

**OFFICE OF THE CHIEF TECHNOLOGY OFFICER****NOTICE OF PROPOSED RULEMAKING**

The Office of the Chief Technology Officer hereby gives notice, pursuant to the authority set forth in section 1814 of the Fiscal Year 1999 Budget Support Act of 1998, effective March 26, 1999, D.C. Law 12-175, D.C. Official Code § 1-1403, of its intent to adopt the following new Chapter 56 of Title 1 of the D.C. Municipal Regulations, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The proposed rules set forth procedures by which the Office of the Chief Technology Officer (OCTO) shall review and make recommendations for approval or disapproval to the Chief Procurement Officer of all subordinate agency proposals, purchase orders, and contracts for the acquisition of information technology and telecommunications systems, resources, and services.

The following new Chapter 56 is added to Title 1 of the DC Municipal Regulations:

**Chapter 56****REVIEW AND APPROVAL OF INFORMATION TECHNOLOGY PROCUREMENTS****5600 APPLICABILITY**

5600.1 This Chapter applies to all subordinate agencies of the District of Columbia.

**5601 DEFINITION OF "INFORMATION TECHNOLOGY"**

5601.1 For purposes of this section, "information technology" means the use of hardware, software, services, and supporting infrastructure to manage and deliver information using voice, data, and video. For example, information technology includes, but is not limited to:

- a) all computers with a human interface;
- b) all computer peripherals which will not operate unless connected to a computer or network;
- c) all voice, video and data networks and the equipment, staff and purchased services necessary to operate them;
- d) all salary and benefits for staff whose job descriptions specifically includes technology functions, i.e. network services, applications development, systems administration;
- e) all technology services provided by vendors or contractors;
- f) operating costs associated with providing information technology; and
- g) all costs associated with developing, purchasing, licensing or maintaining software.

**5602 REVIEW OF INFORMATION TECHNOLOGY PROCUREMENTS**

5602.1 Pursuant to D.C. Official Code § 1-1403, the Office of the Chief Technology Officer (OCTO) shall review and approve all agency proposals, purchase orders, and contracts valued

over \$25,000 for the acquisition of information technology items or services, and shall recommend approval or disapproval to the Chief Procurement Officer.

5602.2 Any agency proposal, purchase order, or contract valued over \$25,000 for the acquisition of information technology items or services that has not been reviewed by the Office of the Chief Technology Officer and recommended for approval to the Chief Procurement Officer shall be deemed recommended for disapproval to the Chief Procurement Officer.

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 Register. Comments should be directed to Christina Fleps, General Counsel, Office of the Chief Technology Officer (OCTO), One Judiciary Square, 441 4th Street NW, Suite 930S, Washington, DC 20001. Copies of these proposed rules may be obtained from OCTO at the same address.

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

The Interim 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 Subtitle B of Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139), as added by § 2 of the Government Attorney Certificate of Good Standing Filing Requirement Amendment Act of 2002 (Act), effective July 24, 2002 (D.C. Law 14-182; D.C. Official Code § 1-608.81) (2003 Supp.) and Council Resolution No. 15-842, deemed approved on July 23, 2004, hereby gives notice of the intent to adopt, in not less than thirty (30) days from publication of this notice in the *D.C. Register*, the following rules. The Act provides that each attorney employed at the level of DS-13 or above who is required to be a member of the D.C. Bar as a prerequisite of employment and who is employed by the Mayor, the Office of the Corporation Counsel (now the Office of the Attorney General for the District of Columbia), the Office of the Chief Financial Officer, the Board of Education, and by any independent agency, shall obtain, on an annual basis, a certificate of good standing and file the certificate with the D.C. Office of Personnel. The Act also requires that the Director of Personnel promulgate rules and that the rules be submitted to the Council for a 45-day period of review. These rules would amend Chapter 8 of the *D.C. Personnel Regulations*, Career Service, by adding a new § 849 establishing the provisions for the filing of the certificate by Career Service attorneys, and related procedures, including the standards for the granting of temporary waivers of the filing requirement and notification procedures. Upon adoption, these rules will amend Chapter 8 of the *D.C. Personnel Regulations*, Career Service, published at 30 DCR 2555 (May 27, 1983) and amended at 30 DCR 4608 (September 9, 1983), 31 DCR 2715 (June 1, 1984), 32 DCR 1857 (April 5, 1985), 32 DCR 2473 (May 3, 1985), 32 DCR 2953 (May 24, 1985) (Errata), 33 DCR 4299 (July 18, 1986), 35 DCR 1087 (February 19, 1988), 36 DCR 6069 (August 25, 1989), 37 DCR 3952 (June 15, 1990), 37 DCR 7117 (November 9, 1990), 42 DCR 3520 (July 7, 1995), 45 DCR 451 (January 23, 1998), 45 DCR 1641 (March 20, 1998), 47 DCR 2419 (April 7, 2000), 48 DCR 8973 (September 28, 2001), 49 DCR 1859 (March 1, 2002), 49 DCR 6842 (July 19, 2002), 49 DCR 8368 (August 30, 2002), and 49 DCR 9298 (October 11, 2002) (Errata).

**CHAPTER 8****CAREER SERVICE**

*A new § 849 is added to Chapter 8 of the D.C. Personnel Regulations:*

**849 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT**

849.1 The provisions of this section shall be applicable to each attorney appointed in the Career Service at the level of DS-13 or equivalent and above who is

required to be a member of the D.C. Bar as a prerequisite of employment, and who is employed by:

- (a) Any agency, subordinate or independent, and whose duties, in whole or substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing officer;
- (b) The Office of the Chief Financial Officer; and
- (c) Any independent agency excluded from the Legal Service, including the Housing Finance Agency, Pretrial Services Agency, Water and Sewer Authority, and Housing Authority.

849.2 Not later than December 15 of each year, or as specified in §§ 849.18 and 849.19, each attorney as described in § 849.1 shall file with the D.C. Office of Personnel a certificate of good standing from the Committee on Admissions, D.C. Court of Appeals.

849.3 Except as specified in §§ 849.18 and 849.19, the certificate of good standing submitted every year pursuant to this section shall be dated not earlier than October 1 and not later than December 15 of the year of submission.

849.4 Each subordinate agency or independent personnel authority that employs Career Service attorneys subject to the filing requirement shall be responsible for:

- (a) Notifying each agency attorney of the filing requirement every year; and
- (b) Submitting a list of agency attorneys subject to the filing requirement to the Director of Personnel every year, not later than the December 15 deadline.

849.5 Notwithstanding the procedures in § 849.2, each subordinate agency or independent personnel authority may elect to submit every year to the Committee on Admissions, D.C. Court of Appeals, a consolidated listing requesting certificates of good standing (certificates) for each agency attorney subject to the filing requirement, and file the original individual certificates with the D.C. Office of Personnel on behalf of each attorney.

849.6 A subordinate agency or independent personnel authority that elects to submit a consolidated listing as specified in § 849.5 shall establish internal procedures for the compilation of the consolidated listing and every year inform each attorney subject to the filing requirement of the internal procedures. Any consolidated listing submitted to the Committee on Admissions, D.C. Court of Appeals (Court) shall include, at a minimum, the following:

- (a) The attorney's name and bar number and, if necessary, some other identifier such as the attorney's date of admission to the D.C. Bar;
  - (b) A request that an individual certificate of good standing be prepared for each attorney in good standing from the names submitted in the consolidated listing; and
  - (c) A request that the Court specify which attorneys, from the names submitted in the consolidated listing, are not in good standing.
- 849.7 Any consolidated listing prepared pursuant to § 849.5 shall be submitted to the Committee on Admissions, D.C. Court of Appeals, as soon after October 1 of each year as practicable, but not later than November 15 of each year.
- 849.8 Nothing in this section shall prevent an attorney subject to the filing requirement from individually applying for the certificate of good standing (certificate) from the Committee on Admissions, D.C. Court of Appeals, and filing the certificate directly with the D.C. Office of Personnel by December 15 of each year.
- 849.9 Each subordinate agency head or independent personnel authority that elects to submit a consolidated listing to the Committee on Admissions, D.C. Court of Appeals (Court) pursuant to § 849.5 shall provide every year to the Director of Personnel:
- (a) Each original individual certificate of good standing received;
  - (b) The name of each attorney who is not in good standing and any documentation from the Court to that effect; and
  - (c) A copy of the consolidated listing submitted to the Court.
- 849.10 Upon receipt of the original individual certificate of good standing (certificate) from each attorney, or subordinate agency or independent personnel authority on his or her behalf, the Director of Personnel (or his or her designee) shall:
- (a) File the original individual certificates in a place designated for that purpose; and
  - (b) In the case of an attorney who is not in compliance with the filing requirement, forward the name to the appropriate agency head.
- 849.11 Notwithstanding any other provision in this section, the Director of Personnel may establish internal procedures to identify every year each attorney as described in § 849.1 who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.

- 849.12 Failure of any attorney as described in § 849.1, either individually, or through his or her employing subordinate agency or independent personnel authority, to file the certificate of good standing with the D.C. Office of Personnel by December 15 of each year, or as specified in §§ 849.18 or 849.19, shall result in forfeiture of employment.
- 849.13 Upon written request from an attorney subject to the filing requirement, the Director of Personnel or independent personnel authority may grant a temporary waiver of the filing requirement to the attorney if compliance with the filing requirement by December 15 is inordinately difficult due to circumstances beyond his or her control or other good cause.
- 849.14 Any request for a temporary waiver of the filing requirement shall be submitted by the attorney to the Director of Personnel or independent personnel authority not later than December 1.
- 849.15 The Director of Personnel or independent personnel authority shall grant a temporary waiver of the filing requirement to an attorney who has exercised due diligence in applying to be waived in to the D.C. Bar from another jurisdiction but does not anticipate being waived in by December 15.
- 849.16 A request for temporary waiver of the filing requirement shall include all of the following:
- (a) The reason or reasons for the request;
  - (b) The date of appointment to the attorney position subject to the filing requirement;
  - (c) In the case of an attorney as described in § 849.15, the date he or she submitted application to be waived in to the D.C. Bar; and
  - (d) Any appropriate or required supporting material or documentation to substantiate the request.
- 849.17 The Director of Personnel or independent personnel authority shall promptly determine whether to grant the request for a temporary waiver of the filing requirement and notify the attorney in writing. A notification granting the request shall inform the attorney of the deadline to file prescribed in § 849.18. A notification denying the request shall inform the attorney of the following:
- (a) The reason or reasons for the denial of the request;
  - (b) That he or she has thirty (30) days from the receipt of the notification denying the request to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;

- (c) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
- (d) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.
- 849.18 An attorney granted a temporary waiver of the filing requirement (waiver) shall file a certificate of good standing (certificate) with the Director of Personnel within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection shall not be dated earlier than the date of the written request for the waiver submitted by the employee.
- 849.19 When a personnel action placing an employee in an attorney position subject to the filing requirement, such as in the case of a promotion to a grade DS-13 or equivalent, becomes effective on or after the December 15 deadline, the attorney shall file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of the effective date of such personnel action. A certificate filed pursuant to this subsection shall not be dated earlier than the effective date of the personnel action that placed the employee in the attorney position subject to the filing requirement.
- 849.20 Upon establishing the effective date of a personnel action as described in § 849.19 and processing the action, the Director of Personnel or independent personnel authority shall promptly inform the affected employee, in writing, of the deadline to file prescribed in § 849.19.
- 849.21 Each subordinate agency or independent personnel authority shall provide a written notice of the intent to terminate employment to any covered attorney who is not in compliance with the filing requirement. The notice shall inform the attorney:
- (a) That he or she has thirty (30) days from the receipt of the notice to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
- (b) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
- (c) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.
- 849.22 Each appointee to an attorney position subject to the filing requirement (requirement) shall be notified by the appropriate personnel authority at the time of hire, in writing, of the requirement and that failure to comply by

December 15 of each year or as specified in §§ 849.18 and 849.19, as applicable, shall result in forfeiture of employment.

- 849.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of Personnel shall publish in the *D.C. Register* the list of attorneys who have not met the filing requirement.

***Section 899 is amended to add the following definitions:***

**Administrative hearing officer** – A person whose duties, in whole or substantial part, consist of conducting or presiding over hearings in contested matters pursuant to law or regulation, or who is engaged in adjudicatory functions, including, but not limited to any person who bears the title Hearing Officer, Hearing Examiner, Attorney Examiner, Administrative Law Judge, Administrative Judge, or Adjudication Specialist.

**Administrative law judge** – A person whose duties, in whole or substantial part, consist of conducting or presiding over hearings in contested matters pursuant to law or regulation, or who is engaged primarily in adjudicatory functions on behalf of an agency, rather than investigative, prosecutory or advisory functions, including, but not limited to any person who bears the title Hearing Officer, Hearing Examiner, Attorney Examiner, Administrative Law Judge, Administrative Judge, or Adjudication Specialist.

**Subordinate agency** – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in § 301(q) of the CMPA (D.C. Official Code § 1-603.01(17)) (2001).

Comments on these proposed regulations should be submitted, in writing, to Ms. Rosalind R. Inge, Interim Director of Personnel, 441 4<sup>th</sup> Street, N.W., Suite 310S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.

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

The Interim 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 Subtitle B of Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139), as added by § 2 of the Government Attorney Certificate of Good Standing Filing Requirement Amendment Act of 2002, effective July 24, 2002 (D.C. Law 14-182; D.C. Official Code § 1-608.81) (2003 Supp.), and Council Resolution No. 15-840, deemed approved on July 23, 2004, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, the following rules. These rules would amend § 915 of Chapter 9 of the *D.C. Personnel Regulations*, Excepted Service, to: change the heading of the section; modify existing subsections concerning the standards for the granting of temporary waivers of the filing requirement so that it is clear that waivers are granted by the appropriate personnel authority; expand on some of the other provisions concerning the granting of temporary waivers by adding new subsections on the subject, including a new subsection on the timing of the filing for employees granted temporary waivers; add language on the timing of the filing for employees placed in attorney positions subject to the filing requirement as a result of personnel actions effected on or after the December 15 deadline; make minor technical modifications to other subsections; and add the definition of the term "subordinate agency" to § 999. These rules were submitted to the Council for a 45-day period of review pursuant to D.C. Official Code § 1-608.81(d) (2003 Supp.). Upon adoption, these rules will amend Chapter 9 of the *D.C. Personnel Regulations*, Excepted Service, published at 32 DCR 2271 (April 26, 1985), and amended at 36 DCR 7931 (November 17, 1989), 39 DCR 6171 (August 21, 1992), 47 DCR 8093 (October 6, 2000), 50 DCR 4743 (June 13, 2003), 50 DCR 10565 (December 12, 2003) and 51 DCR 11076 (December 26, 2004).

**CHAPTER 9****EXCEPTED SERVICE**

*Section 915 is amended to read as follows:*

**915 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT**

- 915.1 The provisions of this section shall be applicable to each attorney appointed in the Excepted Service at the level of DS-13 or equivalent and above who is required to be a member of the D.C. Bar as a prerequisite of employment, and who is employed by:

- (a) The Office of the Chief Financial Officer;
  - (b) Any agency, independent or subordinate, and whose duties, in whole or substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing officer; and
  - (c) Any independent agency excluded from the Legal Service, including the Housing Finance Agency, Pretrial Services Agency, Water and Sewer Authority, and Housing Authority.
- 915.2 Not later than December 15 of each year, or as specified in §§ 915.18 and 915.19, each attorney as described in § 915.1 shall file with the D.C. Office of Personnel a certificate of good standing from the Committee on Admissions, D.C. Court of Appeals.
- 915.3 Except as specified in §§ 915.18 and 915.19, the certificate of good standing submitted every year pursuant to this section shall be dated not earlier than October 1 and not later than December 15 of the year of submission.
- 915.4 Each subordinate agency or independent personnel authority that employs Excepted Service attorneys subject to the filing requirement shall be responsible for:
- (a) Notifying each agency attorney of the filing requirement every year; and
  - (b) Submitting a list of agency attorneys subject to the filing requirement to the Director of Personnel every year, not later than the December 15 deadline.
- 915.5 Notwithstanding the procedures in § 915.2, each subordinate agency or independent personnel authority may elect to submit every year to the Committee on Admissions, D.C. Court of Appeals, a consolidated listing requesting certificates of good standing (certificates) for each agency attorney subject to the filing requirement, and file the original individual certificates with the D.C. Office of Personnel on behalf of each attorney.
- 915.6 A subordinate agency or independent personnel authority that elects to submit a consolidated listing as specified in § 915.5 shall establish internal procedures for the compilation of the consolidated listing and every year inform each attorney subject to the filing requirement of the internal procedures. Any consolidated listing submitted to the Committee on Admissions, D.C. Court of Appeals (Court) shall include, at a minimum, the following:
- (a) The attorney's name and bar number and, if necessary, some other identifier such as the attorney's date of admission to the D.C. Bar;

- (b) A request that an individual certificate be prepared for each attorney in good standing from the names submitted in the consolidated listing; and
  - (c) A request that the Court specify which attorneys, from the names submitted in the consolidated listing, are not in good standing.
- 915.7 Any consolidated listing prepared pursuant to § 915.5 shall be submitted to the Committee on Admissions, D.C. Court of Appeals, as soon after October 1 of each year as practicable, but not later than November 15 of each year.
- 915.8 Nothing in this section shall prevent an attorney subject to the filing requirement from individually applying for the certificate of good standing (certificate) from the Committee on Admissions, D.C. Court of Appeals, and filing the certificate directly with the D.C. Office of Personnel by December 15 of each year.
- 915.9 Each subordinate agency head or independent personnel authority that elects to submit a consolidated listing to the Committee on Admissions, D.C. Court of Appeals (Court) pursuant to § 915.5 shall provide every year to the Director of Personnel:
- (a) Each original individual certificate of good standing received;
  - (b) The name of each attorney who is not in good standing and any documentation from the Court to that effect; and
  - (c) A copy of the consolidated listing submitted to the Court.
- 915.10 Upon receipt of the original individual certificate of good standing (certificate) from each attorney, or subordinate agency or independent personnel authority on his or her behalf, the Director of Personnel (or his or her designee) shall:
- (a) File the original individual certificates in a place designated for that purpose; and
  - (b) In the case of an attorney who is not in compliance with the filing requirement, forward the name to the appropriate agency head.
- 915.11 Notwithstanding any other provision in this section, the Director of Personnel may establish internal procedures to identify every year each attorney as described in § 915.1 who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.
- 915.12 Failure of any attorney as described in § 915.1, either individually, or through his or her employing subordinate agency or independent personnel authority, to file the certificate of good standing with the D.C. Office of Personnel by

December 15 of each year, or as specified in §§ 915.18 or 915.19, shall result in forfeiture of employment.

- 915.13 Upon written request from an attorney subject to the filing requirement, the Director of Personnel or independent personnel authority may grant a temporary waiver of the filing requirement to the attorney if compliance with the filing requirement by December 15 is inordinately difficult due to circumstances beyond his or her control or other good cause.
- 915.14 Any request for a temporary waiver of the filing requirement shall be submitted by the attorney to the Director of Personnel or independent personnel authority not later than December 1.
- 915.15 The Director of Personnel or independent personnel authority shall grant a temporary waiver of the filing requirement to an attorney who has exercised due diligence in applying to be waived in to the D.C. Bar from another jurisdiction but does not anticipate being waived in by December 15.
- 915.16 A request for temporary waiver of the filing requirement shall include all of the following:
- (a) The reason or reasons for the request;
  - (b) The date of appointment to the attorney position subject to the filing requirement;
  - (c) In the case of an attorney as described in § 915.15, the date he or she submitted application to be waived in to the D.C. Bar; and
  - (d) Any appropriate or required supporting material or documentation to substantiate the request.
- 915.17 The Director of Personnel or independent personnel authority shall promptly determine whether to grant the request for a temporary waiver of the filing requirement and notify the attorney in writing. A notification granting the request shall inform the attorney of the deadline to file prescribed in § 915.18. A notification denying the request shall inform the attorney of the following:
- (a) The reason or reasons for the denial of the request;
  - (b) That he or she has thirty (30) days from the receipt of the notification denying the request to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
  - (c) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and

- (d) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.
- 915.18 An attorney granted a temporary waiver of the filing requirement (waiver) shall file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection shall not be dated earlier than the date of the written request for the waiver submitted by the employee.
- 915.19 When a personnel action placing an employee in an attorney position subject to the filing requirement, such as in the case of a promotion to a grade DS-13 or equivalent, becomes effective on or after the December 15 deadline, the attorney shall file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of the effective date of such personnel action. A certificate filed pursuant to this subsection shall not be dated earlier than the effective date of the personnel action that placed the employee in the attorney position subject to the filing requirement.
- 915.20 Upon establishing the effective date of a personnel action as described in § 915.19 and processing the action, the Director of Personnel or independent personnel authority shall promptly inform the affected employee, in writing, of the deadline to file prescribed in § 915.19.
- 915.21 Each subordinate agency or independent personnel authority shall provide a written notice of the intent to terminate employment to any agency attorney who is not in compliance with the filing requirement (requirement), except that in the case of a denial of a request for a temporary waiver of the requirement, notification shall be accomplished as specified in § 915.17. The notice shall inform the attorney:
- (a) That he or she has thirty (30) days from the receipt of the notice to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
  - (b) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
  - (c) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.
- 915.22 Each appointee to an attorney position subject to the filing requirement (requirement) shall be notified by the appropriate personnel authority at the time of hire, in writing, of the requirement, and that failure to comply by

December 15 of each year or as specified in §§ 915.18 and 915.19, as applicable, shall result in forfeiture of employment.

- 915.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of Personnel shall publish in the *D.C. Register* the list of attorneys who have not met the filing requirement.

*Section 999 is amended to add the following definition:*

**Subordinate agency** – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in § 301(q) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)) (2001).

Comments on these proposed regulations should be submitted, in writing, to Ms. Rosalind R. Inge, Interim Director of Personnel, 441 4<sup>th</sup> Street, NW, Suite 310S, Washington, D.C. 20001; within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.

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

The Interim 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 Subtitle B of Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139), as added by § 2 of the Government Attorney Certificate of Good Standing Filing Requirement Amendment Act of 2002, effective July 24, 2002 (D.C. Law 14-182; D.C. Official Code § 1-608.81) (2003 Supp.), and Council Resolution No. 15-841, deemed approved on July 23, 2004, hereby gives notice of the intent to adopt, in no less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, the following rules. These rules would amend § 3617 of Chapter 36 of the *D.C. Personnel Regulations*, Legal Service, to: change the heading of the section; modify existing subsections concerning the standards for the granting of temporary waivers of the filing requirement so that it is clear that waivers are granted by the appropriate personnel authority; expand on some of the other provisions concerning the granting of temporary waivers by adding new subsections on the subject, including a new subsection on the timing of the filing for employees granted temporary waivers; add language on the filing provisions for employees placed in attorney positions subject to the filing requirement as a result of personnel actions effected on or after the December 15 deadline; and make minor technical modifications to other subsections. These rules were submitted to the Council for a 45-day period of review pursuant to D.C. Official Code § 1-608.81(d) (2003 Supp.). Upon adoption, these rules will amend Chapter 36 of the *D.C. Personnel Regulations*, Legal Service, published at 47 DCR 7371 (September 8, 2000) and amended at 50 DCR 3461 (May 2, 2003), 50 DCR 10569 (December 12, 2003), and 51 DCR 1431 (February 6, 2004).

**CHAPTER 36****LEGAL SERVICE**

*Section 3617 is amended to read as follows:*

**3617 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT**

3617.1 The provisions of this section shall be applicable to each attorney appointed to the Legal Service who is employed by the Office of the Attorney General for the District of Columbia, another subordinate agency or any independent agency (other than the Housing Finance Agency, Pretrial Services Agency,

Water and Sewer Authority, Washington Convention Center Authority, or Housing Authority), at the level of DS-13 or equivalent and above who is required to be a member of the D.C. Bar as a prerequisite of employment.

- 3617.2 Not later than December 15 of each year, or as specified in §§ 3617.18 and 3617.19, each attorney as described in § 3617.1 shall file with the D.C. Office of Personnel a certificate of good standing from the Committee on Admissions, D.C. Court of Appeals.
- 3617.3 Except as specified in §§ 3617.18 and 3617.19, the certificate of good standing submitted every year pursuant to this section shall be dated not earlier than October 1 and not later than December 15 of the year of submission.
- 3617.4 The Attorney General for the District of Columbia (Attorney General) (or his or her designee), another subordinate agency head (in the case of an attorney not under the Attorney General's direction and control), and any independent personnel authority shall be responsible for:
- (a) Notifying each attorney as described in § 3617.1 of the filing requirement every year; and
  - (b) Submitting a list of attorneys in the Office of the Attorney General, other subordinate agencies, or independent agencies who are subject to the filing requirement to the Director of Personnel every year, not later than the December 15 deadline.
- 3617.5 Notwithstanding the procedures in § 3617.2, the Attorney General (or his or her designee), another subordinate agency head (in the case of an attorney not under the Attorney General's direction and control), and any independent personnel authority, may elect to submit every year to the Committee on Admissions, D.C. Court of Appeals, a consolidated listing requesting certificates of good standing (certificates) for each attorney subject to the filing requirement who is employed in the Office of the Attorney General for the District of Columbia, another subordinate agency, or an independent agency, and file the original individual certificates with the D.C. Office of Personnel on behalf of each attorney.
- 3617.6 The Attorney General (or his or her designee), another subordinate agency head (in the case of an attorney not under the Attorney General's direction and control), and any independent personnel authority, shall establish internal procedures for the compilation of the consolidated listing pursuant to § 3617.5, and every year inform each attorney subject to the filing requirement of the internal procedures. Any consolidated listing submitted to the Committee on Admissions, D.C. Court of Appeals (Court), shall include, at a minimum, the following:

- (a) The attorney's name and bar number and, if necessary, some other identifier such as the attorney's date of admission to the D.C. Bar;
  - (b) A request that an individual certificate of good standing be prepared for each attorney in good standing from the names submitted in the consolidated listing; and
  - (c) A request that the Court specify which attorneys, from the names submitted in the consolidated listing, are not in good standing.
- 3617.7 Any consolidated listing prepared pursuant to § 3617.5 shall be submitted to the Committee on Admissions, D.C. Court of Appeals, as soon after October 1 of each year as practicable, but not later than November 15 of each year.
- 3617.8 Nothing in this section shall prevent an attorney subject to the filing requirement from individually applying for the certificate of good standing (certificate) from the Committee on Admissions, D.C. Court of Appeals, and filing the certificate directly with the D.C. Office of Personnel by December 15 of each year.
- 3617.9 If the Attorney General (or his or her designee), another subordinate agency head (in the case of an attorney not under the Attorney General's direction and control), or any independent personnel authority, elects to submit a consolidated listing to the Committee on Admissions, D.C. Court of Appeals (Court) pursuant to § 3617.5, the Attorney General (or his or her designee), other subordinate agency head, or independent personnel authority, shall provide every year to the Director of Personnel:
- (a) Each original individual certificate of good standing received;
  - (b) The name of each attorney who is not in good standing and any documentation from the Court to that effect; and
  - (c) A copy of the consolidated listing submitted to the Court.
- 3617.10 Upon receipt of the original individual certificate of good standing (certificate) from each attorney, or the Attorney General, other subordinate agency head, or independent personnel authority on his or her behalf, the Director of Personnel (or his or her designee) shall:
- (a) File the original individual certificates in a place designated for that purpose; and
  - (b) In the case of an attorney who is not in compliance with the filing requirement, forward the name to the appropriate agency head.

- 3617.11 Notwithstanding any other provision in this section, the Director of Personnel may establish internal procedures to identify every year each attorney as described in § 3617.1 who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.
- 3617.12 Failure of any attorney as described in § 3617.1, either individually or through the Office of the Attorney General for the District of Columbia, other subordinate agency head, or independent personnel authority, to file the certificate of good standing with the D.C. Office of Personnel by December 15 of each year, or as specified in §§ 3617.18 or 3617.19, shall result in forfeiture of employment.
- 3617.13 Upon written request from an attorney subject to the filing requirement, the Director of Personnel or independent personnel authority may grant a temporary waiver of the filing requirement to the attorney if compliance with the filing requirement by December 15 is inordinately difficult due to circumstances beyond his or her control or other good cause.
- 3617.14 Any request for a temporary waiver of the filing requirement shall be submitted by the attorney to the Director of Personnel or independent personnel authority not later than December 1.
- 3617.15 The Director of Personnel or independent personnel authority shall grant a temporary waiver of the filing requirement to an attorney who has exercised due diligence in applying to be waived in to the D.C. Bar from another jurisdiction but does not anticipate being waived in by December 15.
- 3617.16 A request for temporary waiver of the filing requirement shall include all of the following:
- (a) The reason or reasons for the request;
  - (b) The date of the appointment to the attorney position subject to the filing requirement;
  - (c) In the case of an attorney as described in § 3617.15, the date in which he or she submitted application to be waived in to the D.C. Bar; and
  - (d) Any appropriate or required supporting material or documentation to substantiate the request.
- 3617.17 The Director of Personnel or independent personnel authority shall promptly determine whether to grant the request for a temporary waiver of the filing requirement and notify the attorney in writing. A notification granting the request shall inform the attorney of the deadline to file prescribed in

§ 3617.18. A notification denying the request shall inform the attorney of the following:

- (a) The reason or reasons for the denial of the request;
- (b) That he or she has thirty (30) days from the receipt of the notification denying the request to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
- (c) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
- (d) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.

- 3617.18 An attorney granted a temporary waiver of the filing requirement (waiver) shall file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection shall not be dated earlier than the date of the written request for the waiver submitted by the employee.
- 3617.19 When the effective date of a personnel action to place an attorney in a position subject to the filing requirement, such as in the case of a promotion to a grade DS-13 or equivalent, becomes effective on or after the December 15 deadline, the attorney shall file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of the effective date of such personnel action. A certificate filed pursuant to this subsection shall not be dated earlier than the effective date of the personnel action that placed the employee in the attorney position subject to the filing requirement.
- 3617.20 Upon establishing the effective date of a personnel action as described in § 3617.19 and processing the action, the Director of Personnel or independent personnel authority shall promptly inform the affected employee, in writing, of the deadline to file prescribed in § 3617.19, and of the subsequent annual deadline prescribed in § 3617.2.
- 3617.21 The Attorney General, every other subordinate agency head, and every independent personnel authority shall provide a written notice of the intent to terminate employment to any agency attorney who is not in compliance with the filing requirement (requirement), except that in the case of a denial of a request for a temporary waiver of the requirement, notification shall be accomplished as specified in § 3617.17. The notice shall inform the attorney:

- (a) That he or she has thirty (30) days from the receipt of the notice to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
- (b) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
- (c) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.

3617.22 Each appointee to an attorney position subject to the filing requirement (requirement) shall be notified by the appropriate personnel authority at the time of hire, in writing, of the requirement, and that failure to comply by December 15 of each year or as specified in §§ 3617.18 and 3617.19, as applicable, shall result in forfeiture of employment.

3617.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of Personnel shall publish in the *D.C. Register* the list of attorneys who have not met the filing requirement.

Comments on these proposed regulations should be submitted, in writing, to Ms. Rosalind R. Inge, Interim Director of Personnel, 441 4<sup>th</sup> Street, N.W., Suite 310S, Washington, D.C. 20001, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); 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)); Title VIII of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921); and Mayor's Order 03-58, effective April 21, 2003, hereby gives notice of the adoption, on an emergency basis, of amendments to Chapters 4 and 5 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The amendments provide for a continued prohibition on the issuance of special use identification tags ("temporary tags") by used car dealers, limit the persons eligible to receive temporary tags from the Director, limit the total number of dealer identification tags and dealer transport tags that may be issued to dealership owners and salespersons, clarify title transfer procedures, and place additional reporting requirements for the issuance of special use identification tags.

This emergency rule will take effect on August 18, 2004, and will expire on December 16, 2004, one hundred and twenty (120) days after its adoption.

The Director also gives notice of the intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* and upon the expiration of a 45-day Council review period or affirmative approval by the Council in less than forty-five (45) days.

This rulemaking is being submitted for a 45-day period of review by the Council of the District of Columbia pursuant to section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921).

The facts that constitute emergency circumstances are as follows:

On August 18, 2004, a previous emergency rulemaking by the Department of Motor Vehicles, which established a moratorium on used car dealers' issuance of temporary tag, will expire. This initial emergency action was in response to the significant health and safety problems that stemmed from used car dealers' widespread abuse of the temporary tag issuance process. Temporary tags improperly obtained and issued by used car dealers were being used to operate unsafe, uninsured, and stolen vehicles. The emergency rulemaking sought to curtail this activity by making temporary tags available only at new car dealerships and directly from the Department of Motor Vehicles.

This previous emergency rulemaking has been a success. The total number of temporary tags issued during the first month of the moratorium period was 75 percent lower than the number of

tags issued in the same month the previous year. The Metropolitan Police Department has reported far fewer instances of illegal use of temporary tags. This emergency action is aimed at continuing the Department's efforts to combat the abuse of such tags.

Because the prior emergency rulemaking expires on August 18, 2004, this emergency rulemaking is necessary to prevent a lapse in the existing emergency rules before the permanent version of these rules goes into effect. The steps taken so far by the Department have been working and received widespread support from the public. To allow this progress to be compromised by allowing the current restrictions on the issuance of temporary tags to lapse would not only disrupt the Department's current functions, but would also resurrect the problems the Department has been working hard to eliminate.

The Department would have preferred to avoid resorting to the use of an additional emergency rulemaking. However, permanent rules could not be proposed in time to be in effect before the August 18 expiration date because the Department was also committed to minimizing the inconvenience any new process would pose to the legitimate activities of used car dealers. The new rulemaking is now complete, at the earliest possible opportunity, and after the Department thoroughly scrutinized the problem, discussed a wide range of solutions, and met with used car dealers and neighboring jurisdictions.

This emergency rulemaking goes beyond the previous emergency in that it places additional restrictions on the issuance and use of dealer identification tags (transferable hard tags issued to the dealers for use in connection with their business). The Metropolitan Police Department reports that illegal activity related to the use of dealer identification tags has intensified due to the reduction in the availability of temporary tags. The Department has that learned many dealers are misusing dealer identification tags in virtually the same manner that temporary tags were misused, including allowing their use by others on vehicles not owned by that dealer. This rulemaking limits the number of tags issued to dealers and clarifies the circumstances under which they may be used.

For the reasons stated above, this emergency rulemaking is necessary to the immediate preservation of the health, safety and welfare of the District of Columbia residents.

Title 18, DCMR, is amended as follows:

- A. Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, is amended as follows:
  - 1) Section 402, TRANSFER OF CERTIFICATE OF TITLE, is amended as follows:
    - (a) Subsection 402.8 is amended by striking the phrase "Only new car dealers and used car dealers" and inserting the phrase "Only new car dealers, used car dealers, and their salespersons" in its place.
    - (b) By adding a new subsection 402.9 to read as follows:

402.9 Effective September 21, 2004, if all reassignment spaces on the back of a certificate of title are filled in, a dealer may apply to the Director for a Dealer's proof of ownership.

2) Section 426, SPECIAL USE IDENTIFICATION TAGS, is amended by adding new subsections 426.13 through 426.17 to read as follows:

426.13 Special use identification tags shall only be issued to persons submitting, in addition to any other items required by the Director, the following:

- (a) Bill of sale for the vehicle, if purchased from a car dealer;
- (b) Signed certificate of title, or fax as provided by § 426.14, or other proof of ownership satisfactory to the Director; and
- (c) Proof of sufficient insurance coverage.

426.14 Any dealer or financing company may fax a copy of a vehicle's title or dealer's proof of ownership, front and back, to the Department to establish proof of ownership as required by § 426.13(b); except that the Department reserves the right to require the submission of the original documents.

426.15 The Director shall not issue special use identification tags to residents of Maryland or Virginia, except as provided in § 426.16.

426.16 Any dealer registered in the District of Columbia or their agent may obtain a special use identification tag by appearing at the Department on behalf of a customer from any jurisdiction; provided, that the customer authorizes the dealer to act as their agent by signing the form provided to the dealer by the Department.

426.17 If a vehicle displaying a valid special use identification tag fails motor vehicle safety or emissions inspection, the initial special use identification tag may be removed by the DMV inspection station staff and a replacement special use identification tag may be issued.

3) Section 427, DEALER IDENTIFICATION TAGS, is repealed.

B. Chapter 5, MOTOR VEHICLE DEALERS, is amended as follows:

1) Section 500, GENERAL PROVISIONS, is amended by adding new subsections 500.5 through 500.7 to read as follows:

500.5 No dealer may accept an open assignment of a motor vehicle title or bill of sale that does not identify the dealer as the purchaser or assignee of the motor vehicle.

500.6 A dealer shall inform the Department of any change in business ownership or location within five (5) business days of any such change.

500.7 All dealers or their agents shall attend any mandatory training required by the Department after receiving notice of the training sent by regular mail to the address on the dealer's registration; except for good cause shown as determined by the Director.

2) Section 501, REGISTRATION OF DEALERS, subsection 501.3 is amended to read as follows:

501.3 A person may apply to the Director for registration as a car dealer provided, in addition to all other applicable requirements of this Title, that person:

- (a) Has a valid motor vehicle dealer's business license;
- (b) Has a valid federal tax identification number;
- (c) Has a valid certificate of occupancy in the dealer's name;
- (d) Is actively engaged in buying, selling, and exchanging vehicles; and
- (e) Has an established place of business that is located on a street or avenue.

3) Section 502, APPLICATION FOR DEALER REGISTRATION, is amended as follows:

(a) Subsection 502.2 is amended by adding new paragraphs (e) and (f) to read as follows:

- (e) A copy of the dealer's business license; and
- (f) A copy of the salesperson's license for each salesperson.

(b) Subsection 502.7 is amended to read as follows:

502.7 Dealer registrations shall expire on October 31 of each year.

4) Section 503 is amended to read as follows:

503 DEALER IDENTIFICATION TAGS

503.1 Dealer identification tags issued to a registered dealer shall be used solely for the purpose of operating vehicles owned by the dealer, if directly in furtherance of the business of the dealer, and only by the following persons:

- (a) The dealer, provided they carry proof of dealer registration at the time of operation;
  - (b) The dealer's salesperson, provided they carry their salesperson's license at the time of operation; or
  - (c) The dealer's customer, provided:
    - (1) The customer is accompanied by the dealer or the dealer's salesperson and such person carries proof required by (a) or (b) at the time of operation; or
    - (2) The vehicle displays a temporary registration certificate issued to that customer, as provided in § 503.8.
- 503.2 Dealer transport tags may be issued to a registered dealer for use solely by a dealer's subcontractor, or the subcontractor's employee(s), provided:
- (a) The tags are used in connection with the repair or improvement of the vehicle;
  - (b) The vehicle is being operated between the dealership and the repair location; and
  - (c) The operator carries either proof of a contractual relationship regarding such a repair, or an affidavit, signed by the dealer, that states the repair location and that the condition in (a) is satisfied.
- 503.3 A dealer identification tag or dealer transport tag shall be displayed on the rear of a motor vehicle when in use.
- 503.4 Dealer tags shall be issued as follows:
- a) Two (2) dealer tags per dealer, with a maximum of four (4) tags per business;
  - b) One (1) dealer tag per salesperson (other than owner); and
  - c) Two (2) dealer transport tags per business.
- 503.5 A dealer may replace no more than one (1) lost or stolen dealer identification tag or dealer transport tag every six (6) months, upon proof of the filing of a police report or other proof satisfactory to the Director. The Director may waive the time limitation of this subsection for good cause shown.

- 503.6 A dealer shall have motor vehicle insurance that covers the number of vehicles that can be operated using all the dealer tags and dealer transport tags issued to that dealer.
- 503.7 Dealer tags and dealer transport tags shall expire on October 31 of each year.
- 503.8 Whenever a vehicle is furnished by a dealer to a person for the purpose of demonstration or testing and the vehicle is not occupied by an employee of the dealer, a Temporary Registration Certificate, issued to that person by the dealer, shall be affixed to the windshield of the vehicle as provided in § 505.

5) Section 505, TEMPORARY REGISTRATION FORMS, is amended as follows:

(a) Subsection 505.5 is repealed.

(b) By adding a new subsection 505.14 to read as follows:

505.14 A dealer shall make a copy of the driver's license of any customer issued a Temporary Registration Certificate pursuant to § 505.6. The copy shall be submitted together with the Notice of Issuance as provided in § 505.10.

6) Section 506, SPECIAL USE IDENTIFICATION TAGS, is amended as follows:

(a) Subsection 506.1 is amended by inserting the phrase "new car" before the word "dealer".

(b) Subsection 506.2 is amended by striking the word "sets".

(c) Subsections 506.3 and 506.4 are repealed.

(d) Subsection 506.5 is amended as follows:

(A) Paragraph (b) is amended by striking the figure "one (1)" and inserting the figure "five (5)" in its place.

(B) Paragraph (c) is repealed.

(e) Subsection 506.10 is amended to read as follows:

506.10 The duplicate copy of the special use certificate, the information received by the new car dealer in accordance with § 506.6, together with an itemized bill of sale that includes the amount of all applicable taxes and fees required for the vehicle's

registration, shall be retained at the dealer's registered location for at least two (2) years.

(f) Subsection 506.11 is repealed.

(g) By adding new subsections 506.12 through 506.17 to read as follows:

506.12 Any dealer issuing a special use identification tag to a customer must electronically submit the vehicle identification number, make, model and year of vehicle, special identification tag number, insurance information, the customer's name and address, and the driver's license number of the person operating the vehicle from the dealer's location, to the Department within one (1) business day of the sale.

506.13 All special use identification tags in the possession of the dealer shall be kept in a secure location at the dealer's registered place of business and presented to the Department upon request.

506.14 A dealer is entitled to replace any lost or stolen special use identification tag no more than once every six (6) months; except for good cause as determined by the Director.

506.15 No dealer shall issue a special identification tag for a vehicle not sold by that dealer.

506.16 No dealer shall issue a second or subsequent special use identification tag to the same customer for the same vehicle without written approval from the Director.

506.17 A dealer may issue special use identification tags for used cars only if the dealer's sale of used cars is incidental to the sale of new cars and the used cars are displayed on the same lot as new cars.

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 Corey Buffo, General Counsel, Department of Motor Vehicles, 65 K St., N.E., Suite 210, Washington, D.C. 20002. Copies of this proposal are available, at cost, by writing to the above address.