement the FOG and CCC-BPA Fees as proposed; and

**WHEREAS**, on August 1, 2019, after consideration and discussion of the recommendation from the EQ&O Committee and the General Manager, the Board agreed to approve the amendments for the rules to implement the FOG and CCC-BPA Fees, effective August 19, 2019.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Board directs the General Manager to publish a Notice of Final Rulemaking (NOFR) in the District of Columbia Register to amend the rules and operational functions to implement the Fats, Oils & Grease (FOG) and Cross-Connection Control-Backflow Prevention Assembly (CCC-BPA) Fees to be effective August 1, 2019, as provided in Attachment A.
2. The General Manager is authorized to take all steps necessary in his judgment and as otherwise required, to publish the NOFR in the District of Columbia Register in the manner provided by the District of Columbia's Administrative Procedure Act.

This resolution is effective immediately.

---

Secretary to the Board of Directors

**Attachment A**

**Notice of Final Rulemaking for rules implementing Fats, Oil and Grease (FOG) and Cross-Connection Control-Backflow Prevention Assembly (CCC-BPA) Fees, effective August 19, 2019, as provided below:**

**NOTICE OF FINAL RULEMAKING**

**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:

<b>Fee Name</b>	<b>Fee</b>
Cross-Connection/Back Flow Prevention Monthly Fee per Assembly	\$6.70
Cross-Connection Turn-off - 5/8" to 2"	\$200
Cross-Connection Turn-off - 3" to 5"	\$400
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.