

**DEPARTMENT OF HEALTH
NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 42 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The purpose of the amendments is to clarify that a dentist may not refuse to provide copies of a patient's records upon proper request in accordance with law, based upon the patient owing a balance and to require dentists to maintain patient dental records for a minimum of three (3) years after last seeing the patient or the patient reaching age eighteen (18).

The following rulemaking action is proposed:

17 DCMR Chapter 42, DENTISTRY, is amended to read as follows:

Section 4213.4 is added to read as follows:

4213.4 A dentist shall maintain a record for each patient that accurately reflects the evaluation and treatment of the patient. These records shall be kept for three (3) years after last seeing the patient or three (3) years after a minor patient reaches eighteen (18) years of age.

Section 4213.5 is added to read as follows:

- 4213.5 Upon request of a patient or the patient's representative, a dentist shall make available to the patient or the patient's representative a copy of the patient's record in accordance with the following:
- (a) A dentist shall provide to a patient or the patient's representative a copy of the patient's record within thirty (30) days of the request; and
 - (b) A dentist may charge a reasonable fee for duplicating records and the fee may be required prior to providing the records in non-emergency situations, but a dentist shall not refuse to provide the records on the basis of the patient owing payment for dental services.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

DEPARTMENT OF MENTAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the Department of Mental Health, pursuant to the authority set forth in sections 105 and 114 of the Department of Mental Health Establishment Amendment Act of 2001 (Act), effective December 18, 2001, D.C. Law 14-56, D.C. Official Code §§ 7-1131.05 and 7-1131.14 (2005 Supp.), hereby gives notice of her intent to adopt the following amendments to rules governing the provision of community-based intervention (CBI) services contained in Chapter 34 of Title 22A of the District of Columbia Municipal Regulations (DCMR), entitled "Mental Health Rehabilitation Services Provider Certification Standards", in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

The purpose of these amendments is to make changes to the requirements for certification of specialty providers of community based intervention (CBI) services for children and youth, to amend the eligibility requirements for receipt of CBI and to establish three (3) levels of CBI services. The amendments also clarify the required membership of a CBI team of qualified practitioners.

Title 22A DCMR, Chapter 34 (Mental Health Rehabilitation Services Provider Certification Standards) is amended as follows:

Section 3422 is amended to read as follows:

3422 COMMUNITY-BASED INTERVENTION

- 3422.1 CBI services are time-limited, intensive, mental health services delivered to children and youth ages six (6) through twenty-one (21). CBI services are intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI services may be provided at the time a child or youth is identified for a service, particularly to meet an urgent or emergent need during his or her course of treatment.
- 3422.2 Consumers of CBI services shall have:
- (a) Insufficient or severely limited individual or family resources or skills to cope with an immediate crisis; and
 - (b) Either individual or family issues, or a combination of the two, that are unmanageable and require intensive coordinated clinical and positive behavioral interventions.
- 3422.3 There shall be three (3) levels of CBI services available to children and youth. A provider may be certified to offer one or more level(s) of CBI services.

- 3422.4 All levels of CBI services shall consist of the services described in §3422.7, as medically necessary and clinically appropriate for the consumer.
- 3422.5 The CBI provider shall be responsible for coordinating the treatment planning process for all consumers authorized to receive CBI. CBI services shall be delivered primarily in natural settings and shall include in-home services.
- 3422.6 The basic goals of all levels of CBI services are to:
- (a) Defuse the consumer's current situation to reduce the likelihood of a recurrence, which, if not addressed, could result in the use of more intensive therapeutic interventions;
 - (b) Coordinate access to covered mental health services and other covered Medicaid services;
 - (c) Provide mental health services and support interventions for consumers that develop and improve consumer and family interaction and improve the ability of parents, legal guardians, or caregivers to care for the consumer; and
 - (d) Transition the consumer to an appropriate level of care following the end of CBI treatment services.
- 3422.7 All levels of CBI services shall include the following services, as medically necessary and clinically appropriate for the consumer:
- (a) Immediate crisis response for enrolled consumers;
 - (b) Stabilization services to:
 - (i) Reduce family conflict;
 - (ii) Stabilize the family unit;
 - (iii) Maintain the consumer in the home environment;
 - (iv) Increase family support; or
 - (v) Assure that the consumer has and is taking prescribed psychiatric medications;
 - (c) Environmental assessment to:
 - (i) Identify risk factors that may endanger either the consumer or the consumer's family; and

- (ii) Assess the strengths of the consumer and the consumer's family;
- (d) Individual and family counseling or therapy;
- (e) Skills training related to:
 - (i) Consumer self-help;
 - (ii) Parenting techniques to help the consumer's family develop skills for managing the consumer's emotional disturbance;
 - (iii) Problem solving;
 - (iv) Behavior management;
 - (v) Communication techniques, including the facilitation of communication and consistency of communication for both the consumer and the consumer's family; and
 - (vi) Medication management, monitoring and follow-up for family members and other caregivers;
- (f) Coordination and linkage with other covered MHRS and supports and other covered Medicaid services in order to prevent the utilization of more restrictive residential treatment, including one or more of the following activities:
 - (i) Referral of consumers to other MHRS providers;
 - (ii) Assisting consumers in transition to less-intensive or more-intensive MHRS;
 - (iii) Referral of consumers to providers of other Medicaid covered services (e.g., physician); or
 - (iv) Supporting and consulting with the consumer's family or support system, which is directed exclusively to the well-being and benefit of the consumer; and
- (g) Development of an IPC and ISSP.

- 3422.8 CBI Level I services are intended for children and youth who are experiencing serious emotional disturbance with either of the following:
- (a) A documented conduct disorder with externalizing (aggressive or violent) behaviors; or
 - (b) A history of chronic juvenile offenses that has or may result in involvement with the juvenile justice system.
- 3422.9 CBI Level I services shall not be authorized for:
- (a) Children or youth who require the safety of a hospital or other secure setting;
 - (b) Children or youth in independent living programs; or
 - (c) Children or youth without a long-term placement option.
- 3422.10 Eligible consumers of CBI Level I services shall have a permanent caregiver who is willing to participate with service providers for the duration of CBI Level I treatment services and be:
- (a) At imminent risk for out-of-home placement within thirty (30) days; or
 - (b) Currently in out-of-home placement due to the consumer's disruptive behavior, with permanent placement expected to occur within thirty (30) days.
- 3422.11 CBI Level I Service providers shall obtain prior authorization of CBI Level I services from DMH for an initial thirty (30) day period. CBI Level I services may be reauthorized by DMH for an additional five (5) months immediately following the initial thirty (30) day period. CBI level I services shall only be reimbursable for a total duration of six (6) months.
- 3422.12 Re-admission to CBI level I services may be considered for prior authorization by DMH in accordance with medical necessity requirements specified by DMH.
- 3422.13 CBI Level I services shall be delivered in accordance with the Multisystemic Treatment (MST) Model. Necessary and appropriate non-Medicaid reimbursable MST therapies shall be reimbursed by DMH and shall not be billed as CBI Level I services.
- 3422.14 CBI Level II services are intended for children and youth with serious emotional disturbance who are not otherwise eligible for CBI Level I services.

- 3422.15 Eligible consumers of CBI Level II services shall have any one or combination of the following:
- a) A history of involvement with the Child and Family Services Agency (CFSA) or the Department of Youth Rehabilitation Services (DYRS);
 - b) A history of negative involvement with schools for behavioral-related issues; or
 - c) A history of either chronic or recurrent episodes of negative behavior that have or may result in out-of-home placement.
- 3422.16 CBI Level II services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.
- 3422.17 CBI Level II service providers shall obtain prior authorization of CBI Level II services from DMH for an initial thirty (30) day period. CBI Level II services may be reauthorized by DMH for an additional five (5) months immediately following the initial thirty (30) day period. CBI level II services shall only be reimbursable for a total duration of six (6) months.
- 3422.18 Re-admission to CBI level II services may be considered for prior authorization by DMH in accordance with medical necessity requirements specified by DMH.
- 3422.19 CBI Level II services shall be delivered in accordance with the Intensive Home and Community-Based Services (IHCBS) model as adopted by DMH. IHCBS services, activities and interventions that are not required under § 3422.7 shall not be billed as CBI Level II services.
- 3422.20 CBI Level III services are intended for children and youth with serious emotional disturbance who are not otherwise eligible for CBI Level I or CBI Level II services.
- 3422.21 A consumer shall be eligible for CBI Level III services if the consumer:
- (a) Has situational behavioral problems that require short-term, intensive treatment;
 - (b) Is currently dealing with stressor situations such as trauma or violence and requires development of coping and management skills;
 - (c) Recently experienced out of home placement and requires development of communication and coping skills to manage the placement change; or
 - (d) Is undergoing transition from adolescence to adulthood and requires skills and supports to successfully manage the transition.

- 3422.22 CBI Level III services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.
- 3422.23 CBI Level III service providers shall obtain prior authorization for CBI Level III services from DMH for an initial thirty (30) day period. CBI Level III services may be reauthorized by DMH for an additional sixty (60) days immediately following the initial thirty (30) day period. CBI level III services shall only be reimbursable for a total duration of ninety (90) days.
- 3422.24 Re-admission to CBI level III services may be considered for prior authorization by DMH in accordance with medical necessity requirements specified by DMH.
- 3422.25 CBI Level III services shall be delivered in accordance with the IHCBS model as adopted by DMH. IHCBS services, activities and interventions that are not required under § 3422.7 shall not be billed as CBI Level III services.
- 3422.26 Discharge from all levels of CBI services shall occur when the consumer's level of functioning has improved with respect to the goals outlined in the IPC and ISSP or the consumer no longer benefits from CBI services. Discharge decisions shall be based on one or a combination of the following:
- (a) The consumer is performing reasonably well in relation to goals contained in the IPC and ISSP and discharge to a lower level of care is indicated (e.g., the consumer is not exhibiting risky behaviors or family functioning has improved);
 - (b) The consumer, the consumer's family or caregiver has developed the skills and resources needed to step down to a less intensive service;
 - (c) The consumer is not making progress or is regressing, and all realistic CBI treatment options have been exhausted;
 - (d) A family member or caregiver requests discharge and the consumer is not imminently dangerous to self or others;
 - (e) The consumer requires a higher level of care (e.g., inpatient hospitalization or psychiatric residential treatment facility); or
 - (f) The consumer no longer resides in the District.
- 3422.27 Eligible providers of CBI Level I services shall:
- (a) Meet the specialty service provider requirements in § 3412;

- (b) Be licensed MST providers in good standing and utilize the MST treatment model;
- (c) Have the capacity to provide the non-Medicaid reimbursed wraparound services required by eligible consumers;
- (d) Have the capacity to deliver CBI Level I services to four (4) to six (6) consumers for each full time team member; and
- (e) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3422.28 Eligible providers of CBI Level II services shall:

- (a) Meet the specialty service provider requirements in § 3412;
- (b) Utilize the IHCBS treatment model adopted by DMH to deliver CBI Level II services;
- (c) Meet CBI Level II training requirements specified by DMH;
- (d) Have the capacity to provide the non-Medicaid reimbursed wraparound services required by eligible consumers;
- (e) Have the capacity to deliver CBI Level II services to at least four (4) to six (6) consumers for each full-time team member; and
- (f) Be available to consumers twenty-four (24) hours per day, seven (7) days per week;

3422.29 Eligible providers of CBI Level III services shall:

- (a) Meet the specialty service provider requirements in § 3412;
- (b) Utilize the IHCBS treatment model adopted by DMH to deliver CBI Level III services;
- (c) Meet CBI Level III training requirements specified by DMH;
- (d) Have the capacity to deliver CBI Level III services to at least four (4) to six (6) consumers for each full-time team member; and
- (e) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

- 3422.30 Providers of CBI services shall meet the staffing requirements applicable to the level of services offered in order to render CBI Level I, Level II or Level III services. Staffing levels applicable to satisfy the team membership requirements for each level of CBI services are mutually exclusive and shall not be shared between levels of care.
- 3422.31 Providers of all levels of CBI services shall:
- (a) Individually design CBI services for each consumer and family to minimize intrusion and maximize independence;
 - (b) Provide more intensive services at the beginning of treatment and decrease the intensity of treatment over time as the strengths and coping skills of the consumer and family develop;
 - (c) Provide services utilizing a team approach, whereby all team members, including the clinical supervisor or team leader, meet at least once per week to review individual case progress and consult on treatment planning. The emphasis of the weekly meetings shall be on the clinical supervision of all active cases and on developing outcome-focused weekly plans to achieve consumer and family goals;
 - (d) Maintain appropriate back-up coverage for team member absences and facilitate substitution of team members as necessary;
 - (e) Conduct face-to-face transition planning with consumers and families no later than thirty (30) days prior to the anticipated discharge date, including meetings with providers of more intensive or less intensive services;
 - (f) Conduct continuity of care planning with consumers and families prior to discharge from any level of CBI services, including facilitating follow-up mental health appointments and providing telephonic support until follow-up mental health services occur;
 - (g) Provide all of the components of treatment specified in §3422.7, as appropriate, based on each consumer's needs;
 - (h) Provide CBI services with a family-focus;
 - (i) Assist the consumer and his or her family with the development of mental health relapse prevention strategies and plans, if none exist;
 - (j) Assist the consumer and his or her family with the development of a safety plan to address risk factors identified during the environmental assessment;

- (k) Have policies and procedures included in its Service Specific Policies that address the provision of CBI (CBI Organizational Plan) which include the following:
 - (i) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule;
 - (ii) A description of the staffing pattern and how staff are deployed to ensure that the required staff-to-consumer ratios are maintained, including how unplanned staff absences and illnesses are accommodated; and
 - (iii) A description of how the ISSP is modified or adjusted to meet the needs specified in each consumer's IPC;
- (l) Directly conduct or arrange for the provision of Diagnostic/Assessment services within fourteen (14) days before or after the initiation of CBI services through either an agreement with a CSA or a CSA's affiliated sub-provider; and
- (m) Collect and submit clinical outcome data using the process, timeline and tools specified or approved by DMH.

3422.32 Each CBI Level I team shall include:

- (a) A full-time clinical supervisor;
- (b) A full-time team leader; and
- (c) Four (4) to six (6) CBI clinicians.

3422.33 The CBI Level I team clinical supervisor shall be a Master's level qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy in accordance with applicable District laws and regulations, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3422.34 The CBI Level I team leader shall be a Master's level clinician with a minimum of one (1) year of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3422.35 The CBI Level I team clinicians shall be either Master's level clinicians or Bachelor's level clinicians with a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.

- 3422.36 Each CBI Level II team shall include:
- (a) A full-time clinical supervisor; and
 - (b) Four (4) to six (6) clinicians.
- 3422.37 The CBI Level II team clinical supervisor shall be a Master's level qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy in accordance with applicable District laws and regulations, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.38 The CBI Level II team clinicians shall be either Master's level clinicians or Bachelor's level clinicians with a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.39 Each CBI Level III team shall include:
- (a) A full-time clinical supervisor; and
 - (b) Four (4) to six (6) clinicians;
- 3422.40 The CBI Level III team clinical supervisor shall be a Master's level qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy in accordance with applicable District laws and regulations, with a minimum of two (2) years post-graduate experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.41 The CBI Level III team clinicians shall be either Master's level qualified practitioners or Bachelor's level clinicians with a minimum of two (2) years of experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.42 Providers of all levels of CBI services shall ensure the availability and provision of alcohol and other drug addiction treatment services as well as services to facilitate consumers' transition from adolescence to adulthood, as medically necessary for consumers.
- 3422.43 Prior authorization from DMH is required for enrollment in all levels of CBI services.
- 3422.44 CBI shall not be billed on the same day as Rehabilitation/Day Services, Intensive Day Treatment or ACT.

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- 3422.45 CBI shall not be billed on the same day as Counseling without the prior approval of DMH.
- 3422.46 CBI shall not be billed on the same day as Community Support unless the Community Support services are provided within thirty (30) days prior to the consumer's discharge from CBI.
- 3422.47 CBI shall be provided in:
- (a) MHRS provider service sites; or
 - (b) Natural settings, including the consumer's home or other community setting.
- 3422.48 Qualified practitioners of CBI are:
- (a) Psychiatrists;
 - (b) Psychologists;
 - (c) LICSWs;
 - (d) APRNs;
 - (e) RNs;
 - (f) LPCs;
 - (g) LISWs; and
 - (h) Addiction counselors.
- 3422.49 All credentialed staff, including recovery specialists, shall be authorized to provide CBI under the supervision of a qualified practitioner as set forth in §3413.3.
- 3422.50 CBI services shall typically not exceed thirty-two (32) units in a twenty-four (24) hour period. DMH may conduct clinical record reviews to verify the medical necessity of services provided.

Section 3424.4 is amended to read as follows:

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Diagnostic/ Assessment	<ul style="list-style-type: none"> • One (1) every six (6) months • Additional units allowable when pre-authorized for periodic assessment; pre-hospitalization screening, neuropsychological assessment and re-admission to Rehabilitation/Day Services • Shall not be billed the same day as ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	An assessment, which is at least three (3) hours in duration
Medication/ Somatic Treatment	<ul style="list-style-type: none"> • No annual limit • Shall not be billed the same day as ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Counseling	<ul style="list-style-type: none"> • One hundred sixty (160) units per year • Additional units allowable with prior authorization by DMH • Shall not be billed the same day as Rehabilitation/Day Services, Intensive Day Treatment or ACT • Shall not be billed on the same day as CBI, without prior approval from DMH • Shall be rendered face-to-face, when consumer is present, unless there is adequate documentation to justify why the consumer was not present during the session • May be provided in individual on-site, individual off-site or group • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Community Support	<ul style="list-style-type: none"> • No annual limits • Shall not be billed on the same day as ACT • May be provided individually or in a group • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Crisis/ Emergency	<ul style="list-style-type: none"> • No annual limits • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Rehabilitation/ Day Services	<ul style="list-style-type: none"> • Prior authorization from DMH required for enrollment • Shall not be billed on the same day as Counseling or ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	One (1) day (which shall consist of at least three (3) hours)
Intensive Day Treatment	<ul style="list-style-type: none"> • Seven (7) days • Additional units allowable after seven (7) days or for the second and any additional episodes of care within a twelve (12) month period with prior authorization by DMH • Shall not be billed on the same day as any other MHRS, except for Crisis/Emergency, Community Support or CBI • Up to three (3) hours of Diagnostic/Assessment may be billed during each episode of Intensive Day Treatment • Provided only in a community-based MHRS provider -- Intensive Day Treatment Facility 	One (1) day (which shall consist of at least five (5) hours)
CBI	<ul style="list-style-type: none"> • Prior authorization to the CBI provider from DMH required for enrollment • Shall not be billed on the same day as ACT or Intensive Day Treatment • Shall not be billed on the same day as Counseling, without prior approval from DMH • Shall not be billed on the same day as Community Support, unless the Community Support services are provided within thirty (30) days of discharge from CBI • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	One (1) hour (or part thereof) not to exceed thirty-two (32) units in a twenty-four (24) hour period
Assertive Community Treatment	<ul style="list-style-type: none"> • Prior authorization from DMH required for enrollment • Shall not be billed on the same day as any other MHRS, except for Crisis/Emergency with retrospective authorization 	One (1) hour (or part thereof)

Section 3499.1 is amended as follows:

The following definitions are added:

“Authorized” - MHRS services that are prior authorized or reauthorized by DMH, in accordance with these standards.

“Child and Family Services Agency” or “CFSA” – The District agency responsible for the coordination of foster care, adoption and child welfare services and services to protect children against abuse or neglect.

“Clinical supervisor” – The qualified practitioner responsible for monitoring consumer welfare, ensuring compliance with professional standards of service delivery, monitoring clinical performance and professional development of team members, and evaluating team members for performance, service delivery and credentialing purposes.

“Clinician” – An individual with either a Bachelor’s or Master’s degree in social work, counseling, psychology, family therapy or related social science or appropriate therapeutic experience with the target population. Clinicians are credentialed staff.

“Conduct disorder” – A behavioral and emotional disorder of childhood and adolescence that manifests by children acting out aggressively, expressing anger inappropriately, and engaging in a variety of antisocial and destructive acts, including violence towards people and animals, destruction of property, lying, stealing, truancy, and running away from home.

“Department of Youth Rehabilitative Services” or “DYRS” - The District agency responsible for providing security, supervision and residential and community support services for committed and detained juvenile offenders and juvenile persons in need of supervision.

“Foster home” – a residence in which a foster parent is licensed by the District to provide care to a foster child in accordance with the requirements of Title 29, DCMR Chapter 60.

“Independent Living Program” – A residential program licensed by the District in accordance with Title 29 DCMR Chapter 63, Licensing of Independent Living Programs for Adolescents and Young Adults.

“Intensive Home and Community-Based Services” or “IHCBS” – an intensive model of treatment adapted by DMH to prevent the utilization of out-of-home treatment resources by emotionally disturbed children and youth.

“Long-term placement option” – either a permanent caregiver or permanent home. A group home or other residential placement is not a long-term placement option.

“Multisystemic therapy” or “MST” – an intensive model of treatment based on empirical data and evidence-based interventions that target specific behaviors with individualized behavioral interventions.

“Permanent caregiver” – a natural or adoptive family or foster home that has cared for the consumer for at least six (6) consecutive months within the twelve (12) month period immediately preceding the referral for CBI. A group home or other residential placement is not a permanent caregiver.

“Permanent home” – a natural or adoptive family or foster home where the consumer has lived for at least six (6) consecutive months within the twelve month (12) month period immediately preceding the referral to CBI with a permanent caregiver. A group home or other residential placement is not a permanent home.

“Out of home therapeutic resource” – a psychiatric hospital or psychiatric residential treatment facility.

“Prior authorization” – approval by DMH in advance for the initiation of MHRS to a consumer, including the commencement of services such as Diagnostic/Assessment or Crisis Emergency services before a consumer is enrolled in the MHRS program.

“Psychiatric residential treatment facility” – shall have the meaning ascribed in 42 CFR Subpart G, Section 483.352.

“Reauthorized” – having received approval by DMH for the continued provision of medically necessary MHRS that are time-limited, such as Rehabilitation/Day Services, Intensive Day Treatment, CBI or ACT.

“Residential placement” – a psychiatric residential treatment center, group home, independent living program or other residence where children or youth are temporarily receiving services. A permanent home is not a residential placement.

The following definitions are amended to read as follows:

“Community-Based Intervention” or “CBI” – Time-limited, intensive mental health services delivered to children and youth ages six (6) through twenty-one (21) and intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI is primarily focused on the development of consumer skills to promote behavior change in the child or youth’s natural environment and empower the child or youth to cope with his or her emotional disturbance.

“Medical necessity” or “medically necessary” – those services contained in an approved IRP/IPC reasonably calculated to prevent the worsening of, alleviate, correct, cure, or ameliorate an identified mental health condition that endangers life, causes suffering or pain, causes physical deformity or bodily malfunction, threatens to cause or aggravate a disability, or results in an illness or infirmity. For children through age twenty (20),

services reasonably calculated to promote the development or maintenance of age-appropriate functioning are also considered medically necessary.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Anne M. Sturtz, General Counsel, Department of Mental Health, 64 New York Ave, N.E., Fourth Floor, Washington, D.C. 20002 or anne.sturtz@dc.gov. Additional copies of these rules are available from the Office of the General Counsel, Department of Mental Health.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 1018, IN THE MATTER OF THE APPLICATION OF
POTOMAC ELECTRIC POWER COMPANY FOR A CERTIFICATE OF
AUTHORITY AUTHORIZING IT TO ISSUE DEBT SECURITIES, HYBRID
SECURITIES, AND PREFERRED OR PREFERENCE STOCK

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to D.C. Code Section 2-505(a) (2001 ed.), and D.C. Code Sections 34-502 - 34-503, that it intends, in not less than thirty (30) days from the date of publication of this Notice of Proposed Rulemaking ("Notice") in the *D.C. Register*, to take final action on the application of Potomac Electric Power Company (PEPCO or Company) for a certificate of authority to issue debt securities and/or hybrid securities and/or preferred or preference stock ("Application").

2. On March 31, 2006, PEPCO filed an Application for a certificate authorizing it to issue and sell Debt Securities including, but not limited to, one or more series of First Mortgage Bonds; one or more series of Debentures; one or more series of Notes; one or more series of Hybrid Securities; and one or more series of Serial Preferred or Preference Stock. PEPCO also states that the above issuance might include the newly created classes of preferred or preference stock and Serial Preferred stock in an aggregate amount not to exceed \$700,000,000.

3. PEPCO has requested expedited review of its Application pursuant to Chapter 35 of the Commission's Rules governing stock transactions.¹ Pursuant to Section 3501.4, any party objecting to the expedited handling of the application must file an objection within thirty (30) days of the publication of this Notice in the *D.C. Register*. Responses to objections shall be filed within thirty-five (35) days of the publication date.² If no objection is filed, the Commission must determine within thirty (30) days of date of publication whether to handle the application through the expedited procedure.³ Moreover, if no objection to the Application is filed and the Commission takes no action on the Application within forty (40) days after the publication date, then the Application shall be deemed approved.⁴

¹ 15 DCMR § 3500 *et seq.* (2000).

² *Id.* at § 3501.5.

³ *Id.* at § 3501.7.

⁴ *Id.* at § 3501.9.

4. The Application states that PEPCO plans to apply the proceeds from the financing contemplated in its Application for five primary purposes: (1) to refund maturing debt securities; (2) to refund short-term debt incurred to finance utility construction and operations on a temporary basis; (3) to fund ongoing capital requirements of the Company, including redemption and sinking fund requirements; (4) to refund outstanding securities of the Company, should market conditions make refinancings feasible; and (5) for other general corporate purposes. PEPCO further states that the precise timing and types of financing selected would depend on the prevailing and anticipated market conditions in relation to the costs and volume of the Company's short-term debt and in relation to the costs of the Company's outstanding senior securities, and upon capital structure considerations.⁵

5. The Application and supporting exhibits are on file with the Commission. The Application and exhibits may be reviewed between 9:00 a.m. and 5:30 p.m., Monday through Friday, at the Public Service Commission of the District of Columbia, Office of the Commission Secretary, 1333 H Street, N.W., Seventh Floor, East Tower, Washington, D. C. 20005. Copies are available upon request, at a per page reproduction cost.

6. Any person objecting to the expedited handling of the Application shall file an objection in writing with the Commission, directed to Ms. Dorothy Wideman, Commission Secretary, at the above address within thirty (30) days of the publication of this Notice in the *D.C. Register*. The objection shall clearly state the reasons for which the Application should not be handled through the expedited procedure. A copy of the objection shall also be served on the Company, directed to Kirk J. Emge, General Counsel, Potomac Electric Power Company, 701 Ninth St., N.W., Suite 1100, Washington, D.C. 20068. A copy of the objection shall also be served on the Office of the People's Counsel of the District of Columbia at 1133 - 15th St., N.W., Washington, D.C. 20005. Responses to objections shall be filed with the Commission within thirty-five (35) days of the publication of this Notice in the *D.C. Register*. A copy of the response shall be served on the objecting party and the Office of the People's Counsel. If an objection is filed, the Commission shall determine within fifteen (15) days after the period for filing an objection has expired whether to handle the Application through the expedited procedure.

7. Any person desiring to make comments concerning the Application should do so in writing and direct those comments to Ms. Dorothy Wideman, Commission Secretary, at the above address and shall set forth therein the specific grounds for each comment. Any such representation must be made on or before thirty (30) days after publication of this Notice in the *D.C. Register*. Any replies to such comments shall be

⁵ See Formal Case No. 1018, *In The Matter Of The Application Of Potomac Electric Power Company For A Certificate Of Authority Authorizing It To Issue Debt Securities, Hybrid Securities, And Preferred Or Preference Stock*, PEPCO's Application for Expedited Review ("Application"), filed March 31, 2006 at 3.

made no later than thirty-five (35) days after publication of this Notice, after which the Commission will take final rulemaking action.

APR 21 2006

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT
COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS
TARIFF, P.S.C.-D.C. No. 3

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the proposed tariff of Washington Gas Light Company ("WGL")² in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. Pursuant to D.C. Code Section 10-1141.6,³ WGL filed with the Commission an updated Rights-of-Way Surcharge Rider on March 24, 2006.⁴ On March 30, 2006, WGL amended its tariff filing by including additional information on the proposed revision.⁵ In the proposed tariff, WGL shows the process to recover from its customers the D.C. Rights-of-Way ("ROW") fees paid by WGL to the District of Columbia. Specifically, WGL proposes to amend the following page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3

Section 22

2nd Revised Page 56

3. WGL asserts that its Rights-of-Way Surcharge will become effective commencing with the April 2006 billing cycle.⁶ WGL's proposed tariff shows that the

¹ D. C. CODE § 2-505 (2001).

² *GT00-2, In The Matter Of Washington Gas Light Company's Rights-Of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, ("GT00-2") Compliance Filing of Washington Gas Light Company, ("Compliance Filing"), filed March 24, 2006.*

³ D. C. CODE § 10-1141.06 (2001) (stating that "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

⁴ *GT00-2, Compliance Filing at 1.*

⁵ *FT00-2, WGL Rights-of-Way Surcharge Factor Amended Filing P.S.C. of D.C. No. 3, Section 22, Second Revised Page No. 56 Pursuant to Commission Order No. 13767, filed March 30, 2006.*

⁶ *Id.*

current ROW factor is 0.0259 with a reconciliation amount of 0.0009 for the prior period, which yields a net factor of 0.0268.⁷

4. The tariff filing and the amended filing may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Seventh Floor, East Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff pages are available upon request, at a per-page reproduction cost.

5. Comments on this tariff must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days from the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment periods have expired, the Commission will take final rulemaking action on WGL's filing. The Commission does not intend to prevent WGL from implementing its filed surcharges. However, if the Commission discovers any inaccuracies, WGL may be subject to reconciliation of the surcharges.

⁷*Id.* at 2.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NO. 05-101-PS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the adoption of the following rulemaking which amends Chapter 24 of the Vehicles and Traffic Regulations (18 DCMR).

Proposed rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), is justified by the following circumstances:

In every District neighborhood, it is necessary from time to time to prohibit general parking to allow for special events, tree trimming, delivery vans and so forth. Businesses and citizens may request temporary parking restrictions and may receive temporary no parking signs, which must be erected early enough to warn other drivers to move their vehicles to avoid a citation. The regulations in their current form define what that time limit is for commercial parking zones, but not residential parking zones. Therefore, the department proposes to amend Title 18, DCMR, Chapter 24, Section 2407 TEMPORARY AND EMERGENCY RESTRICTIONS, Subsection 2407.10, to state that in residential areas, the temporary signs must be posted 72 hours in advance of the effective date and time.

The following rulemaking action is proposed:

Title 18 DCMR, Chapter 24 § 2407.10 is amended as follows:

ADD §2407.10 (b) Signs prohibiting or restricting parking in residential areas, whether or not the area is in the Residential Permit Parking program, shall be erected 72 hours in advance. This required advance notice may be waived in extraordinary circumstances for good cause shown.

All persons interested in commenting on the subject matter in this emergency rulemaking action may file comments in writing, not later than thirty days after the publication of this notice in the D.C. Register, with:

The Department of Transportation
Traffic Services Administration
2000 14th Street, N.W., 7th Floor
Washington, D.C. 20009
Attention: Docket No. 05-101-PS.

Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NO. 06-05-PS

The Acting Director of the District Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the adoption of the following rulemaking which amends Chapter 24 of the Vehicles and Traffic Regulations (18 DCMR).

Proposed rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), is justified by the following circumstances:

The amendments address the need to regulate valet parking operations within the District of Columbia. The amendments permit valet parking operations the use and occupation of public space and regulate the use of public space.

The following rulemaking action is proposed:

18 DCMR, chapter 24 § 2409 is amended as follows:

18-2409. RESTRICTED USE OF VALET PARKING, BUS, TAXICAB, AND SIGHTSEEING ZONES AND STANDS

2409.1 The Director is authorized to have signs prohibiting parking or standing placed at bus stops, zones, and stands; taxicab stands; valet parking zones; and sightseeing stands, and is authorized to determine the dimensions of all such stands.

2409.2 Signs shall be erected after investigation by the District Department of Transportation with representatives of the Washington Metropolitan Area Transit Authority and area bus and taxi companies or valet parking operators.

2409.3 No person shall stand or park a vehicle in a valet parking zone; or other than a bus in a bus stand, or other than a taxicab in a taxicab stand, or other than a sightseeing vehicle in a sightseeing stand; Provided, that a driver of a passenger vehicle may stop momentarily in a stand or zone for the purpose of and while actually picking up or discharging passengers, as long as such stopping does not interfere with any vehicle, bus, taxicab, or sightseeing vehicle about to enter the stand or zone designated for the use of such vehicle.

2409.5 The prohibition against parking or standing at such stands and zones shall be effective at all times, unless the restricted periods have been otherwise designated and signs posted accordingly.

All persons interested in commenting on the subject matter in this emergency rulemaking action may file comments in writing, not later than thirty days after the publication of this notice in the D.C. Register, with:

The District Department of Transportation
Traffic Services Administration
2000 14th Street, N.W., 7th Floor
Washington, D.C. 20009
Attention: Docket No. 06-05-PS.

Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 06-04-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), 6 and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137, 49 DCR 5054 (June 7, 2002)), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(6) and (b)), hereby gives notice of the intent to amend Chapter 40 of the Vehicle and Traffic Regulations (18 DCMR). 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.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4015, NO LEFT TURN, Subsection 4015.3, (a) Northwest Section, is amended by adding the following to the list of locations where no traffic shall make a left turn:

“South-bound 16th Street, N.W., eastbound Upshur Street, 7:00-9:30 AM, Monday through Friday”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty days (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009 (Attention: Docket No. 06-04-TS). Copies of this proposal are available, at cost, by writing to the above address.

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DISTRICT OF COLUMBIA REGISTER

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 05-18-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), 6 and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137, 49 DCR 5054 (June 7, 2002)), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(6) and (b)), hereby gives notice of the intent to amend Chapter 40 of the Vehicle and Traffic Regulations (18 DCMR). 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.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4015, NO LEFT TURN, Subsection 4015.3, (a) Northwest Section, is amended by adding the following to the list of locations where no traffic shall make a left turn:

“North-bound 16th Street, N.W., left onto westbound Holly Street, 4:00-6:30 PM, Monday through Friday”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty days (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009 (Attention: Docket No. 05-18-TS). Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER # 05-99-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend Chapter 40 of the Vehicle and Traffic Regulations (18 DCMR). 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.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4004, ONE-WAY STREETS, Subsection 4004.1, (d) Southeast Section, is amended by adding the following to the list of locations where traffic is restricted to one direction of travel:

“On C Street, S.E., between the west and east intersections of Cape Drive for eastbound traffic only”.

Title 18 DCMR, Section 4008, STOP SIGNS, Subsection, 4008.1, (d) Southeast Section, is amended by deleting the following from the list of locations where the Director has authorized the placement of STOP signs:

“On westbound C Street, S.E., so as to stop at Cape Drive, west intersection”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009 (Attention: Docket No.# 05-99-TS). Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 05-22-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3(b), and 5(3)(D) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921; Mayor's Order 2002-102 (June 12, 2002); and the Motor Vehicle Parking Regulation Amendment Act of 1999, D.C. Law 13-97, effective May 9, 2000, hereby gives notice of the intent to amend chapter 24 Title 18 "Vehicle and Traffic Regulations" related to Sightseeing Bus Stands.

The purpose of this rule is to establish a sightseeing bus stand for the exclusive use of the Old Towne Trolley which is owned and operated by Historic Tours of America. This bus stand will be 70 feet in length and will be installed in front of their headquarters on the north side of E Street, N.W. between 10th and 11th Streets. The tour bus operator will pay an annual Public Rights-of-Way Occupancy Permit fee no less than yearly established foregone parking meter revenue as established in Subsection 3304.5 of Chapter 33 of the Public Space and Safety Regulations (24 DCMR). Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

- A. Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by deleting the following:

E Street, N.W.

From a point approximately 77 feet west of 10th Street, to a point approximately 109 feet west of 10th Street, on the north side, "Two Hour Parking, 7am-6:30pm, Monday – Friday".

- B. Title 18 DCMR, Section 4027, SIGHTSEEING LIMOUSINE AND BUS STANDS, Subsection 4027.1, (a) Northwest Section, is amended by deleting the following:

E Street, N.W.

From a point approximately 39 feet west of 10th Street to a point approximately 77 feet west of 10th Street, on the north side, "15 Minute Tour Bus Parking, 7am-6:30pm, Monday – Saturday".

- C. Title 18 DCMR, Section 4027, SIGHTSEEING LIMOUSINE AND BUS STANDS, Subsection 4027.1, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

E Street, N.W.

From a point approximately 39 feet west of 10th Street to a point approximately 109 feet west of 10th Street, on the north side, "No Parking 9am-7pm, Daily, Old Towne Trolley Only".

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with the District Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009. (Attention: Docket No. 05-22-TS). Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NO. 06-03-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend Chapter 40 of the Vehicles and Traffic Regulations (18 DCMR). Final rulemaking action shall be taken in not than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking actions is proposed:

Title 18 DCMR, Section 4004, ONE-WAY STREETS, Subsection 4004.1, (a) Northwest Section is amended by deleting the following to the list of locations where traffic is restricted to one direction:

“On New Jersey Avenue, N.W. between Morgan Street and its intersection with K Street; 2nd Street, N.W. between K Street and its intersection with H Street”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009 (Attention: Docket No. 06-03-TS). Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors of the District of Columbia Water and Sewer Authority ("the Board"), pursuant to the authority set forth in the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Code § 34-2201.01 et seq., hereby gives notice of its intent to amend Chapter 52, Sections 5209, 5210 and 5213, of the Water and Sanitation Regulations (21 DCMR). The proposed rules would amend the referenced provisions of Sections 5209, 5210 and 5213, "Disciplinary Action", "Grievance Process" and "Conflict of Interest", respectively of the Personnel Regulations, located at 21 DCMR, Chapter 52.

If adopted these rules will replace the existing rules referenced in these proposed rules. Those sections not mentioned will not be amended and will not be replaced by the proposed rules. 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.

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 of Directors, 5000 Overlook Ave., S.W. Washington, D.C. 20032. Copies of these rules may be obtained from the Authority at the same address.

Title 21 DCMR, Chapter 52, Section 5209 "Disciplinary Process", is amended to read "Discipline" as follows:

5209 Discipline

5209.1 Employees will comply with established Authority standards of conduct and performance established herein. The Authority will use disciplinary action to address instances of misconduct and incompetence. Disciplinary action may be undertaken at the sole discretion and at any time deemed appropriate by the Authority.

5209.2 Employees must comply with Authority regulations, policies and procedures and may be subject to disciplinary action, for failure to comply with such regulations, policies and procedures, which can range from reprimand to termination of employment.

5209.3 Disciplinary action shall be taken by an employee's immediate supervisor or by a Manager in the employee's chain of command.

5209.4 Employees must be informed in writing of any disciplinary action.

Title 21 DCMR, Chapter 52, Section 5210 "Grievance Process", is amended to read "Appeals" as follows:

5210 Appeals

5210.1 This regulation applies to Regular employees who are not At-Will employees.

5210.2 At-Will employees have no right to appeal a disciplinary action.

5210.3 An employee has the right to appeal a disciplinary action resulting in a suspension or termination.

5210.4 Appeal of a suspension shall be to the immediate supervisor of the person who has taken the disciplinary action against the employee.

5210.5 For a suspension, if the person taking the disciplinary action against an employee, reports directly to the General Manager (GM), the GM or the designee of the GM may hear the appeal. However, in no case shall the person designated by the General Manager be the General Counsel.

5210.6 An appeal of a suspension must be in writing and must be submitted within five (5) working days of the date of the notice of suspension and must state the basis for the appeal.

5210.7 A written decision on a suspension must be submitted to the suspended employee within five (5) working days of receipt of the appeal.

5210.8 All terminations shall be appealed directly to the General Manager. The GM or the designee of the GM may hear the appeal. However, in no case shall the person designated by the General Manager be the General Counsel.

5210.9 An appeal of a termination must be in writing and must be submitted within five (5) working days of the effective date of the termination and must state the basis for the appeal.

5210.10 The person hearing the appeal of a termination must meet with the terminated employee within five (5) working days of the date the appeal is submitted and a written decision must be submitted to the terminated employee within fifteen (15) working days of receipt of the appeal.

5210.11 Additional information in support of an appeal of a termination must be

submitted by the terminated employee at least one (1) work day before the meeting is held to hear the appeal of the termination.

Title 21 DCMR, Chapter 52, Section 5213 "Conflict of Interest", is amended by adding new subsections 5213.4, 5213.5, 5213.6, and 5213.7 to read as follows:

- 5213.4** An employee who works for the District of Columbia Water and Sewer Authority (WASA), who voluntarily leaves employment with WASA, is prohibited from working for a contractor on a WASA project for a period of 18 months after leaving employment with WASA. The General Manager, or a committee or panel so designated by the General Manager, may reduce this limitation period.
- 5213.5** An individual who works for a contractor or who is doing business for WASA who is hired by WASA as an employee, is prohibited from supervising, directing or reviewing the work of the former employer.
- 5213.6** The relative¹ of a WASA employee cannot work for a contractor on a project at WASA for which the WASA employee has any direct responsibility or supervision.
- 5213.7** Any person whose employment is terminated by WASA, is permanently barred from working on any WASA contract or project.

¹ The term "relative" is defined in the personnel regulations, Title 21 DCMR Chapter 52, Section 5202, Subsection 5202.9, as spouse, parent, parent-in-law, child, step-child, sister, brother, brother-in-law, sister-in-law, step-parent, daughter-in-law, son-in-law, niece, nephew, first cousin, grandparent or grandchild.