

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board ("Board"), pursuant to the authority set forth in D.C. Official Code § 25-351(a) (2001) and Section 303 of Title 23 of the District of Columbia Municipal Regulations ("DCMR"), 51 DCMR 4309 (April 30, 2004), hereby gives notice of the adoption of emergency rules replacing the existing section 306 of Title 23 DCMR to impose a moratorium on the issuance of any new retailer's license class A, B, CN, CR, CT, CX, DN, DR, DT, and DX in a portion of East Dupont Circle which shall be known as the East Dupont Circle Moratorium Zone.

The emergency action is necessary to prevent the filing of applications for the issuance of new retailer's licenses class A, B, CN, CR, CT, CX, DN, DR, DT, and DX which the Board has determined pursuant to D.C. Official Code §§ 25-313 and 25-314 (2001) would:

- (1) have an adverse effect on peace, order, and quiet;
- (2) have an adverse effect on residential parking needs and vehicular and pedestrian safety; and
- (3) contribute to an overconcentration of licensed establishments adversely affecting the East Dupont Circle Moratorium Zone area described below.

Adoption of these rules on an emergency basis is also necessary for the immediate preservation of the public peace, health, safety, and welfare of the East Dupont Circle Moratorium Zone while the Board receives additional comment from members of the public on the November 24, 2004 request of the Dupont Circle Citizens Association (DCCA) and the Dupont Circle Merchants and Professional Association (DC MAP) to extend the existing East Dupont Circle Moratorium Zone for a six-month period (Petitioners' moratorium request). Specifically, at a public hearing held by the Board on January 19, 2005, pursuant to the requirements of D.C. Official Code § 25-354 (2001), the Board heard testimony, including from Advisory Neighborhood Commission 2B Chairperson Darren Bowie, that a number of residents and businesses wished to provide additional comment to the Board on the Petitioners' moratorium request. As a result, the Board voted seven (7) to zero (0) on January 19, 2005, to keep the record open for additional comment from the public on the Petitioners' moratorium request until April 19, 2005, with the Board rendering a decision on the Petitioners' moratorium request by May 19, 2005. The Board voted on January 19, 2005, to extend the existing East Dupont Circle Moratorium Zone on an emergency basis based upon testimony provided to the Board by the Petitioners at the public hearing, as well as letters submitted in favor of extending the East Dupont Circle Moratorium Zone by various District of Columbia residents. Specifically, the Board found that the present conditions in the East Dupont Circle Moratorium Zone, as listed above, justified an extension of the moratorium pending the closing of the comment period regarding the Petitioners' moratorium request on April 19, 2005 and subsequent Board decision by May 19, 2005.

These emergency rules were adopted by the Board on January 19, 2005. The rules became effective on that date. The emergency rules will expire 120 days from the date of effectiveness or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

Title 23 DCMR, Chapter 3 (Limitations on Licenses), is amended by replacing the existing section 306 to read as follows:

306. EAST DUPONT CIRCLE MORATORIUM ZONE

306.1 No Retailer's licenses Class A, B, CN, CR, CT, CX, DN, DR, DT, or DX shall be issued from the effective date of this section in the area that extends approximately six hundred (600) feet in all directions from the intersection of 17th and Q Streets, N.W., Washington, D.C. This area shall be known as the East Dupont Circle Moratorium Zone.

306.2 The East Dupont Circle Moratorium Zone is more specifically described as beginning at New Hampshire Avenue and S Street; East on S Street to 17th Street; South on 17th Street to Riggs Place; East on Riggs Place to 16th Street; South on 16th Street to P Street; West on P Street to 18th Street; North on 18th Street to New Hampshire Avenue; and Northeast on New Hampshire Avenue to S Street, N.W.

306.3 All hotels, whether present or future shall be exempt from the East Dupont Circle Moratorium Zone.

306.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CN, CR, CT, CX, DN, DR, DT, and DX within the East Dupont Circle Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of the Act and this title.

306.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the East Dupont Circle Moratorium Zone to a new location within the East Dupont Circle Moratorium Zone.

306.6 A license holder outside the East Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the East Dupont Circle Moratorium Zone.

306.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.

306.8 The Moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

306.9 This section shall expire May 19, 2005.

306.10 As of December 19, 2000, and at any time during the pending or renewed effective dates of the East Dupont Moratorium Zone established by this section, current holders of a Retailer's

license Class A, B, C, or D within the East Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, the prior owner or occupant of which has not held within the last five (5) years a Retailer's license Class A, B, C, or D, or which has had a certificate of occupancy or building permit held in the name of any person other than the current holder of a Retailer's license Class A, B, C, or D within the East Dupont Moratorium Zone at any time within a period of five (5) years. Nothing in this section shall prohibit the Board from approving any application pending prior to December 19, 2000, subject to the requirements of Title 25 of the District of Columbia Official Code.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to the authority set forth in section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409(a) (2004 Supp.)), and Mayor's Order 87-259, dated November 13, 1987, hereby gives notice of adoption, on an emergency basis, of amendments to Sections 105A (Permits), 113A (Violations and Infractions), and 114A (Stop Work Order) of Chapter 1A (Administration and Enforcement), Title 12A (Building Code) of the District of Columbia Municipal Regulations (DCMR), the Construction Codes Supplement of 2003.

Emergency rulemaking is necessary to take immediate corrective action against violators of properly issued and posted stop work orders. Violations of stop work orders directly affect the health, safety, and welfare of the citizens of the District of Columbia, including the fostering of hazardous illegal construction and dangerous unsafe structures. The adoption of the emergency rulemaking allows the public to receive immediate benefits of enforceable building and construction regulations. The emergency rulemaking was adopted January 14, 2005 and became effective on that date. The emergency rulemaking will expire May 14, 2005, or upon publication of final rulemaking in the *D.C. Register*, whichever occurs first.

Pursuant to section 10 of the Act, the proposed rulemaking is being submitted to the Council of the District of Columbia for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, within the 45-day review period, the proposed rules shall be deemed approved upon expiration of the 45-day period. The proposed rules will not become effective until at least thirty (30) days from the date of publication of this notice in the *D.C. Register*, or until approved or deemed approved by the Council, whichever occurs later.

Sections 105A, 113A, and 114A of Chapter 1A, Title 12A, DCMR are amended as follows:

Section 105A is amended by adding a new subsection 105.8 to read as follows:

105.8 Posting of Fines. Where civil infraction citations have been issued to an applicant for a building permit for illegal construction under §113.7, all applicable fine amounts must be posted with the Treasurer of the District of Columbia, by the applicant, prior to the issuance of any permit. Upon adjudication of said civil infraction citations, any fines or penalties not assessed to the applicant will be refunded.

Section 113A is amended as follows:

The first sentence of subsection 113.7 is amended to read as follows:

If a building or structure or part thereof is deemed to have been erected, constructed, reconstructed, converted, or altered in violation of the Construction Codes or the Zoning Regulations, said actions shall constitute illegal construction, and the code official is authorized to order the condition corrected within a specified time frame deemed reasonable by the code official.

Section 114A is amended as follows:

Subsection 114.1 is amended by deleting the last sentence.

Subsection 114.2 is renumbered as subsection 114.9.

Subsection 114.3 is renumbered as subsection 114.10 and amended to read as follows:

114.10 Unlawful Continuance. Any person who shall continue any work in or about a structure after said structure has been posted with a stop work order, except work as has been approved and directed to remove a violation or unsafe condition, shall be subject to the penalties set forth in D.C. Official Code § 6-1406 (2001) and the injunctive relief set out in D.C. Official Code § 6-1407 (2001).

A new subsection 114.2 is added to read as follows:

114.2 Location of Posted Stop Work Order. The code official shall post a stop work order in a location on the construction site that is visible to the public and other government officials.

A new subsection 114.3 is added to read as follows:

114.3 Removal of a Posted Stop Work Order. Unauthorized removal of a posted stop work order is a violation of the Construction Codes and subject to the penalties provided in D.C. Official Code § 6-1406 (2001) and the injunctive relief set out in D.C. Official Code § 6-1407 (2001).

A new subsection 114.4 is added to read as follows:

114.4 Access Required to Post a Stop Work Order. Where the code official requires access into a structure to post a stop work order, the owner of the structure, or his or her agent, must provide the required access within twenty-four (24) hours of receiving written notice from the code official pursuant to § 114.1.

A new subsection 114.5 is added to read as follows:

114.5 Public Notice of Stop Work Order. The code official may make public, by publishing in a newspaper of general distribution or at the DCRA website, a list of the addresses where stop work orders have posted. The code official shall provide copies of written stop work order notices, issued pursuant to § 114.1, to the Metropolitan Police

Department Commander of the District where the address of the stop work order is located.

A new subsection 114.6 is added to read as follows:

114.6 Scope of Stop Work Order for Illegal Construction. A stop work order issued for illegal construction under §113.7 shall mean the cessation of any and all work at the building or structure, regardless of whether the work is subject to building permit requirements.

114.6.1 Stop Work Order for All Activity at a Construction Site. When the code official issues a stop work order for illegal construction under §113.7, it shall be a violation of the stop work order for the owner or agent to enter the site. The code official may provide for temporary access to allow the owner, or his or her agent, to ensure the ongoing security and/or safety of the property. An owner or agent of property under the restrictions of a stop work order must first receive approval from the code official to enter the property for any reason.

A new subsection 114.7 is added to read as follows:

114.7 Owner and/or Designated Agent Responsible for Ensuring Compliance with Stop Work Order. The owner of the property, or his or her agent, serving as the contractor of record, shall be deemed to have violated the stop work order where his or her subordinate employees, workers, and sub-contractors do not comply with the requirements of the stop work order.

A new subsection 114.8 is added to read as follows:

114.8 Code Official May Seek a Warrant for Violation of Stop Work Order. Upon finding that the requirements of a stop work order have been violated, including the removal of a stop work order, the code official may seek a warrant for the arrest of the owner or agent.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing with Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, N.E., Washington, D.C. 20002, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the Department at the address listed above. A copying fee of one dollar (\$1) will be charged for each requested copy of the proposed rulemaking requested.

**DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH**

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984, D.C. Law 5-48, D.C. Official Code §44-504(a) (hereinafter "the Act"), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of the following amendment to section 3211 of the rules concerning the licensure, construction and operating standards for nursing facilities, codified at 22 DCMR Chapter 32.

Final rules to establish licensure, construction and operating standards for nursing facilities were published on January 18, 2002, at 49 DCR 473. Amendments to some of the rules were made shortly after the final rulemaking publication, after consultation among the Executive and the Legislative Branches of the District of Columbia government and the consumer community. The amended rules were published as final rules on July 19, 2002, at 49 DCR 6824. Section 3211 of the amended rules mandated, *inter alia*, that specific staffing ratios for nursing facilities would become effective as of January 1, 2005. Subsequent events, including an ongoing shortage of licensed nursing personnel throughout the District of Columbia and surrounding area, have necessitated a modification of this section. After further consultation among the Executive and Legislative Branches of the District of Columbia government and the consumer and provider communities, an acceptable modification has been agreed upon.

Emergency action is necessary to ensure the immediate feasibility of continued compliance with the rules governing the operation of nursing facilities, while also safeguarding the protection of the public health, safety, and welfare to the full extent desired and proposed by both the Executive and Legislative branches of the District of Columbia government.

The emergency rulemaking was adopted on December 6, 2004, and became effective on that date. The emergency rules will expire 120 days from the date of adoption, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Director of the Department of Health, pursuant to the authority noted above, also gives notice of his intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the date of publication of this Notice in the *D.C. Register* and upon completion of the forty-five (45) day Council review period if the Council does not act earlier to adopt a resolution approving the rules.

Section 3211 of Chapter 32 of Title 22 of the DCMR is amended to read as follows:

3211 NURSING PERSONNEL

3211.1 Sufficient nursing time shall be given to each resident to ensure that the resident receives the following:

- (a) Treatments, medications, diet and nutritional supplements and fluids as prescribed, and rehabilitative nursing care as needed;
- (b) Proper care to minimize pressure ulcers and contractures and to promote the healing of ulcers;
- (c) Assistance in daily personal grooming so that the resident is comfortable, clean, and neat as evidenced by freedom from body odor, cleaned and trimmed nails, and clean, neat and well-groomed hair;
- (d) Protection from accident, injury, and infection;
- (e) Encouragement, assistance, and training in self-care and group activities;
- (f) Encouragement and assistance to:
 - (1) Get out of bed and dress or be dressed in his or her own clothing, and shoes or slippers, which shall be clean and in good repair;
 - (2) Use the dining room if he or she is able; and
 - (3) Participate in meaningful social and recreational activities;
- (g) Prompt, unhurried assistance if he or she requires or requests help with eating;
- (h) Prescribed adaptive self-help devices to assist him or her in eating independently;
- (i) Assistance, if needed, with daily hygiene, including oral care; and
- (j) Prompt response to an activated call bell or call for help.

3211.2 Each facility shall have at least the following employees:

- (a) At least one (1) registered nurse on a twenty-four (24) hour basis, seven (7) days a week;

- (b) Twenty-four (24) hour licensed nursing staff sufficient to meet nursing needs of all residents;
 - (c) At least one practical or registered nurse, serving as charge nurse, on each unit at all times; and
 - (d) A minimum of two (2) nursing employees per nursing unit, per shift.
- 3211.3 Beginning no later than January 1, 2005, each facility shall employ sufficient nursing staff to provide a minimum daily average of 3.5 nursing hours per resident per day. Nursing staff shall include Registered Nurses (RN), Licensed Practical Nurses (LPN), and Certified Nurse Aides (CNA).
- 3211.4 The staffing requirements in subsection 3211.3 shall be adjusted upward for residents with higher nursing care needs and for residents with more acute conditions.
- 3211.5 The Department of Health may consider a waiver of the staffing requirements in subsection 3211.3 for a facility that has had, within the previous three (3) years, no deficiencies related to resident care that have exceeded the federal C level in scope and severity (no actual harm; potential for only minimal harm). The Department may also consider a waiver for a facility that has had, within the previous three (3) years, one (1) deficiency related to resident care at the federal D level in scope and severity (an isolated incident; no actual harm; potential for more than minimal harm), if the facility has demonstrated an otherwise good level of care.
- 3211.6 To meet the requirements of subsections 3211.2 and 3211.3(b), facilities of thirty (30) licensed occupied beds or more shall not include the Director of Nursing Services or any other nursing supervisory employee who is not providing direct resident care.
- 3211.7 Weekly time schedules shall be maintained and indicate the number and classifications of nursing personnel, including relief personnel who work on each unit for each tour of duty.
- 3211.8 Nursing personnel, licensed practical nurses, certified nurse aides, nurse aides, orderlies, and ward clerks shall be assigned duties consistent with their education and experience and based on the characteristics of the patient load.
- 3211.9 A facility shall not employ an individual, other than a certified nurse aide, as a nurse aide unless that person is enrolled and actively participating in a training and competency evaluation program approved by the District.
- 3211.10 A facility shall not employ an individual, other than a certified nurse aide, as a nurse aide if that person has been employed as a nurse aide for six (6) of the

immediately preceding twelve (12) months and he or she has not completed a training and competency evaluation program approved by the District.

3211.11 The facility shall provide regular performance review and regular in-service education to ensure that individuals employed as nurse aides, including certified nurse aides, are competent to perform services as nurse aides.

3211.12 The facility shall ensure that nurse aides, including certified nurse aides, are competent in those skills necessary to care for residents' needs, as identified in the residents' individualized assessments and plans of care.

Any person 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 submitted to Denise S. Pope, Administrator, Health Care Regulation & Licensing Administration, Department of Health, 825 North Capitol Street, N.E., 2nd Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained by writing to the address shown above.

D.C. OFFICE OF PERSONNEL**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (the CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.01 *et seq.*) (2001), as amended on an emergency basis by the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Second Emergency Amendment Act of 2004 (Act), effective December 29, 2004 (D.C. Act 15-646; 52 DCR 233, January 14, 2005), and any similar succeeding legislation, hereby gives notice of the adoption of the following emergency rules. These rules explain the requirements of the Act for the payment of an active duty pay differential to District government employees who have been called to active duty from reserve units of the United States Armed Forces as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, as the Act requires that rules be issued for that purpose. The utilization of emergency rulemaking is the only available means of complying with this requirement and, thereby, providing for the continuation of payment of the differential authorized by the Act for eligible employees. Therefore, to ensure the welfare of the public, action was taken on January 13, 2005 to adopt the following rules on an emergency basis effective January 19, 2005, to add a new section 1155 to Chapter 11, Classification and Compensation, of Title 6 of the District of Columbia Municipal Regulations. These rules will remain in effect for up to one hundred twenty (120) days from January 19, 2005, unless earlier superseded by another rulemaking notice.

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (the CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.01 *et seq.*) (2001), as amended on an emergency basis by the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Second Emergency Amendment Act of 2004 (Act), effective December 29, 2004 (D.C. Act 15-646; 52 DCR 233 (January 14, 2005), and any similar succeeding legislation, hereby gives notice of the intent to adopt the following proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. These proposed rules would add a new section 1155 to Chapter 11, Classification and Compensation, of Title 6 of the District of Columbia Municipal Regulations, for the purpose of implementing the provisions of the Act. Upon adoption, these rules will amend Chapter 11, Classification and Compensation, of Title 6 of the District of Columbia Municipal Regulations, published at 28 DCR 2318 (May 22, 1981) and amended at 29 DCR 1225 (March 19, 1982), 37 DCR 6361 (October 5, 1990), 39 DCR 2072 (March 27, 1992), 47 DCR 2421 (April 7, 2000), 48 DCR 4179 (May 11, 2001), and 48 DCR 5004 (June 1, 2001).

CHAPTER 11**CLASSIFICATION AND COMPENSATION**

A new section 1155 is added to read as follows:

**1155 OPERATION ENDURING FREEDOM AND OPERATION IRAQI
FREEDOM PAY DIFFERENTIAL**

- 1155.1 Any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER appointment) who serves in a reserve component of the armed forces and who has been ordered to active duty, or was retained for duty as a result of Operation Enduring Freedom, or in preparation for a potential conflict with Iraq, or as a result of Operation Iraqi Freedom, shall be entitled to apply for and receive, or continue to receive, as applicable, a pay differential to compensate the employee for any difference between the employee's District government basic pay and basic military pay.
- 1155.2 An employee as described in section 1155.1 of this section shall not be required to be released from active duty before making application for and receiving the pay differential. However, if the employee has not been released from active duty when he or she makes application for the pay differential, the employee shall provide all documentation required in section 1155.9 of this section, except that in lieu of providing a copy of the military orders releasing the employee from active duty, the employee shall provide a letter from his or her commanding officer attesting to the fact that the employee, as of the date of application for the pay differential, is still in an active duty status.
- 1155.3 A pay differential received pursuant to this section shall not be considered basic pay for any purpose.
- 1155.4 Any eligible employee, upon making application for the pay differential and upon approval of the application by his or her department or agency head, shall receive a pay differential that equals the difference between the employee's District government basic pay reduced by the employee's basic military pay.
- 1155.5 The estate of any eligible employee who has been killed while in active duty or who is missing in action as a result of active duty shall be eligible to collect any pay differential to which the employee would have been entitled upon making application on behalf of the employee and upon approval of the application by the employee's department or agency head.

- 1155.6 The period of entitlement to the pay differential shall not exceed:
- (a) The period following the formal inception of Operation Enduring Freedom through the date the employee is released from active duty occasioned by Operation Enduring Freedom; or
 - (b) The period following the formal inception of the preparations for a potential conflict with Iraq and the period following the formal inception of Operation Iraqi Freedom through the date the employee is released from active duty occasioned by, the preparation for, or, Operation Iraqi Freedom.
- 1155.7 The pay differential shall not be payable for any period following the employee's release from active duty and the employee's return to his or her District government position.
- 1155.8 The pay differential shall not be payable for any days for which the employee received pay by reason of any annual leave, military leave, compensatory time, or any other form of paid leave taken by the employee.
- 1155.9 In making application for the pay differential, the employee shall:
- (a) Provide a copy of the military orders activating the employee for full-time active military service for the Operation Enduring Freedom conflict, or, in preparation for, or, as a result of, the Operation Iraqi Freedom conflict;
 - (b) Provide a copy of the military orders releasing the employee from full-time active military service for the Operation Enduring Freedom conflict, or, for the preparation for, or, the Operation Iraqi Freedom conflict; and
 - (c) Provide all military pay documentation required to calculate the differential amount.
- 1155.10 A pay differential under this section shall be paid by the agency that last employed the eligible employee before the employee was ordered to active duty as specified in section 1155.1 of this section, out of the agency's funds or appropriations then currently available for salaries and expenses.

1155.99 DEFINITIONS

Active duty – full-time duty in the active military service of the United States for the Operation Enduring Freedom conflict, or, in preparation for, or, for the Operation Iraqi Freedom conflict.

Armed forces – has the meaning prescribed in 10 U.S.C. § 101 (a)(4).

Basic military pay – the basic pay under 37 U.S.C. § 204.

Basic pay – the employee's scheduled rate of pay plus any additional pay that is defined as basic pay for annuity computation purposes in the retirement system in which the employee is a participant.

Employee – any full-time permanent employee, term employee, or an employee on a TAPER appointment who serves in a reserve component of the United States Armed Forces and who has been called to active duty as a result of the Operation Enduring Freedom conflict, or in preparation for, or as a result of the Operation Iraqi Freedom conflict.

Operation Enduring Freedom – the period encompassed within Executive Order 13223 Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation, effective September 14, 2001, and amended by Amendment to Executive Order 13223, effective January 16, 2002 and ending on the date the employee is released from active duty occasioned by Operation Enduring Freedom.

Operation Iraqi Freedom – the period encompassed within the Joint Resolution entitled Authorization for Use of Military Force Against Iraq Resolution of 2002, approved October 16, 2002 (P.L. 107-243) and ending on the date the employee is released from active duty occasioned by Operation Iraqi Freedom.

Reserve component – has the meaning prescribed in 37 U.S.C. § 101(24).

Comments on these proposed regulations should be submitted, in writing, to Ms. Lisa R. Marin, SPHR, Director of Personnel, 441 4th Street, N.W., Suite 300 South, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice. Additional copies of these proposed rules are available from the above address.