



Report #74 –  
Repeal of Throwing Stones or Other  
Missiles, Kindling Bonfires, and Redundant  
Pollution Statutes  
(First Draft)

SUBMITTED FOR PUBLIC COMMENT  
October 5, 2021

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This Report contains draft repeal language for certain District criminal statutes. These draft repeal recommendations are part of the D.C. Criminal Code Reform Commission’s (CCRC) efforts to issue recommendations for comprehensive reform of District criminal statutes.

**Written comments on the repeal recommendations in this report are welcome from government agencies, criminal justice stakeholders, and the public. Comments should be submitted via email to [ccrc@dc.gov](mailto:ccrc@dc.gov) with the subject line “Comments on Report #74.” The Commission will review all written comments that are timely received. The deadline for the written comments on this Report #74 – *Repeal of Throwing Stones or Other Missiles, Kindling Bonfires, and Redundant Pollution Statutes*, is November 16, 2021 (six weeks from the date of issue). Written comments received after November 16, 2021 may not be reviewed or considered in the agency’s next draft (if another draft is deemed necessary) or final recommendations.**

This Report is comprised of the repeal commentary for six statutes, four of which are grouped together due to a shared topic area (pollution).

The Report’s commentary explains the reasoning behind the recommendation for repeal and addresses the ways in which the described offenses are covered by other RCC statutes.

A copy of this document and other work by the CCRC is available on the agency website at [www.ccrc.dc.gov](http://www.ccrc.dc.gov).

**Report #74 – Repeal of Throwing Stones or Other Missiles, Kindling Bonfires, and  
Redundant Pollution Statutes**

- § 22-1309. Repeal of Throwing stones or other missiles.
- § 22-1313. Repeal of Kindling bonfires.
- § 22-3318. Repeal of Malicious pollution of water.
- § 22-4402. Repeal of Throwing or depositing matter in Potomac River.
- § 22-4403. Repeal of Deposits of deleterious matter in Rock Creek or Potomac River.
- § 22-4404. Repeal of Penalties for violation of § 22-4403.

### **D.C. Code § 22–1309. Repeal of Throwing stones or other missiles.**

The Commission recommends repealing in its entirety D.C. Code § 22–1309 and corresponding provisions pertaining to the statute in D.C. Code § 22–1809.<sup>1</sup>

Current D.C. Code § 22–1309 is overbroad, unclear, and carries a disproportionate penalty. The statute criminalizes “throw[ing] any stone or other missile” and has been applied broadly to any kind of thrown object as there is no codified definition limiting the term “missile.”<sup>2</sup> There are no defenses or exceptions to liability in the statute, and no case law limiting the scope of the offense. Furthermore, the statute does not define the terms (e.g. “open space”) used to describe locations where (or into which) one cannot throw the objects and does not clarify whether there is a distinction between public and private land. Similarly, the term “throw” is not defined and it is unclear if the statute includes all means (e.g. firearm or other mechanism) of launching.<sup>3</sup> Lastly, while the offense itself provides a relatively low fine, other current statutory provisions in D.C. Code § 22–1809 provide incarceration in “the Workhouse” for throwing a stone or missile if the fine is not paid.

Current D.C. Code § 22–1309 is also redundant, with other offenses covering significant harms caused by “throwing” objects. In cases that involve injury or property damage (including attempts), throwing stones and missiles under D.C. Code § 22–1309 is redundant with assault under RCC § 22E-1202 or criminal damage to property under RCC § 22E-2503. Cases that involve discharge of a firearm in a public location that does not cause injury to a person or property may be charged under RCC § 22E-4120, Endangerment with a Firearm. Other possible fines and charges that may arise from throwing objects include: a notice of violation and fine for littering,<sup>4</sup> or arrest and imprisonment for illegal disposal of solid waste,<sup>5</sup> disorderly conduct,<sup>6</sup> or public nuisance.<sup>7</sup>

*Explanatory Note and Relation to Current District Law.*

The D.C. Code § 22–1309 statutory section recommended for repeal provides:

It shall not be lawful for any person or persons within the District of Columbia to throw any stone or other missile in any street, avenue, alley, road, or highway, or open space, or public square, or inclosure, or to throw any stone or other missile from any place into any street, avenue, road, or highway, alley, open space, public square, or inclosure, under a penalty of not more than \$500 for every such offense.

The D.C. Code § 22–1809 statutory section recommended for repeal provides:

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<sup>1</sup> While the plain language of D.C. Code § 22–1809 refers only to “this act,” that language has been construed to generally refer to the 1892 Congressional act that first codified the throwing stones or other missiles statute, as well as other crimes. *See, e.g., Smith v. D.C.*, 387 F.2d 233, 235 (D.C. Cir. 1967).

<sup>2</sup> The ordinary definition of “missile” is simply “an object (such as a weapon) thrown or projected usually so as to strike something at a distance.” <https://www.merriam-webster.com/>.

<sup>3</sup> *See, e.g.*, competing definitions of “a: to propel through the air by a forward motion of the hand and arm throw a baseball” and “b: to propel through the air in any manner.” <https://www.merriam-webster.com/>.

<sup>4</sup> D.C. Mun. Regs. tit. 24, § 1301; <https://mpdc.dc.gov/page/littering-enforcement-help-keep-dc-clean#:~:text=If%20an%20officer%20sees%20you,Notice%20of%20Violation%20for%20littering.>

<sup>5</sup> D.C. Code § 8–902.

<sup>6</sup> RCC § 22E–4201.

<sup>7</sup> RCC § 22E–4202.

All prosecutions for violations of § 22-1321 or any of the provisions of any of the laws or ordinances provided for by this act shall be conducted in the name of and for the benefit of the District of Columbia, and in the same manner as provided by law for the prosecution of offenses against the laws and ordinances of the said District. Any person convicted of any violation of § 22-1321 or any of the provisions of this act, and who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense. The second sentence of this section shall not apply with respect to any violation of § 22-1312(b).

The statutory language in D.C. Code § 22–1309 provides a sweeping criminalization that includes many types of harmless social behavior. A plain language reading of the statute technically criminalizes throwing a baseball in a park or a snowball fight since there is no explanation for what qualifies as a “missile” or an “open space” nor any caveat that the throwing was with an intent to damage property or cause injury. People have been charged under this statute for throwing a wide variety of objects. In 2014, two individuals were charged with “throwing objects – missiles” when they threw “a cassette tape ... [and] ‘miscellaneous papers’ over the south fence” of the White House.<sup>8</sup> A similar case of “miscellaneous papers” being thrown over the White House fence also led to an arrest in 2016.<sup>9</sup> More recently, a peace activist was arrested on this charge for throwing bread to activists protesting inside the Venezuelan embassy after Juan Guaido took power in 2019.<sup>10</sup> In all three cases, the throwers were not intending (and did not) cause injury or property damage nor were they trespassing when they threw the objects.<sup>11</sup>

The current statute is redundant and has not resulted in any convictions in recent years. For cases where injury or property damage were intended or transpired as a result of the thrown object, a person can be charged with (attempted) assault<sup>12</sup> or (attempted) criminal damage to property.<sup>13</sup> Alternatively, D.C. has several avenues for littering enforcement,<sup>14</sup> including a \$75 Notice of Violation for “dropping garbage, trash, debris, or any other kind of discarded material on public space, in waterways, or on someone else's private property.”<sup>15</sup> Current sentencing practices suggest that this charge is extraneous since, despite examples of people being charged under this statute, Superior Court data from 2009-2019 shows that no one has been convicted under it in that

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<sup>8</sup> [https://www.washingtonpost.com/local/crime/white-house-on-lockdown-after-items-tossed-over-fence/2014/05/08/1f2a7170-d6e6-11e3-95d3-3bcd77cd4e11\\_story.html](https://www.washingtonpost.com/local/crime/white-house-on-lockdown-after-items-tossed-over-fence/2014/05/08/1f2a7170-d6e6-11e3-95d3-3bcd77cd4e11_story.html).

<sup>9</sup> [https://www.washingtonpost.com/local/public-safety/papers-thrown-over-white-house-fence-cause-stir-sunday-afternoon/2016/01/31/37a133ae-c872-11e5-a7b2-5a2f824b02c9\\_story.html](https://www.washingtonpost.com/local/public-safety/papers-thrown-over-white-house-fence-cause-stir-sunday-afternoon/2016/01/31/37a133ae-c872-11e5-a7b2-5a2f824b02c9_story.html).

<sup>10</sup> [https://www.washingtonpost.com/local/police-forcibly-remove-activists-living-in-the-venezuelan-embassy-in-washington/2019/05/16/80d464be-77cf-11e9-b3f5-5673edf2d127\\_story.html](https://www.washingtonpost.com/local/police-forcibly-remove-activists-living-in-the-venezuelan-embassy-in-washington/2019/05/16/80d464be-77cf-11e9-b3f5-5673edf2d127_story.html) and <https://www.telesurenglish.net/news/Venezuela-Peace-Activist-in-US-Arrested-For-Throwing-Bread-Defined-by-Police-as-Missile-20190503-0022.html>.

<sup>11</sup> Contrast the referenced cases with one from 2017 when a man was charged with “entering or remaining in restricted grounds while using or carrying a dangerous weapon” for jumping the White House fence while carrying a backpack that contained two cans of mace. That case involved charges that carried a maximum 10 year sentence. <https://www.reuters.com/article/us-usa-trump-intruder/man-faces-10-year-sentence-after-scaling-white-house-fence-idUSKBN1610KU>.

<sup>12</sup> RCC § 22E-1202.

<sup>13</sup> RCC § 22E-2503.

<sup>14</sup> D.C. Code tit. 8, chap. 8 (“Litter Control Administration”).

<sup>15</sup> <https://mpdc.dc.gov/page/littering-enforcement-help-keep-dc-clean>.

ten-year period.<sup>16</sup> A statement by the U.S. Attorney for the District of Columbia in 2007 noted that that office prosecutes persons launching objects at occupied vehicles or bicycles under more severe assault charges.<sup>17</sup>

While D.C. Code § 22–1309 provides for a \$500 fine,<sup>18</sup> D.C. Code § 22–1809 further provides that a person who “who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense.” This outdated, 19<sup>th</sup> century reference to the “Workhouse” and other provisions of D.C. Code § 22–1809 referring to prosecutorial authority, apply to the throwing stones and other missiles statute because the latter derives from the Congressional “act” referenced in D.C. Code § 22–1809. Imprisonment for failure to pay a fine penalizes impoverished persons and is disproportionate.

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<sup>16</sup> CCRC analysis based on Superior Court data. See Advisory Group Memorandum #40 and Appendices (available at <https://ccrc.dc.gov/page/ccrc-documents>) for explanation and more information.

<sup>17</sup> Committee on the Judiciary, Report on Bill No. 17-233, Transit Operator Protection and Enhanced Penalty Amendment Act of 2008 (February 26, 2008) at 42 (Letter of Jeffrey A. Taylor, United States Attorney, to the Honorable Phil Mendelson Re. Bill No. 17-233, Transit Operator Protection and Enhanced Penalty Act of 2007 stating: “We currently prosecute persons who throw a stone, shoot at or otherwise launch a missile at an occupied vehicle or at a bicyclist as an assault with a dangerous weapon [ADW] or assault with intent to kill while armed [A WIK w/a]. If the operator or an occupant was killed or seriously injured, we would charge the perpetrator with murder or manslaughter while armed, or aggravated assault while armed. Nevertheless, amending the law to preclude the argument that an attack on a vehicle does not constitute an attack on its operator or occupant(s) has merit. If the Council is inclined to do so, we propose enacting a stand-alone section that addresses this problem specifically.”).

<sup>18</sup> Increased from the “five dollars” fine in 2008 (D.C. Law 17-206, § 3, 55 DCR 5168). The 2008 amendment is the only time the statute has been changed since 1892.

### **D.C. Code § 22–1313. Repeal of Kindling bonfires.**

The Commission recommends repealing in its entirety D.C. Code § 22–1313, as well as corresponding provisions in D.C. Code § 22–1809. This statute criminalizes kindling bonfires and specifies when and where the statute applies. The D.C. Code § 22–1313 statute is overbroad, outdated, uses unclear language, and criminalizes behavior that is better addressed by current D.C. fire code civil regulations. Should damage to property of another be attempted or completed, other statutes provide criminal liability, including: arson under RCC § 22E-2501, reckless burning under RCC § 22E-2502, and criminal damage to property under RCC § 22E-2503.

*Explanatory Note and Relation to Current District Law.*

The D.C. Code § 22–1313 statutory section recommended for repeal provides:

It shall not be lawful for any person or persons within the limits of the District of Columbia to kindle or set on fire, or be present, aiding, consenting, or causing it to be done, in any street, avenue, road, or highway, alley, open ground, or lot, any box, barrel, straw, shavings, or other combustible, between the setting and rising of the sun; and, any person offending against the provisions of this section shall on conviction thereof, forfeit and pay a sum not exceeding \$10 for each and every offense.

The D.C. Code § 22–1809 statutory section recommended for repeal provides:

All prosecutions for violations of § 22-1321 or any of the provisions of any of the laws or ordinances provided for by this act shall be conducted in the name of and for the benefit of the District of Columbia, and in the same manner as provided by law for the prosecution of offenses against the laws and ordinances of the said District. Any person convicted of any violation of § 22-1321 or any of the provisions of this act, and who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense. The second sentence of this section shall not apply with respect to any violation of § 22-1312(b).

The plain language of D.C. Code § 22–1313 is clearly overbroad by criminalizing setting alight any combustible in a designated location, including a cigarette, match or charcoal grill, and merely being present where such an object is set alight. The D.C. Code § 22–1313 statute is also outdated. It was first codified in 1892 and has not been modified since then, including its \$10 penalty. According to Superior Court data, there have been no adult convictions for this offense during any of the years examined, between 2010 and 2019.<sup>19</sup> The locations covered by the statute also are unclear—particularly the words “open ground, or lot” and is not obviously limited to public land. There is no case law interpreting the statute.

The D.C. Code § 22–1313 statute also criminalizes behavior that is better addressed by current D.C. fire code civil regulations. Since at least 2009,<sup>20</sup> there has been a regulatory process

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<sup>19</sup> CCRC analysis based on Superior Court data. See Advisory Group Memorandum #40 and Appendices (available at <https://ccrc.dc.gov/page/ccrc-documents>) for explanation and more information.

<sup>20</sup> See Office of the Fire Marshall – General Order 619, issued October 1, 2009 and reissued on April 27, 2017 [fems.dc.gov/sites/default/files/dc/sites/fems/publication/attachments/Bonfire%20Permit%20Requirements.pdf](https://fems.dc.gov/sites/default/files/dc/sites/fems/publication/attachments/Bonfire%20Permit%20Requirements.pdf) and

that provides permits to D.C. residents who specifically wish to have bonfires. In addition to completing an extensive permit application,<sup>21</sup> those interested in kindling a bonfire in D.C. must pay a \$150 fee. Those who either do not obtain a permit or violate the terms of their permit are liable for civil fines of \$300 (far more than the \$10 fine under D.C. Code § 22–1313).<sup>22</sup> The requirements that an applicant must meet to obtain a permit for bonfires address fire size and conditions that may increase the dangerousness of the fire. Other D.C. fire code regulations address open flame cooking devices, backyard fire pits, etc.<sup>23</sup>

Additionally, the RCC has multiple revised statutes for criminalizing kindling fires that lead to injury or property damage. Three of the Chapter 25 statutes<sup>24</sup> provide clear descriptions, gradations, and penalties for fire-related crimes that are intended to cause harm or destruction.

While D.C. Code § 22–1313 provides for a \$10 fine, D.C. Code § 22–1809 further provides that a person who “who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense.” This outdated, 19<sup>th</sup> century reference to the “Workhouse” and other provisions of D.C. Code § 22–1809 referring to prosecutorial authority, apply to the kindling bonfire statute because the bonfire statute derives from the Congressional “act” referenced in D.C. Code § 22–1809.<sup>25</sup> Imprisonment for failure to pay a fine penalizes impoverished persons and is disproportionate.

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[dc.gov/sites/default/files/dc/sites/fems/service\\_content/attachments/G.O.619%20PP%20Bonfire%20Permits%20%28Revised%204-27-17%29.pdf](https://dc.gov/sites/default/files/dc/sites/fems/service_content/attachments/G.O.619%20PP%20Bonfire%20Permits%20%28Revised%204-27-17%29.pdf).

<sup>21</sup> The permit is accessible on the Fire and Emergency Services website: <https://dcwebforms.dc.gov/fems/permit1/>.

<sup>22</sup> D.C. Mun. Regs. tit. 12, § F-113H.

<sup>23</sup> D.C. Mun. Regs. tit. 12, § F-308H.

<sup>24</sup> Arson (RCC § 22E-2501), Reckless Burning (RCC § 22E-2502), Criminal Damage to Property (RCC § 22E-2503).

<sup>25</sup> While the plain language of D.C. Code § 22–1809 refers only to “this act,” that language has been construed to generally refer to the 1892 Congressional act that first codified the kindling bonfires statute, as well as other crimes. *See, e.g., Smith v. D.C.*, 387 F.2d 233, 235 (D.C. Cir. 1967).



**D.C. Code § 22–3318. Repeal of Malicious pollution of water.**

The Commission recommends repealing in its entirety D.C. Code § 22–3318, in conjunction with the repeal of D.C. Code §§ 22-4402 - 22-4404. For explanation, see Commentary on the repeal of D.C. Code §§ 22-4402 - 22-4404.

**D.C. Code §§ 22-4402 - 22-4404. Repeal of Throwing or depositing matter in Potomac River; Deposits of deleterious matter in Rock Creek or Potomac River; and Penalties for violation of § 22-4403.**

The Commission recommends repealing in their entirety D.C. Code §§ 22-4402 - 22-4404, as well as D.C. Code § 22–3318. These statutes provide criminal liability for intentional pollution of the Potomac and Rock Creek Rivers and the applicable penalties. However, they are redundant since D.C. Code Title 8, Chapter 9 offenses use clearer language and more proportionate penalties to describe the same behavior.

*Explanatory Note and Relation to Current District Law.*

The statutory sections recommended for repeal provide as follows:

D.C. Code § 22-3318, “Malicious pollution of water”

Every person who maliciously commits any act by reason of which the supply of water, or any part thereof, to the City of Washington, becomes impure, filthy, or unfit for use, shall be fined not less than \$500 and not more than the amount set forth in § 22-3571.01, or imprisoned at hard labor not more than 3 years nor less than 1 year.

D.C. Code § 22-4402, “Throwing or depositing matter in Potomac River”

- a) It shall be unlawful for any owner or occupant of any wharf or dock, any master or captain of any vessel, or any person or persons to cast, throw, drop, or deposit any stone, gravel, sand, ballast, dirt, oyster shells, or ashes in the water in any part of the Potomac River or its tributaries in the District of Columbia, or on the shores of said river below highwater mark, unless for the purpose of making a wharf, after permission has been obtained from the Mayor of the District of Columbia for that purpose, which wharf shall be sufficiently inclosed and secured so as to prevent injury to navigation.
- b) It shall be unlawful for any owner or occupant of any wharf or dock, any captain or master of any vessel, or any other person or persons to cast, throw, deposit, or drop in any dock or in the waters of the Potomac River or its tributaries in the District of Columbia any dead fish, fish offal, dead animals of any kind, condemned oysters in the shell, watermelons, cantaloupes, vegetables, fruits, shavings, hay, straw, or filth of any kind whatsoever.
- c) Nothing in this section contained shall be construed to interfere with the work of improvement in or along the said river and harbor under the supervision of the United States government.

- d) Any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not more than the amount set forth in § 22-3571.01, or by imprisonment not exceeding 6 months, or both, in the discretion of the court.

D.C. Code § 22-4403, “Deposits of deleterious matter in Rock Creek or Potomac River”

No person shall allow any tar, oil, ammoniacal liquor, or other waste products of any gas works or works engaged in using such products, or any waste product whatever of any mechanical, chemical, manufacturing, or refining establishment to flow into or be deposited in Rock Creek or the Potomac River or any of its tributaries within the District of Columbia or into any pipe or conduit leading to the same.

D.C. Code § 22-4404, “Penalties for violation of § 22-4403”

Any person who shall violate any provision of § 22-4403 shall for each such offense be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 90 days, or both.

These statutes are duplicative among themselves, lack clearly defined terms, and provide disproportionate penalties with no delimitation based on amount of harm caused.<sup>26</sup> Additionally, according to Superior Court data, no adults have been convicted for any of these statutes between 2010 and 2019.<sup>27</sup>

In fact, the only pollution-related statute with convictions in that ten-year span was D.C. Code § 8-902, entitled “Illegal Disposal of Waste.”<sup>28</sup> This latter statute, which is part of the Illegal Dumping Enforcement chapter of the D.C. Code,<sup>29</sup> provides:

- (a) It shall be unlawful for any person to dispose or cause or permit the disposal of solid waste, hazardous waste, or medical waste in or upon any street, lot, park, public place, or any other public or private area, whether or not for a commercial purpose, unless the site is authorized for the disposal of solid waste, hazardous waste or medical waste by the Mayor.
- (b)
  - (1) Any person who violates subsection (a) of this section shall be liable to arrest.
  - (2) Any person who disposes of solid waste which is neither hazardous nor medical waste in violation of subsection (a) of this section, shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed \$5,000 for the first offense and \$10,000 for each subsequent offense, or shall be imprisoned for a period not to exceed 90 days, or both. Any person who disposes of solid waste for a commercial purpose shall be guilty of a felony, and shall be subject to a

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<sup>26</sup> For example, D.C. Code § 22-3318 allows for fines from \$500 to \$12,500 with no explanation for what elements would warrant a higher or lower fine. Similarly, D.C. Code § 22-4402 allows for fines up to \$1000 but does not specify whether and for what actions a lower fine would be appropriate.

<sup>27</sup> CCRC analysis based on Superior Court data. See Advisory Group Memorandum #40 and Appendices (available at <https://ccrc.dc.gov/page/ccrc-documents>) for explanation and more information.

<sup>28</sup> Note, there have been less than 50 convictions under this statute from 2010-2019. *Id.*

<sup>29</sup> D.C. Code Title 8, Chapter 9. See, <https://code.dccouncil.us/dc/council/code/titles/8/chapters/9/>.

fine for each offense not to exceed \$40,000, or shall be imprisoned for a period not to exceed 5 years, or both.

- (3) Any person who knowingly disposes of hazardous waste in violation of subsection (a) of this section shall be guilty of a felony, and subject to a fine for each offense not to exceed \$40,000, and a term of imprisonment not to exceed 5 years.
- (4) Any person who knowingly disposes of medical waste in violation of subsection (a) of this section shall be guilty of a felony, and subject to a fine for each offense not to exceed \$40,000, and a term of imprisonment not to exceed 5 years.
- (c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this chapter, or any rules or regulations issued under the authority of this chapter, provided that a civil fine up to \$10,000 may be assessed for each offense. Any person who knowingly disposes of hazardous waste in violation of this chapter shall be liable for a civil penalty in an amount not to exceed \$40,000 for each violation. Adjudication of any civil infraction of this chapter shall be enforced by the Mayor pursuant to § 8-802.
- (d) In addition to any other penalties provided in this section, a person's ownership interest in a motor vehicle used in violating this chapter shall be subject to seizure and forfeiture. All seizures and forfeitures of motor vehicles under this chapter shall be in accordance with § 8-905.
- (e) The Mayor is authorized to establish and collect a reasonable fee for the cost of towing and storing seized motor vehicles. A storage fee shall not be charged for the first 24-hour period following the seizure of a motor vehicle. If a person is found not liable for a violation of this chapter, the Mayor shall waive any towing and storage fees assessed under this chapter and refund any penalties paid.
- (f) Any person violating subsection (a) of this section, shall also be liable and responsible for paying 3 times the cost and expense incurred by the Mayor for cleaning and clearing the site where the unlawful disposal occurred and for properly disposing of the solid waste. Payment by the violator shall be made within 10 days of demand by the Mayor.
- (g) The Mayor may deny, revoke, or not renew, for a period of not less than 30 days, the business license, permit, or motor vehicle registration issued, or to be issued, to any person who has committed a violation of this chapter, provided that the business license, permit, or motor vehicle registration is substantially related to the commission of the offense of unlawful disposal of solid waste in the District. The business license, permit, or motor vehicle registration may not be issued or reissued for a period of not less than 30 days and until all fines, penalties, and fees assessed under this section have been fully satisfied.
- (h) The Mayor may impose any sanction provided in Chapter 8 of this title, to the extent that it is not inconsistent with this chapter.

It is important to note that there are many overlapping federal level regulations that prohibit pollution of water. The Clean Water Act<sup>30</sup> makes it “unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained” and the U.S. Environmental Protection Agency’s (EPA) National Pollutant Discharge Elimination System controls and tracks discharge permits.<sup>31</sup> Furthermore, the federal Water Quality Standards Regulation<sup>32</sup> and the Safe Drinking Water Act (SDWA)<sup>33</sup> establish standards, regulations, penalties, and a review system for all water in U.S. states, territories, and tribal lands. These Acts and regulations are expansive and encompasses both intentional and accidental or negligent reasons for water pollution. For example, numerous officials were found liable for violating the SDWA in Flint, MI after a failure to apply corrosion inhibitors to the water led to lead leaching into the water supply.<sup>34</sup> Lastly, Title 21 of the DCMR (“Water and Sanitation”) establishes water quality regulations for all of D.C. in accordance with the Water Pollution Control Act of 1984 and the Water Pollution Enforcement Regulations,<sup>35</sup> and a variety of provisions in D.C. Code 8-103 also prohibit forms of water pollution.

Lastly, the Commission notes that the Title 8, Chapter 9 statutes do not specifically criminalize water pollution that is done “maliciously.” Although undefined in the statute, the term “maliciously” suggests an action committed with the intent to cause harm rather than one that was done out of a disregard for the law. The RCC terrorism<sup>36</sup> and assault<sup>37</sup> statutes address such egregious forms of conduct.

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<sup>30</sup> 33 U.S.C. §1251.

<sup>31</sup> For more information, see <https://www.epa.gov/laws-regulations/summary-clean-water-act>.

<sup>32</sup> 40 CFR 131.

<sup>33</sup> 42 U.S.C. § 300f and 40 CFR 141.

<sup>34</sup> See, [https://www.epa.gov/sites/production/files/2018-07/documents/\\_epaig\\_20180719-18-p-0221.pdf](https://www.epa.gov/sites/production/files/2018-07/documents/_epaig_20180719-18-p-0221.pdf)

<sup>35</sup> D.C. Mun. Regs. tit. 21 § 1158. (“This chapter shall be enforced pursuant to the Water Pollution Control Act of 1984, as amended, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.15, 8-103.16, and 8-103.17), and the Water Pollution Enforcement Regulations, (21 DCMR Chapter 22 ).”).

<sup>36</sup> RCC §§ 22E-1701 – 1704; See CCRC Report #71 Terrorism Offenses (10-4-21).

<sup>37</sup> RCC § 22E-1202.