

DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLESNOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1425 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999, (D.C. Law 12-175; D.C. Official Code § 50-901 et seq. (2001 Ed.)); section 13 of the District of Columbia Traffic Act, effective March 3, 1925 (43 Stat. 1125; D.C. Official Code § 50-1403.01 (2001 Ed.)); Sections 6 and 10 of the District of Columbia Traffic Act of 1925 ("Act"), approved March 3, 1925, (43 Stat. 1124; D.C. Official Code §§ 50-2201.03 and 2201.05 (2001 Ed.)), as amended by the Driving Under the Influence Repeat Offenders Amendment Act of 2000, 48 DCR 602, D.C. Law 13-238; Mayor's Order 94-176, effective August 19, 1994; Mayor's Order 2002-72, effective April 3, 2002; and section 105 of the District of Columbia Traffic Adjudication Act, approved September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.01 et seq. (2001 Ed.)), hereby gives notice that final rulemaking was taken to amend Chapters 3 and 99 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). These rules increase the license revocation period for repeat offenders of the District's driving under the influence laws while establishing an ignition interlock program, to be made available to repeat offenders one year prior to the expiration of the new revocation periods. The rules also establish certification requirements for providers of ignition interlock devices. No public comments were received. Six citation errors were corrected, but no other changes have been made to the text of the proposed rules, as published under the Notice of Proposed Rulemaking on June 30, 2006, at 53 DCR 5257. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 18, DCMR, is amended as follows:

A. Chapter 3, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES, is amended as follows:

1) Section 306, PERIOD OF SUSPENSION OR REVOCATION, is amended as follows:

a) Subsection 306.5 is amended by inserting at the end of the last sentence, the phrase: ", except as provided in §§ 306.6 & 306.7".

b) New subsections 306.6 and 306.7 are added to read as follows:

306.6 A person convicted of a second offense pursuant to sections 10(b)(1) and (b)(2) (D.C. Official Code §§ 50-2201.05(b)(1) and (b)(2)) of the Act within a 15-year period shall have their license revoked for two (2) years, unless prior thereto the license is

reinstated pursuant to the ignition interlock program established in § 311 of this Title.

306.7 A person convicted of a third or subsequent offense pursuant to sections 10(b)(1) and (b)(2) (D.C. Official Code §§ 50-2201.05(b)(1) and (b)(2)) of the Act within a 15-year period shall have their license revoked for three (3) years, unless prior thereto the license is reinstated pursuant to the ignition interlock program established in § 311 of this Title.

c) Existing subsections 306.6 through 306.9 shall be renumbered 306.8 through 306.11.

2) New sections 311 and 312 are added to read as follows:

311 IGNITION INTERLOCK PROGRAM – ESTABLISHMENT,
APPLICATION PROCESS AND PARTICIPATION COMPLIANCE

311.1 There is established an ignition interlock program to allow for a discretionary one-year reduction of the revocation periods imposed by §§ 306.6 and 306.7 of this Title on repeat offenders of driving under the influence laws.

311.2 For the purposes of this section, the terms certified ignition interlock device and certified provider mean such devices and providers as are certified by the Department pursuant to § 312 of this Title.

311.3 A repeat offender may apply for participation in the ignition interlock program after the expiration of at least one (1) year of the revocation period if revoked under §306.6 or two (2) years if revoked under 306.7.

311.4 No person may be accepted into the ignition interlock program if he or she has:

- (a) A prior conviction for causing injury or death while operating a motor vehicle in any jurisdiction; or
- (b) Previously participated in this program or any similar program in another jurisdiction five (5) years prior to the date of the application.

311.5 In addition to any other information required by the Director, the applicant shall identify the make, model, and registration number of all vehicles the applicant will be using during program participation, and with respect to each such vehicle provide:

- (a) A copy of the title and registration issued by the Department and, if leased, a valid lease agreement;
 - (b) The names, addresses, and social security numbers of all person authorized to use the vehicles;
 - (c) The name and address of the registered owners other than lessors and the applicant;
 - (d) A release form approved by the Director and signed by all persons identified in response to (c), authorizing the revocation of their vehicle's registration should the applicant withdraw or be terminated from the program;
 - (e) The name and address of the certified ignition interlock provider that installed the device and, if different, the name and address of the authorized service center where the vehicle will be brought pursuant to §311.8; and
 - (f) Written verification from the certified ignition interlock provider that a certified ignition interlock device has been installed and that the applicant and all persons identified in (b) have received training in the use of the device.
- 311.6 The decision of the Director to deny an application is not subject to a hearing or other administrative review.
- 311.7 If the Director, in his or her discretion, grants the application, the applicant, upon satisfaction of all other prerequisites and the payment of the applicable fees, will receive a restricted license. The license restrictions will prohibit him or her from driving any vehicle other than those identified in the application and only if the vehicles remain equipped with properly functioning ignition interlock devices. The Director may impose such other conditions as he or she deems appropriate. The restriction and conditions shall remain in place for one year, unless extended pursuant to § 311.18.
- 311.8 No later than thirty (30) days after the date on which the application was granted, and every thirty (30) days thereafter, the vehicle(s) identified in the application shall be brought to the service center identified in the application for servicing to include downloading of information from the device. If the service center is closed on the date on which service is required, the vehicle shall be brought for service on the next business day.

- 311.9 The Director, in his or her discretion, may grant a one-time exemption to the servicing requirement established in § 311.8 upon a written request and for good cause shown.
- 311.10 The Director shall suspend the registration of any vehicle not serviced within five (5) days after a servicing date, until the participant proves compliance with § 311.8. The Director may terminate the participant from the program if the vehicle is not serviced within ten (10) days after the servicing date.
- 311.11 A participant shall only operate a vehicle identified in the application and only if the vehicle remains equipped with a properly functioning device, approved for use under this program.
- 311.12 A participant shall abide by the terms and conditions of the service agreement with the ignition interlock service provider, including the payment of all costs and fees associated with the program.
- 311.13 A participant shall not tamper with, bypass, or otherwise remove or render the device inoperable, or allow another person to tamper with, bypass, or otherwise remove or render the device inoperable.
- 311.14 A participant shall not allow any other individual to blow into the device, unless that individual will be operating the vehicle.
- 311.15 A participant may be terminated from the program for any violation of §§ 311.11 through 311.14
- 311.16 A participant shall be presumed to be the person whose blood alcohol level was detected by a device installed in a vehicle identified on their application.
- 311.17 A participant shall be presumed to have operated, or to have attempted to operate their designated vehicle whenever the installed device detects a level of alcohol in their blood.
- 311.18 Except as provided in 311.19, a participant who operates or attempts to operate a motor vehicle with a blood alcohol level of .025 or greater shall:
- (a) Receive an additional six (6) month license restriction for the first violation;
 - (b) Receive an additional one (1) year license restriction period for the second violation; and
 - (c) Be terminated from the program for the third violation.

- 311.19 A participant who operates or attempts to operate a motor vehicle with a blood alcohol of .08 percent or greater shall be terminated from the program.
- 311.20 Prior to termination from the program or the imposition of any penalties pursuant to § 311.18, the participant shall be given notice and an opportunity for a hearing. Hearings shall be limited to the issue of whether or not the offense was committed.
- 311.21 The Director shall revoke the driver's license of a person who voluntarily ends their participation in the program or is terminated from the program. The license revocation period shall be one (1) year.
- 311.22 The Director shall revoke the registration of all vehicles identified in the application of a program participant who withdraws from or is terminated from the program for a one-year period.

312 IGNITION INTERLOCK PROVIDERS

- 312.1 All ignition interlock providers must be certified by the Department in accordance with the requirements of this section.
- 312.2 Providers shall be responsible for device installation, user training, service, and maintenance.
- 312.3 All devices offered in the District shall meet the Model specifications for Breath Alcohol Ignition Interlock Devices from the National Highway Traffic Safety Administration, 57 FR 11772 – 11787 (1992).
- 312.4 A provider shall certify that the devices for which certification is sought:
- (a) Do not impede the safe operation of the vehicle;
 - (b) Minimize opportunities to bypass devices;
 - (c) Correlate accurately with established measure of blood alcohol levels;
 - (d) Work accurately and reliably in an unsupervised environment;
 - (e) Require a proper and accurate measure of blood alcohol levels;
 - (f) Resist tampering and provide evidence of attempted tampering;

- (g) Are difficult to circumvent and require premeditation to circumvent;
- (h) Minimize inconvenience to a sober user;
- (i) Are manufactured by a party responsible for installation, user training, service, and maintenance;
- (j) Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards;
- (k) Are manufactured by a party adequately insured for product liability;
- (l) Provide the option for an electronic log of the driver's experience with the device; and
- (m) Meet the requirements for certification set forth in the specifications for the devices.

312.5 An application for certification shall include:

- (a) The name and address of the provider;
- (b) The name and model number of each type of device to be used by the provider;
- (c) A detailed description of each device including instructions for its installation and operation;
- (d) Technical specifications descriptive of each device's accuracy, security, data collection and recording, tamper detection, and environmental features;
- (e) A description of the provider's present or planned provisions for distribution of the device in the District, including all locations where the device may be purchased, installed, serviced, repaired, calibrated, inspected, and monitored;
- (f) A certificate from an insurance company licensed in the District evidencing that the provider holds product liability insurance; and
- (g) A certified copy of the drawings, schematics, and wiring protocols for each device and its components, to be treated by the District as confidential commercial information not subject to public disclosure.

- 312.6 The ignition interlock device shall correlate with an alcohol concentration recommended in the specifications contained in 57 FR 11772 – 11787 (1992), with the accuracy provided for in the specifications, but may not be higher than 0.025 percent.
- 312.7 A correlation coefficient of 0.90 is considered reliable. Ninety times out of 100, the ignition interlock device shall respond to, detect, and interlock when an individual has an alcohol concentration of 0.025 percent or higher.
- 312.8 In the event of a customer complaint, the provider shall correct any error in operation or misuse with additional instructions, or exchange the device with another in the event of a component failure, within 48 hours of notification of the complaint.
- 312.9 Breath test devices shall use breath specimens that are alveolar air samples (“deep lung air”) in accordance with established forensic alcohol standards meeting the specifications contained in 57 FR 11772 – 11787 (1992).
- 312.10 The ignition interlock device shall be calibrated for proper use and accuracy semiannually, or more frequently as the circumstances may require.
- 312.11 The device, the installation of the device, and the monitoring of the device, including the transmission of data to the Department, shall provide for the security features set forth in the specifications in 57 FR 11772 – 11787 (1992).
- 312.12 The device shall be resistant to environmental conditions including shock and vibration as normally found in a motor vehicle and shall operate accurately over a temperature range of –20 to 100 degrees (F) and an altitude range between 0 to 2,500 feet.
- 312.13 The device shall have the following design features:
- (a) Be designed to permit a restart (grace period) of a vehicle’s ignition within 120 seconds after the ignition has been shut off, without requiring a further test;
 - (b) Automatically purge residual alcohol before allowing subsequent tests;
 - (c) Be required to be stowed out of the way before starting the vehicle;

- (d) Be designed so that a second breath test is performed once a vehicle has been underway for at least 5 minutes but not more than 30 minutes;
- (e) Cause the vehicle to stop functioning and signal, by activating horns and/or lights, when the device is activated while vehicle has been underway; and
- (f) Have an onboard datalogger, which shall be:
 - (1) Capable of being downloaded in an installation facility or in the field through mobile means;
 - (2) Encrypted with the software programs allowing access to the data stored in the device; and
 - (3) Kept secure and protected from public access.

312.14 The provider shall carry product liability insurance with minimum liability limits of 1 million dollars (\$1,000,000) per occurrence, with 3 million dollars (\$3,000,000) aggregate total. The liability covered shall include defects in product design and materials as well as in the work of manufacture, calibration, installation, and removal of devices. The proof of insurance shall include a statement from the insurance company that 30 days' notice will be given to the Department before cancellation of the insurance.

312.15 The provider shall submit to the Department a statement that the provider is entirely responsible for product liability and shall defend and indemnify the District and the testing laboratory that has verified that the device meets the Department's standards and requirements.

312.16 A provider is responsible for ensuring that proper installation procedures are adhered to, including, but not limited to, the following:

- (a) Devices shall be installed within a building or from a mobile unit fully equipped for adequate installation;
- (b) Customers or other unauthorized persons must not be allowed to witness the installation of the device;
- (c) Each provider shall develop detailed and written instructions for installation of its device in accordance with the guidelines adopted by the Department;

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- (d) The installer shall screen the vehicle for acceptable mechanical and electrical conditions, in accordance with the provider's instructions;
- (e) Conditions that would interfere with the function of the device (for example, low battery or alternator voltage, stalling frequently enough to require additional breath tests, etc.) shall be corrected to an acceptable level;
- (f) Installations shall be made in a workmanlike manner in accordance with accepted trade standards, and according to the instructions provided by the manufacturer;
- (g) After a device is installed, the vehicle shall be checked to see that the installation was performed properly and that it does not interfere with the normal operation of the vehicle after it has been started;
- (h) Each installation shall include all of the tamper resistant features required by the provider and the Department;
- (i) The provider shall be responsible for ensuring physical anti-tamper securities, which include, but are not limited to:
 - (1) A unique and easily identifiable wire, covering, or sheathing over all wires used to install the device, which are not inside a secured enclosure;
 - (2) A unique and easily identifiable covering, seal, epoxy, or resin at all exposed electrical connections for the device;
 - (3) Connections to the vehicle, which shall be under the dash or in an inconspicuous area of the vehicle;
 - (4) A unique and easily identifiable tamper seal, epoxy, or resin at all openings (except the breath and exhaust ports) of the hand-held unit, control, and support units; and
 - (5) Depending on the level of electronic anti-tampering security of a device, additional anti-tamper measures, such as the use of a special mark, seal, paint, epoxy, resin, or other material to mark points likely to be accessed when attempting to bypass or tamper with the device (for example, battery post terminals, wire to started solenoid, wire to ignition, dash screws).

- (j) The provider is responsible for ensuring electronic anti-tampering securities including, but not limited to, the following:
- (1) The device shall detect when the vehicle has been started without a breath test being passed, and shall either display the tamper or record it, or both, in a way that allows for the retrieval of information at a later date;
 - (2) The device shall retain its tamper detection capabilities when disconnected from the vehicle's power supply, or record that it was disconnected. Devices that lose their memory of tamper events when disconnected from a power source shall have an indicator or interrupt device;
 - (3) The device shall continuously record the time and date for each of the following vehicle and device operations:
 - (i) Breath test fail;
 - (ii) Breath test pass;
 - (iii) Alcohol level of breath test; and
 - (iv) Any attempt to tamper with the device.
 - (4) When a device detects a condition that would be considered tampering, the device shall activate an indicator or interrupt device.

312.17 At the time of device installation, the device shall be checked to make sure that it is functioning properly and accurately. Self-diagnostic features shall also be checked.

312.18 Tamper inspections shall be conducted any time that the device is given routine inspection, maintenance, or repair by the provider. Tamper inspections shall include the following:

- (a) Inspect all external wiring insulation, connection, and sheathing for the device and where the device connects to the vehicle;
- (b) Record or document any electronic indications of tampering;
- (c) Inspect all tamper seals for breaks, tears, or other evidence of tampering. Document and photograph any evidence of tampering;

- (d) Check device for proper operation to ensure tamper detection capabilities;

312.19 The Department or its designees shall have the right to inspect installation and servicing of the devices.

312.20 The provider shall provide the customer with the following:

- (a) Written instructions on how to clean and care for the device;
- (b) Written instructions on what type of vehicle malfunctions or repairs may affect the device, and what to do when such repairs are necessary;
- (c) Written notice about how the device may be affected by high altitudes;
- (d) Written and hands-on training on how to use the device. This shall include all persons authorized to use the vehicle that has had the device installed; and
- (e) An adequate supply of disposable mouthpieces with saliva traps.

312.21 The provider shall provide an emergency 24-hour phone number that a driver may use to receive assistance. Assistance may include technical information, tow service, or road service. Emergency assistance related to the failure of a device shall be provided within 24 hours for vehicles located in or near an area with an installation repair facility. The device shall be made functional within 48 hours from when the call for assistance is made.

312.22 Providers shall ensure the following with respect to personnel who install, calibrate, perform tamper inspections, or perform reporting duties, or all of these:

- (a) Personnel shall have the training and skill necessary to install, troubleshoot, and check for proper operation of the device, and to screen the vehicle for acceptable conditions;
- (b) Personnel may not have been convicted of a crime substantially related to the qualifications, functions, and duties related to the installation and inspection of the devices. This may include, but is not limited to, the following:
 - (1) Convictions for any alcohol or drug-related offense within the last three (3) years;

- (2) Convictions of more than one (1) alcohol or drug-related offense overall;
- (3) Convictions of probation violation;
- (4) Conviction for perjury; or
- (5) License suspension or revocation for a violation of motor vehicle safety laws.

312.23 Persons who can show acceptable evidence of rehabilitation may be considered for the positions in § 312.22.

312.24 A device must be tested prior to certification.

312.25 Facilities, which may include mobile or satellite units, where interlock devices are installed, serviced, monitored, or removed shall:

- (a) Be in an area where customers are not allowed to watch the installation, calibration, or removal of a device;
- (b) Be open during normal business hours with after hours service capability;
- (c) Be established to service the geographical location and volume of individuals who qualify for and are admitted into the program;
- (d) Have records maintained for 5 years; and
- (e) Have and use the required tools, test equipment, and manuals needed to screen vehicles for acceptable mechanical and electrical conditions to install devices.

312.26 The tools, test equipment, and manuals required under § 312.25 (e) include, but are not limited to, the following:

- (a) Tools necessary to ensure electrical connections are made in a workmanlike manner in accordance with accepted trade standards (for example, properly soldered or mechanically crimped with high quality connectors);
- (b) Heat gun if heat shrink tubing or heat set labels are used;
- (c) Volt/ohmmeter;

- (d) Test light;
 - (e) Battery testing equipment and servicing tools (for example, load tester, terminal cleaning tools, battery filler, etc.); and
 - (f) Electrical wiring diagrams or reference guide, or both, for electrical systems on import and domestic vehicles, 20 years old or less, necessary for the installation and operation of the device.
- 312.27 Testing shall be performed under the specifications set forth in 57 FR 11772 – 11787 (1992) by an entity approved by the Department for the purpose of establishing the accuracy and reliability of candidate devices.
- 312.28 The provider must submit to the Department a notarized letter, affidavit, or both, from a Department-approved testing laboratory certifying that the device by model, class, or both, meets or exceeds all requirements set forth in 57 FR 11772 – 11787 (1992). The affidavit shall also include:
- (a) The name, address, and phone number of the testing laboratory;
 - (b) A description of the tests performed;
 - (c) Copies of the date and results of the testing procedures; and
 - (d) The names and qualifications of the individuals performing the tests.
- 312.29 The provider shall submit to the Department:
- (a) Annually, a certified statement that the manufacturing of the model or type of device originally certified has not been modified or altered in any way to require laboratory retesting.
 - (b) Annually, a summary of all complaints received and corrective actions taken by the provider for each mode or type of certified device;
 - (c) Semiannually, a report that the devices were checked for proper use and accuracy, detailing any necessary adjustments;
 - (d) A report on any device denied certification in another state, whether the denial of certification occurs before or after certification by the Department; and
 - (e) Any other available information upon request.

312.30 The reports required under § 312.29 shall be categorized by:

- (a) Customer error of operation;
- (b) Faulty automotive equipment other than the device;
- (c) Apparent misuse or attempts to circumvent the device causing damage; and
- (d) Device failure due to material defect, design defect, or workmanship errors in construction, installation, or calibration.

312.31 A denial of certification for an ignition interlock model in another state may be cause for de-certification or denial of certification for the same model in the District.

312.32 All costs of obtaining certification of an ignition interlock device shall be borne by the provider.

312.33 When notified in writing by the Department, the approved provider shall remove the device and return the vehicle to normal operating condition. All severed wires shall be permanently reconnected and insulated with heat shrink tubing or its equivalent.

312.34 Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be used.

312.35 The Department may revoke approval of a device, and remove it from the list of acceptable devices, upon any of the following grounds:

- (a) Evidence of repeated failures due to gross defects in design, materials, or workmanship during manufacture;
- (b) Termination of provider's liability insurance;
- (c) Notification that the provider is no longer in business;
- (d) Voluntary request of provider;
- (e) Any findings that the provider is not in compliance with the provisions of this chapter; or
- (f) A reasonable belief that the device was inaccurately represented to meet the performance standards.

312.36 The effective date of revocation shall be 15 days after notification is sent to the provider via first class mail, except in cases where the Department determines immediate revocation is necessary for the safety and welfare of the public.

312.37 Within 15 days of revocation, providers may request, in writing, review of revocation.

312.38 Upon revocation or voluntary surrender of an approval, a provider shall be responsible for removal of all like devices from customers' vehicles.

312.39 A provider shall be responsible for any costs connected with removal of its revoked devices from customers' vehicles and the installation of new devices from the Department's list of approved devices.

312.40 A provider must allocate 2% of its monthly gross leasing revenue in a fund for indigents, to be made available for indigents applying to the program.

B. Chapter 99, DEFINITIONS, is amended as follows:

- 1) Section 9901, DEFINITIONS, is amended by adding new definitions to read as follows:

Alcohol - the generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purposes of ignition interlock devices, there is no requirement expressed or implied that the device be specific for ethyl alcohol.

Alcohol concentration (BAC) - the amount of alcohol in a person's blood or breath determined by chemical analysis, which shall be measured by grams of alcohol per:

- (a) 100 milliliters of blood; or
- (b) 210 liters of breath.

Ignition interlock device or device - a device that connects a motor vehicle's ignition system to a breath analyzer that measures an individual's alcohol concentration and prevents a motor vehicle ignition from starting the motor vehicle if a driver's alcohol concentration exceeds the calibrated setting of .025, as provided in § 312.

DEPARTMENT OF PUBLIC WORKS

NOTICE OF FINAL RULEMAKING

The Director, D.C. Department of Public Works, pursuant to the authority set forth in section 2(c) of the District of Columbia Solid Waste Disposal Act of 1989, effective July 15, 1989 (D.C. Law 8-16; 36 DCR 4155), as amended by the "Solid Waste Disposal Fee Emergency Amendment Act of 2006, effective June 26, 2006 (D.C. Act 16-407)", and Mayor's Order 2005-123, dated August 23, 2005, took final action on August 24, 2006 to adopt the following amendments to Chapter 7 of Title 21 DCMR, "Water and Sanitation". The amendments change the fees for the disposal of solid waste at the District's waste-handling facilities.

No comments were received concerning the proposed rulemaking. No changes were made to the proposed rules, which were published with the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on July 21, 2006, at 53 DCR 5893. These final rules will be effective upon publication of this notice in the *Register*.

Chapter 7 of Title 21, DCMR, is amended as follows:

Section 720.5 is amended to read as follows:

720.5 Beginning on July 17, 2006, the applicable fees for the disposal of construction and demolition debris at the waste-handling facilities shall be seventy-nine dollars and twenty cents (\$79.20) for each ton disposed; Provided, that a minimum fee of thirty-nine dollars and sixty cents (\$39.60) shall be imposed on each load weighing one thousand pounds (1,000 lbs.) or less.

Section 720.8 is amended to read as follows:

720.8 Beginning on July 17, 2006, the applicable fees for the disposal of each ton of solid waste at the waste-handling facilities, excluding those wastes specified in § 720.5, 720.6, and 720.7, shall be fifty-nine dollars and twenty cents (\$59.20) for each ton disposed; provided, that a minimum fee of twenty-nine dollars and sixty cents (\$29.60) shall be imposed on each load weighing one-thousand pounds (1,000 lbs.) or less.

STATE EDUCATION OFFICE OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The State Education Office, pursuant to the authority set forth in the District of Columbia Nonresident Tuition Act, approved September 8, 1960, (74 Stat. 853, D.C. Official Code § 38-302 *et seq.*) (2001), and the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*) (2001), hereby gives notice that it has taken final action to adopt the following amendment to Section 2008.13 of chapter 20 of Title 5 of the District of Columbia Municipal Regulations (DCMR). The purpose of the amendment is to establish new tuition rates for non-resident students attending public and public charter schools in the District of Columbia. No changes have been made to the text of the proposed rules, which were published with the Notice of Proposed Rulemaking in the *D.C. Register* on June 30, 2006 at 53 DCR 5277-5279. These final rules will be effective upon publication of this notice in the *D.C. Register*.

5 DCMR § 2008.13 is amended to read as follows:

2008.13 The following shall be the non-resident tuition rates currently in effect for public and charter schools in the District of Columbia:

SCHEDULE OF 2006-07 NON-RESIDENT TUITION RATES

The rates displayed in the charts below are the same as the per-pupil allocations provided by the Uniform Per Student Funding Formula during the FY 2006 school year. Based on these rates, the tuition cost for each student who is not a resident of the District of Columbia and who is enrolled in the District of Columbia Public Schools or in a public charter school in the District of Columbia shall be calculated in the following manner:

(a) Using the Grade Level Table below, determine the rate for the grade level or span at which the student, based on grade assignment or age, will be enrolled.

Rates by Grade Level or Applicable Grade Range

| Grade Levels | Yearly Rate | Half -Yearly Rate | Daily Rate |
|------------------|-------------|-------------------|------------|
| Pre-School | \$8,550 | \$4,275 | \$47 |
| Pre-Kindergarten | \$8,550 | \$4,275 | \$47 |
| Kindergarten | \$7,527 | \$3,763 | \$42 |
| Grades 1-3 | \$7,527 | \$3,763 | \$42 |
| Grades 4-5 | \$7,307 | \$3,654 | \$41 |
| Ungraded ES | \$7,527 | \$3,763 | \$42 |
| Grades 6-8 | \$7,527 | \$3,763 | \$42 |
| Ungraded MS/JHS | \$7,527 | \$3,763 | \$42 |
| Grades 9-12 | \$8,550 | \$4,275 | \$47 |
| Ungraded SHS | \$8,550 | \$4,275 | \$47 |
| Alternative | \$9,500 | \$4,750 | \$53 |

| | | | |
|--------------------|---------|---------|------|
| Special ed schools | \$8,550 | \$4,275 | \$47 |
| Adult | \$5,481 | \$2,740 | \$30 |

(b) If the student is enrolled in a daytime special education program, use the table below to determine the rates for services the student will receive. Add this amount to the grade level cost in paragraph (a) of this section.

Rates for Special Needs Students Enrolled in a Daytime Special Education Program

| Level/Program | Yearly Rate | Half-Yearly Rate | Daily Rate |
|----------------------------|-------------|------------------|------------|
| Level 1: Special Education | \$4,019 | \$2,010 | \$22 |
| Level 2: Special Education | \$6,211 | \$3,106 | \$35 |
| Level 3: Special Education | \$10,961 | \$5,481 | \$61 |
| Level 4: Special Education | \$19,730 | \$9,865 | \$110 |
| LEP/NEP | \$2,923 | \$1,461 | \$16 |

(c) If the student is enrolled in a residential school that serves special needs students, use the table below to determine the rates for any of the listed services that the student will receive. Add these amounts to the totals from paragraphs (a) and (b).

Rates for Special Needs Students Enrolled in a Residential School

| Level/Program | Yearly Rate | Half-Yearly Rate | Daily Rate |
|--|-------------|------------------|------------|
| Level 1: Special Education-Residential | \$2,733 | \$1,366 | \$15 |
| Level 2: Special Education-Residential | \$9,938 | \$4,969 | \$55 |
| Level 3: Special Education-Residential | \$21,491 | \$10,746 | \$119 |
| Level 4: Special Education-Residential | \$21,367 | \$10,684 | \$119 |
| Level 5: Special Education-Residential | \$68,690 | \$34,345 | \$382 |
| LEP/NEP- Residential | \$4,969 | \$2,485 | \$28 |

(d) Any student enrolled in a residential school, whether or not the student has special needs, is entitled to the Residential Rate listed below, which covers the cost of room and board. Add this amount to the total of (a), (b), and (c) above. This amount is the student's total non-resident tuition rate for the regular school year program.

Rates for Room and Board for students Enrolled in a Residential School

| Program | Yearly Rate | Half Yearly Rate | Daily Rate |
|-------------------------------------|--------------------|-------------------------|-------------------|
| Residential (Room and Board) | \$12,423 | \$6211 | \$69 |

(e) A non-resident student who wishes to attend summer school in the District of Columbia must register for the summer program separately from the regular school year program. Students will be admitted on a space-available basis. The non-resident tuition rates for summer school are displayed below.

Additional Rates for Non-Resident Students Enrolled in Summer School

| Program | Rate |
|----------------|-------------|
| Summer | \$1,242 |

The rates in this schedule only apply to non-resident students enrolled in the regular school program of the District of Columbia Public Schools, or a public charter school in the District of Columbia. Some schools may offer services that are not considered part of the regular school program, and participation in such programs may require payment of additional fees.