

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Healthy Public Buildings Assessment Act of 2016 to require the Department of General Services to expand the frequency and scope of testing for environmental risks in public buildings, to improve transparency and increase testing for environmental hazards that impact human health in District-owned buildings undergoing demolition, excavation, substantial renovation, or construction, and to produce an annual report on the environmental risks identified and their remediation; and to amend the Safe Fields and Playgrounds Act of 2018 to expand lead testing and transparency of lead test results for synthetic public playground surfaces, to publish warranties for recently installed and new synthetic surfaces, to conduct a thorough analysis of all playground surface materials currently or potentially available to ensure their safety and durability; and to require community outreach regarding the replacement of playground and field surfaces.

BE IT ENACTED BY THE COUCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public Facilities Environmental Safety Amendment Act of 2020”.

Sec. 2. The Healthy Public Buildings Assessment Act of 2016, effective April 1, 2017 (D.C. Law 21-237; D.C. Official Code § 10-711 *et. seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 10-711 *et. seq.*) is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

“(1) “Construction” means the building, modernization, or renovation of District facilities; except, that the term “construction” does not include modernization or renovation projects that do not rise to the level of a substantial renovation, as defined in paragraph (5A) of this section.”.

(3) A new paragraph (5A) is added to read as follows:

“(5A) “Substantial renovation” means the reconstruction of 50% or more of a public building.”.

(b) Section 3 (D.C. Official Code § 10-712) is amended to read as follows:

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

(A) The lead-in language is amended by striking the phrase “for, at a minimum,” and inserting the phrase “every 10 years, at a minimum, for” in its place.

ENROLLED ORIGINAL

(B) Paragraph (11) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(C) Paragraph (12) is amended by striking the period and inserting a semicolon in its place.

(D) New paragraphs (13), (14), (15), (16), and (17) are added to read as follows:

“(13) Groundwater quality;

“(14) Dust;

“(15) Gas and diesel emissions;

“(16) Polychlorinated biphenyls; and

“(17) Volatile organic compounds.”.

(2) A new subsection (b-1) is added to read as follows:

“(b-1) If DGS determines that any of the environmental risks listed in subsection (a) of this section are potential hazards at a publicly owned site that is undergoing or will undergo demolition, construction, excavation, or substantial renovation:

“(1) DGS shall promptly take any steps necessary to safeguard the public from those potential hazards and as soon as practicable conduct appropriate assessments to determine whether each environmental risk exceeds the threshold level established under subsection (b)(2) of this section and publish the complete results of that testing on the DGS website within 10 business days of receiving the test results; and

“(2) If test results are found to be in excess of a threshold level established under subsection (b)(2) of this section, DGS shall:

“(A) Effectively isolate the area where the environmental risk is located to safeguard the public until effective remediation occurs;

“(B) Within 10 business days of receiving the test results, provide any impacted Advisory Neighborhood Commission with and publish on the DGS website a notice of potential environmental risks that includes:

“(i) The potential environmental risks found;

“(ii) The full testing results for each of those environmental risks;

“(iii) The threshold levels at which remediation measures for that risk will be taken; and

“(iv) The planned timeline for remediation.

“(C) Coordinate with other relevant agencies to conduct a public meeting to share the assessment results with the affected community within 20 business days; and

“(D) Repeat the appropriate testing after remediation measures have been taken until the environmental conditions identified do not exceed established threshold levels.”.

(3) A new subsection (d-1) is added to read as follows:

“(d-1) DGS shall publish online and submit to the Council an annual report by July 1st of each year that describes, for each publicly owned site that has underwent or is undergoing

demolition, excavation, substantial renovation, or construction during the reporting period, at a minimum:

- “(1) Any potential hazards identified at each site;
- “(2) The testing methods employed to assess whether the conditions pose an environmental hazard;
- “(3) The test results for each potential hazard identified;
- “(4) The threshold levels at which remediation measures will be taken;
- “(5) Any remediation measures taken; and
- “(6) How testing results and remediation strategies have been communicated to the public.”.

Sec. 3. Section 4 of the Safe Fields and Playgrounds Act of 2018, effective April 11, 2019 (D.C. Law 22-293; D.C. Official Code § 10-171.03), is amended by adding new subsections (e), (f), (g), and (h) to read as follows:

“(e)(1) DGS shall conduct lead testing of all public playground surfaces composed, in whole or in part, of synthetic materials every 3 years using testing practices recommended by ASTM International or a similar testing standards organization.

“(2) If lead testing of a public playground surface conducted pursuant to this subsection identifies lead in excess of published threshold levels, DGS shall close the affected playground surface to the public within 24 hours of receiving the test results. DGS shall not reopen the affected playground surface until the lead is remediated and a subsequent test determines that the level of lead present is below published threshold levels.

“(3) Within 10 business days of receiving a lead test result resulting in the closure of a playground surface under this section, DGS shall publish notice on the DGS website and post conspicuous signage at the playground surface that clearly communicates the reason for the closure of the space, any planned remediation efforts, and contact information for a DGS employee responsible for addressing questions about the remediation.

“(4) Within 20 business days of receiving a lead test result resulting in the closure of a playground surface under this section, DGS shall coordinate with other relevant agencies to conduct a community meeting to explain the lead testing procedure, the test results, the remediation process, any potential health risks caused by the elevated lead levels, which resulted in the closure, and the anticipated date that the closed playground surface will reopen.

“(f) Within 8 months of the applicability date of the Public Facilities Environmental Safety Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-665), DGS shall publish on the DGS website the warranty and certificate of compliance with regulatory standards for all existing public synthetic fields and playgrounds that contain synthetic materials installed within the previous 5 years shall continue to publish on the DGS website the warranty and certificate of compliance with regulatory standards for all newly installed public synthetic fields and playgrounds.

“(g) Within 10 months after the applicability date of the Public Facilities Environmental Safety Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-665), the Mayor shall transmit to the Council a report that details the result of an analysis of all materials currently available on the market for use in public field and playground surfaces to ensure the District is using the safest and most durable materials for public recreational spaces. The report shall include:

“(1) A list of all currently available synthetic materials and non-synthetic materials on the market deemed safe for use by DGS in public recreational spaces;

“(2) An analysis of the synthetic materials and non-synthetic materials identified in paragraph (1) of this subsection that identifies whether the material contains any known environmental health hazards or poses a health risk if the material is ingested, inhaled, or comes into contact with a person’s skin or eyes;

“(3) A comparison of the synthetic materials and non-synthetic materials identified in paragraph (1) of this subsection that includes the advantages and disadvantages associated with each material, including cost, durability, maintenance requirements, and accessibility; and

“(4) Comparative lead test results for installed synthetic and non-synthetic public field and playground surfaces to determine the expected level of naturally occurring lead solely based on environmental factors as they exist in the District.

“(h) Prior to the replacement of any public field and playground surface, DGS shall, in coordination with other relevant agencies, conduct community outreach and engagement to:

“(1) Explain the available options for replacement;

“(2) Obtain input on the materials to be used; and

“(3) Explain the factors impacting the decision.”.

Sec. 4. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.03(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia