

REPORT OF THE COMMITTEE ON PUBLIC INFRASTRUCTURE AND TECHNOLOGY

Voting Members:

Carol Fukunaga, Chair; Andria Tupola, Vice-Chair;
Brandon J.C. Elefante, Heidi Tsuneyoshi

Committee Meeting Held
June 29, 2021

Honorable Tommy Waters
Council Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Public Infrastructure and Technology, to which was referred Bill 2 (2021) entitled:

"A BILL FOR AN ORDINANCE RELATING TO AMENDING CHAPTER 14 OF THE REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO THE PUBLIC WORKS INFRASTRUCTURE REQUIREMENTS INCLUDING FEES AND SERVICES BY AMENDING ARTICLES 1 AND 5 RELATING TO PUBLIC SEWERS,"

transmitted by Departmental Communication 55 (2021), dated January 27, 2021, from the Department of Environmental Services, and which passed First Reading at the February 17, 2021, Council meeting, reports as follows:

The purpose of the Bill is to amend Articles 1 and 5 of Chapter 14, Revised Ordinances of Honolulu 1990, as amended ("ROH"), to comply with required modifications to the pretreatment program. These modifications consist of updates to certain definitions under the pretreatment program; implementation of changes required by the Federal Pretreatment Streamlining Rule; and, upon the Department of Environmental Services' passage of a Local Limits Administrative Rule, the repeal of the local limits currently set forth in ROH Section 14-1 .9(g)(14).

Director Yokoyama of the Department of Environmental Services testified on the need for the bill and offered recommendations to address the posted CD1 amendment offered by PIT Committee to standardize references to the term "pass-through."

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON JUL 07 2021

COMMITTEE REPORT NO. 206

REPORT OF THE COMMITTEE ON PUBLIC INFRASTRUCTURE AND TECHNOLOGY

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Your Committee received no oral or written testimony from members of the public on the Bill.

After discussion and consideration, your Committee prepared a CD1 version of the Bill that makes the following amendments:

- A. Adds a new SECTION 3 adding "pass-through" to the definition of "pass through," to conform to the use of "pass through" in hyphenated form throughout the article. Renumbers subsequent SECTIONS accordingly.
- B. Makes miscellaneous technical and nonsubstantive amendments, including amendments to comport the bill with recommended drafting style.

Your Committee on Public Infrastructure and Technology is in accord with the intent and purpose of Bill 2, as amended herein, and recommends that it pass Second Reading, be scheduled for a public hearing in the form attached hereto as Bill 2, CD1, and be referred back to Committee. (Ayes: Elefante, Fukunaga, Tsuneyoshi – 3; Noes: None; Excused: Tupola – 1.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

JUL 07 2021

COMMITTEE REPORT NO. 206



A BILL FOR AN ORDINANCE

RELATING TO AMENDING CHAPTER 14 OF THE REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO THE PUBLIC WORKS INFRASTRUCTURE REQUIREMENTS INCLUDING FEES AND SERVICES BY AMENDING ARTICLES 1 AND 5 RELATING TO PUBLIC SEWERS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to amend Articles 1 and 5 of Chapter 14, Revised Ordinances of Honolulu 1990 ("ROH"), to comply with required modifications to the pretreatment program. These modifications consist of updates to certain definitions under the pretreatment program; implementation of changes required by the Federal Pretreatment Streamlining Rule; and, upon the Department of Environmental Services' passage of a Local Limits Administrative Rule, the repeal of the local limits currently set forth in ROH Section 14-1.9(g)(14).

SECTION 2. Section 14-1.2, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by adding a new definition of "Bypass" to read as follows:

"Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility."

SECTION 3. Section 14-1.2, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definition of "Pass through" to read as follows:

"Pass through" or "pass-through" means a discharge that exits the POTW into the waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the district's NPDES permit, including an increase in the magnitude or duration of a violation, or which causes water quality standards established by the State or EPA to be exceeded."

SECTION 4. Section 14-1.2, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definition of "Significant Noncompliance" to read as follows:

"Significant Noncompliance. [An industrial user] A significant industrial user (or any industrial user that violates 40 CFR Section 403.8(f)(2)(viii)(C), (D), or (H)) is in "significant noncompliance," as defined in 40 CFR Section 403.8 (f)(2)(~~vii~~)(viii), if its violation meets one or more of the following criteria:



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- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) [the daily maximum limit or the average limit for the same pollutant parameter;] a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR Section 403.3(l);
- (2) Technical ~~[review criteria]~~ Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for ~~[each]~~ the same pollutant parameter ~~[taken]~~ during a six-month period equal or exceed the product of the ~~[daily maximum limit]~~ numeric pretreatment standard or [the average limit] requirement including instantaneous limits, as defined by 40 CFR Section 403.3(l), multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a ~~[pretreatment effluent limit]~~ pretreatment standard or requirement, as defined by 40 Section CFR 403.3(l), (daily maximum [or longer term], long-term average, instantaneous limit, or narrative standard) that the ~~[city]~~ POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health~~;~~ or welfare or to the environment, or has resulted in the POTW's exercise of its emergency authority under ~~[Sections]~~ 40 CFR Section 403.8(f)(1)(vi)(B) and Section [14-5.4, 14-5.19, and 14-5.20] 14-1.4 to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the ~~[schedule]~~ scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within ~~[30]~~ 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or



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- (8) Any other violation or group of violations, which may include a violation of BMPs, which the [city] POTW determines will adversely affect the operation or implementation of the local pretreatment program."

SECTION 5. Section 14-1.2, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definition of "Slug" to read as follows:

""Slug" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge as defined under 40 CFR Section [403.8(f)(2)(v). Slug discharges also include any discharges as defined by 40 CFR Section 403.5(b).] 403.8(f)(2)(vi) that has a reasonable potential to cause interference or pass-through, or in any other way violate the city's regulations, local limits, or permit conditions."

SECTION 6. Section 14-1.3, Revised Ordinances of Honolulu 1990 ("Authority of the director"), is amended by amending subsection (b) to read as follows:

- "(b) The director may require the industrial user to construct and operate additional pretreatment systems or devices to treat wastewater prior to discharge into the sewerage system to achieve compliance with applicable categorical pretreatment standards. New categorical industrial users shall install and operate pretreatment systems necessary to meet applicable pretreatment standards prior to discharge and shall comply with all applicable categorical pretreatment standards within the shortest feasible time, not to exceed 90 days. The director may require any industrial user to develop a compliance schedule containing dates for the commencement and completion of major events leading to the construction and operation of pretreatment systems or devices necessary for compliance with the provisions of this chapter in the shortest time possible. No compliance schedule shall allow more than nine months from commencement of the compliance schedule to achieving a milestone compliance to full compliance. In the case of a new categorical industrial user, the final date in the compliance schedule shall not be later than the compliance date established for the applicable categorical pretreatment standard. All proposed pretreatment systems or devices shall be subject to the review and comment of the director, but such review shall not relieve an industrial user of the responsibility for taking all steps necessary to comply with all applicable discharge limitations and standards pursuant to this chapter and other laws. All required pretreatment systems or devices shall be installed, operated, and maintained at the industrial user's expense. The director is authorized to require industrial users to promptly notify the department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic



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hazardous wastes for which the IU has submitted initial notification under 40 CFR 403.12(p)."

SECTION 7. Section 14-1.9, Revised Ordinances of Honolulu 1990 ("Use of public sewers—Restrictions—Violations"), is amended by amending subsection (g) to read as follows:

"(g) No person shall discharge or cause to be discharged any of the following into any public sewer or any private sewer that is connected to a public sewer:

- (1) Any ~~[pollutant(s) which]~~ pollutant that may cause obstruction, upset, pass-through, or interference with the operation of the POTW or may impact public health or the environment;
- (2) Pollutants which may create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Section 261.21. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system be over five percent, nor shall any single reading be over ten percent of the lower explosive limit of the meter;
- (3) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5 or higher than 11.0, unless the POTW is specifically designed to accommodate such discharges;
- (4) Solid or viscous pollutants in amounts which may cause obstruction to the flow in the POTW resulting in interference;
- (5) Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which may cause pass-through or interference in the POTW;
- (6) Heat in the amounts which may inhibit biological activity in the POTW resulting in interference, but in no case shall heat be permitted in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit);
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Any trucked or hauled pollutants except those allowed by permit at discharge points designated by the director;



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- (9) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, paper ware (either whole or ground), or any other solid or viscous substances or normally dry[;] solid wastes capable of causing obstruction to the flow in or damage to sewers or other interference with the proper operation of the wastewater works;
- (10) Any wastewater containing toxic pollutants such as herbicides and insecticides, in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the POTW. A toxic pollutant shall include, but is not limited to, any pollutant identified pursuant to Section 307(a) of the Federal Water Pollution Control Act, as amended;
- (11) Any unusual volume of flow or concentration of wastewater constituting "slugs," as defined in Section 14-1.2, without notification to the POTW;
- (12) Water or wastes which have been contaminated by radioactive materials;
- (13) Water added for the purpose of diluting wastewater, which would otherwise exceed applicable maximum concentration limitations set by the POTW or the federal categorical pretreatment standards;
- (14) Water or wastewater [~~containing in excess of~~] that violates the [~~following~~] local limits[;] developed by the city;
 - [0.50 mg/L Arsenic
 - 0.60 mg/L Cadmium
 - 2.77 mg/L Total chromium
 - 3.38 mg/L Copper
 - 1.90 mg/L Total cyanide
 - 0.60 mg/L Lead
 - 0.50 mg/L Mercury
 - 3.98 mg/L Nickel
 - 2.00 mg/L Selenium
 - 0.43 mg/L Silver
 - 2.61 mg/L Zinc
 - 2.00 mg/L Phenolic compounds
 - 100.00 mg/L Oil and grease;]
- (15) Wastewater with concentrations exceeding national categorical pretreatment standards promulgated by the U.S. Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Federal Water Pollution Control Act, as amended. The national categorical pretreatment standards in 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated into this section. These



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standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in Articles 1 through 10 of this chapter and, if more stringent than limitations imposed under this section, shall immediately supersede the limitations imposed under this section;

- (16) Any substance which may cause a city wastewater treatment plant's effluent or any other products thereof, such as residues, sludges, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to a city wastewater treatment plant cause it to be in noncompliance with sludge use or the disposal criteria, guidelines, or regulations developed under Section 405 of the Federal Water Pollution Control Act (P.L. 92-500), as amended; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or the Toxic Substances Control Act; or State of Hawaii criteria applicable to the sludge management method being used;
- (17) Any substance which may cause the city's wastewater treatment plant to violate its national pollutant discharge elimination system permit or State of Hawaii water quality standards;
- (18) Any wastewater with an animal/vegetable fat, oil, and grease (FOG) content having detrimental characteristics so as to cause obstruction, upset, interference, or pass-through in the POTW, or result in adverse impact on public health or the environment; and
- (19) Any wastewater with petroleum hydrocarbon concentration greater than 100 mg/L or having detrimental characteristics so as to cause obstructions, upset, interference, or pass-through in the POTW, or result in an adverse impact on the public health or the environment."

SECTION 8. Section 14-5.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 14-5.1 Industrial wastewater discharge permit—Violations.

- (a) No person shall discharge or cause to be discharged any industrial wastewater into the public sewers or into any private sewer which discharges to the public sewers, without first applying for and obtaining an industrial wastewater discharge permit. Industrial wastewater discharge permits shall meet the following requirements or include the following provisions:



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- (1) Permits shall be issued by the director for a specified time period, not to exceed five years. A permit may be issued for a period of less than a year or may be stated to expire on a specific date as determined by the director;
 - (2) No permit shall be transferable without the prior written consent of the director and provision of a copy of the existing permit to the new owner or operator;
 - (3) Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;
 - (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable pretreatment standards, categorical pretreatment standards, local limits, and state and local law;
 - (5) ~~[Statement]~~ A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules shall not extend the compliance date beyond applicable federal deadlines;
 - (6) A statement requiring the notification of a hazardous wastewater discharge in accordance with Section 14-5.12(f);
 - (7) Recordkeeping requirements as detailed in Section 14-1.11; and
 - (8) Permittees shall provide the director with written notification upon the discontinuance of their business operations.
- (b) This permit may require pretreatment of industrial wastewater before discharge, compliance with a schedule containing commencement and completion dates of events leading to the construction and operation of pretreatment systems, restriction of peak flow discharges, discharge of certain wastewater only to specified sewers, relocation of point of discharge, prohibition of discharge of certain wastewater components, restriction of discharge to certain hours of the day, self-monitoring programs and submission of self-monitoring reports, and may include other conditions deemed appropriate by the director to ensure compliance with Articles 1 through 10 of this chapter, and federal and state laws.
- (c) No person shall discharge industrial wastewater in excess of the quantity or quality limitations set by the industrial wastewater discharge permit. Any person desiring to discharge wastewater ~~[which]~~ that is not, or use facilities ~~[which]~~ that are not, in conformance with the permit shall apply to the department for an amended permit.



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- (d) All self-monitoring submittals required by the permit, and reports filed with the director shall comply with the provisions specified in Section 14-5.11(a)(3).
- (e) Industrial users subject to categorical pretreatment standards shall submit baseline monitoring reports. The baseline monitoring report requirements for industrial users in 40 CFR Section 403.12(b), as further detailed in Section 14-5.8 and Section 14-5.11(b)-(c), are incorporated into this section. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in Articles 1 through 10 of this chapter.
- (f) All waste haulers shall apply for and obtain an industrial wastewater discharge permit.
- (g) With the exception of those industrial users defined by federal regulations as significant industrial users (categorical industrial users), the director may exempt certain industrial users or waste haulers from the requirement to obtain an industrial wastewater discharge permit if the quantity ~~and/or~~ or quality, or both, of the wastewater or hauled wastewater is deemed to be unlikely to cause obstructions, upset, interference, or pass-through in the POTW or result in an adverse impact on public health or the environment.
- (h) Bypass is prohibited, and the director may take enforcement action against an industrial user for a bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass occurring during normal periods of equipment downtime or preventative maintenance; and
 - (3) The industrial user submitted notices as required under paragraph (c) of Section 40 CFR Section 403.17.
- (i) Bypass Notice.

If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the director, if possible at least 10 days before the date of the



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bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the director within 24 hours from when the industrial user becomes aware of the bypass. A written submission shall also be provided by the industrial user within five days of the bypass. The written submission shall contain:

- (1) A description of the bypass and its cause;
- (2) The duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and
- (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

The director may waive the requirement for a written report, on a case-by-case basis, if the oral report has been received within 24 hours.

- (j) All industrial users shall promptly notify the director in advance of any substantial change in the volume or character of pollutants in their discharge."

SECTION 9. Section 14-5.8, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 14-5.8 Issuance and reissuance of wastewater discharge permit.

~~[An industrial user]~~ First time issuance. ~~Categorical Industrial Users shall apply for [a wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application at least 30 days prior to the expiration of the industrial user's existing wastewater discharge permit. An industrial user shall apply for a]~~ an industrial wastewater discharge permit for a first-time issuance [at least] no less than 180 days prior to commencement of operations [-In the case of a new categorical industrial user or new source, the federal regulations set forth in 40 CFR Section 403.12(b) require that at least 90 days prior-] by submitting to the department a complete industrial wastewater discharge permit application to [the proposed startup of operations and discharge, a new source] include a baseline monitoring report, as follows:

- (a) Existing categorical industrial users currently discharging to or scheduled to discharge to the city shall submit [a baseline monitoring] to the director



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a report [with] that contains the information [as-required] listed in 40 CFR Section 403.12(b)(1)-(7) within 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR Section 403.6(a)(4), whichever is later.

- (b) New sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard shall, at least 90 days prior to commencement of their discharge, submit to the director a report that contains the information listed in 40 CFR Section 403.12(b)(1)-(5) [-in addition to the complete industrial wastewater discharge permit application]. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged."

SECTION 10. The title of Section 14-5.11, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 14-5.11 Sampling, analyses, [and] flow measurements, and reporting requirements."

SECTION 11. Section 14-5.11, Revised Ordinances of Honolulu 1990, as amended, is amended by amending subsection (b) to read as follows:

- "(b) Baseline monitoring reports, reports on compliance with categorical standards, and periodic reports on continued compliance shall contain a statement, reviewed by an authorized representative of the industrial user, as defined in Section 14-1.2, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance [and/or] or additional pretreatment [is], or both, are required for the industrial user to meet the pretreatment standards and requirements."

SECTION 12. Section 14-5.12, Revised Ordinances of Honolulu 1990 ("Pretreatment of industrial wastewaters"), is amended by amending subsection (d) to read as follows:

- "(d) ~~[All industrial users shall immediately notify the director of any discharge which is a potential problem, including slug loading. The city may require any industrial~~



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~~user to develop and implement an accidental discharge/slug control plan. At least once every two years, the city shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:] Slug Control Plan. Significant industrial users are required to notify the POTW immediately of any changes at their facilities affecting potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:~~

- (1) ~~[Description]~~ A description of discharge practices, including ~~[nonroutine]~~ non-routine batch discharges;
- (2) ~~[Description]~~ A description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of ~~[any accidental-er]~~ slug discharges ~~[- Such notification shall also be given for any discharge which]~~, including any discharge that would violate [any of the prohibited discharges of this chapter;] a prohibition under 40 CFR 403.5(b) with procedures for follow-up written notification within five days;
- (4) ~~[Procedures]~~ If necessary, procedures to prevent any adverse impact from ~~[any accidental or slug discharge. Such procedures include, but are not limited to,]~~ accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site ~~[runoff]~~ run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), ~~[and/or]~~ and measures and equipment for emergency response."

SECTION 13. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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SECTION 14. This ordinance takes effect upon its approval, provided that the amendments to Section 14-1.9(g)(14), Revised Ordinances of Honolulu, as enacted in SECTION 7 of this ordinance, take effect upon the Department of Environmental Services' adoption of Local Limits Administrative Rules.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

January 28, 2021
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu