

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

### NOTICE OF PROPOSED RULEMAKING

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in the District of Columbia Documents Act, effective March 6, 1979 (D.C. Law 2-153; D.C. Official Code § 2-611 *et seq.* (2006 Repl.)), hereby gives notice of her intent to adopt the following amendment to Chapter 3 of Title 1 of the *District of Columbia Municipal Regulations* in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of the rulemaking is to make multiple changes including providing for the official online and print publication of the *D.C. Register*, cancellation of subscriptions on December 31, 2008, changes to office sales policies and procedures, and a new requirement for electronic submissions to ODAI.

1 DCMR Chapter 3, Rules of the Office of Documents, is deleted in its entirety and replaced with the following new Chapter 3:

## CHAPTER 3 RULES OF THE OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

### SECTIONS

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### **300 OFFICE OF DOCUMENTS: GENERAL PROVISIONS**

- 300.1 The District of Columbia Office of Documents and Administrative Issuances was established as part of the Executive Office of the Mayor on March 6, 1979, by §2 of the District of Columbia Documents Act, D.C. Law 2-153, D.C. Official Code §2-611 (2008 Supp.); and by Mayor's Order 88-104, dated April 26, 1988.
- 300.2 The purpose of this chapter is to set forth the policies and procedures for the implementation of the District of Columbia Documents Act (referred to in this chapter as the Documents Act) and applicable provisions of the District of Columbia

Administrative Procedure Act (referred to in this chapter as the Administrative Procedure Act).

- 300.3 The provisions of this chapter are promulgated pursuant to authority set forth in §3(b) of the Documents Act.
- 300.4 The Administrator of the Office of Documents and Administrative Issuances (referred to in this chapter as the Administrator) is appointed by the Mayor and supervised by the Secretary of the District of Columbia, and is vested with the authority to administer the provisions of the Documents Act in accordance with §2 of the Documents Act.
- 300.5 The Office of Documents and Administrative Issuances (also referred to in this chapter as ODAI) is responsible for the preparation and publication of the legal publications of the District of Columbia government. Beginning on January 1, 2009, official copies of the DC Register and DC Municipal Regulations shall be published both in paper print format and electronic print format on the Secretary of the District of Columbia's website, with CD and paper copies available for purchase upon request.
- 300.6 All publications of ODAI will be considered "published" when posted to the website of the Office of the Secretary, <http://os.dc.gov>. ODAI will contemporaneously retain a paper copy of each official electronic publication.
- 300.7 The online copies of the D.C. Register, DCMR, and Mayor's Administrative Issuances shall be considered official copies. One paper original of each shall be printed, date- and time-stamped, and retained at ODAI, and one copy of the paper original shall be provided to the DC Archives for permanent storage. An electronic copy of the original shall also be retained in the DC Archives, and shall be considered a true copy. If there is any discrepancy regarding the accuracy of any publication, the paper original located in the ODAI office or the DC Archives shall be considered the authoritative copy.
- 300.8 Because free online access is available to all ODAI publications, all mailed subscriptions shall end on December 31, 2008.

Publications include the following:

- (a) The *District of Columbia Register* (also referred to as the *D.C. Register* or *Register* and abbreviated "DCR");
- (b) The *District of Columbia Municipal Regulations* (also referred to as the *D.C. Municipal Regulations* and abbreviated "DCMR");
- (c) The *District of Columbia Statutes-at-Large* (also referred to as the *D.C. Statutes-at-Large* and abbreviated *Stat.*); and
- (d) Mayor's Administrative Issuances.

- 300.9 The Office of Documents and Administrative Issuances is located in Room 520 S, One Judiciary Square, 441 4th Street, N.W., Washington, D.C. 20001. This is also the mailing address for ODAI.
- 300.10 The regular office hours of the Office of Documents and Administrative Issuances are from 8:30 a.m. to 5:30 p.m., Monday through Friday, exclusive of District of Columbia government holidays.

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is §2 of the District of Columbia Documents Act, D.C. Law 2-153, D.C. Official Code § 2-611 (2008), as amended.

**SOURCE:** Final Rulemaking published at 25 DCR 9855 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091 (September 18, 1981).

### **301 GENERAL AUTHORITY OF THE ADMINISTRATOR OF DOCUMENTS**

- 301.1 The Administrator of the Office of Documents and Administrative Issuances is vested with authority to administer generally the provisions of this chapter, the provisions of the Documents Act, and the applicable provisions of the Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*), as amended, in accordance with the provisions of D.C. Official Code, § 2-612 (2006 Repl.).
- 301.2 The Administrator is authorized to promulgate rules and procedures for the implementation of the Documents Act and applicable provisions of the Administrative Procedure Act.
- 301.3 The Administrator is responsible for the supervision, management, and direction of the District of Columbia Office of Documents and Administrative Issuances, under the supervision of the Secretary of the District of Columbia.
- 301.4 The Administrator is authorized to adopt editorial standards for the submission of documents for publication in the *District of Columbia Register* and the *District of Columbia Municipal Regulations*, including requirements for standardized organization, numbering, format, grammar, and other matters of style.
- 301.5 With the exception of acts and resolutions adopted by the Council of the District of Columbia, the Administrator is authorized to reject for publication any document that fails to comply substantially with the publication requirements and standards set forth in this chapter.
- 301.6 The Administrator is authorized to incorporate by reference the text of documents in the *D.C. Register* or *D.C. Municipal Regulations*, in accordance with the provisions of the Documents Act and this chapter.
- 301.7 The Administrator is required to certify the promulgation, adoption, or enactment of all documents published by the Office of Documents and Administrative Issuances. The Administrator is authorized to obtain the assistance of the Office of the Attorney General, the officer designated by the Chairperson of the Council, or agency legal counsel in determining whether a document should be certified for publication.

- 301.8 The Administrator is required to provide instruction for promulgators of documents in the matters set forth in this chapter, including preparation and submission of documents, publication standards, and other areas that will assist the promulgators in complying with the requirements of this chapter.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9856 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4092 (September 18, 1981).

## **302 SERVICES TO THE PUBLIC**

- 302.1 The public may access the *D.C. Register* online at DC Public Libraries. Printed copies of the online issue shall also be available at all branches of the DC Public Library and shall be provided to each Advisory Neighborhood Commission. Several branches, including Martin Luther King branch, maintain files of back issues.
- 302.3 Anyone requesting a printed version of any edition of the *D.C. Register* may purchase one at a price set by the Administrator that covers the cost to ODAI of printing it. The prices will vary by number of pages necessary, but in any case will be whole dollar increments between \$5 and \$50.
- 302.4 Copies of the titles of the *D.C. Municipal Regulations* shall be published online, with printed and CD versions available for purchase at the Office of Documents and Administrative Issuances at a price that covers the cost of materials.
- 302.5 Copies of the *D.C. Statutes-at-Large*, titles of the *D.C. Municipal Regulations* (DCMR), and *D.C. Register* are available for purchase at a price that covers the cost of materials to ODAI. ODAI is located at One Judiciary Square, 441 4th Street, N.W., Washington, D.C. 20001.

**SOURCE:** Final Rulemaking published at 28 DCR 4091, 4093 (September 18, 1981); as amended by Final Rulemaking published at 38 DCR 5665 (September 6, 1991); and by Final Rulemaking published at 42 DCR 566 (January 27, 1995)..

## **303 SERVICES TO DISTRICT GOVERNMENT AGENCIES**

- 303.1 In order to ensure the efficient and timely promulgation of notices of proposed rulemaking, final rules, notices of public hearings, and other legal notices and documents, the Administrator shall assist the agencies of the District government in complying with the following:
- (a) The provisions of this chapter;
  - (b) The requirements of the Documents Act; and
  - (c) The applicable provisions of the Administrative Procedure Act, as amended.
- 303.2 The Director shall arrange to provide an appropriate response to each inquiry presented in person by telephone, or in writing to ODAI.

- 303.3 The staff of the Office of Documents and Administrative Issuances shall provide informal assistance and advice to officials of District agencies with regard to general or specific rulemaking and notice practices, including drafting of proposed rules, notice requirements, promulgation procedures, and other matters arising under the provisions of the chapter.
- 303.4 The staff of the Office of Documents and Administrative Issuances will conduct seminars in the various aspects of rulemaking practice and preparation of official documents for officials of the District government. Seminars will be arranged for small groups or individuals. The emphasis of these seminars will be on addressing the particular needs of agencies and promulgators of legal documents for publication in the *D.C. Register* and *D.C. Municipal Regulations*.
- 303.5 Requests for scheduling of seminars, including a list of topics to be covered, should be in writing to the Administrator of Documents and Administrative Issuances. Requests should be submitted reasonably in advance and should suggest several alternative dates and times to facilitate scheduling.
- 303.6 Each agency may request a complete DCMR set on CD, at a cost of \$100 per set, which shall be paid via Memorandum of Understanding to the Office of the Secretary of the District of Columbia.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9858 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4094 (September 18, 1981); by Final Rulemaking published at 32 DCR 4725 (August 16, 1985); and by Final Rulemaking published at 42 DCR 566 (January 27, 1995).

#### **304 AGENCY REPRESENTATIVES**

- 304.1 Each agency, department, office, or other governmental entity that submits documents for publication in the *D.C. Register* shall designate, from its Director's office or General Counsel's office, a representative and alternate to serve as a liaison to the Office of Documents and Administrative Issuances. All representatives shall be called "agency liaisons."
- 304.2 Agency liaisons and Directors shall be the main contact persons in matters relating to the publication of documents in the *D.C. Register*. All documents submitted by an agency for publication, including notices and rulemaking documents must be submitted through the agency liaison or Director.
- 304.3 Designation of an agency liaison does not exempt an agency from the required review of the substance of rulemaking documents and legal certification by the Office of the Attorney General. Legal certification by agency counsel must be approved by the Administrator.
- 304.5 Each agency liaison shall be responsible for the following:
- (a) Representation of the agency in all matters relating to compliance with the provisions of this chapter;

- (b) Responding to inquiries from the Office of Documents and Administrative Issuances concerning documents or notices submitted by the agency for publication;
- (c) Ensuring that the agency head or other official authorized by law to promulgate rules or attest to the promulgation of rules has reviewed all rulemaking notices and the rulemaking text, and has signed the required transmittal form, either in hard-copy or electronically, in accordance with the provisions of §307;
- (d) Ensuring that the required legal certification is set forth on the transmittal form in accordance with the provisions of §307; and
- (e) Ensuring that all other documents are in compliance with the Rules of the Office of Documents and Administrative Issuances prior to submission for publication.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9859 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4095 (September 18, 1981).

### **305 D.C. REGISTER: PUBLICATION POLICY**

- 305.1 The Office of Documents and Administrative Issuances shall publish electronically a weekly serial publication called the *District of Columbia Register*, which shall contain the following:
- (a) Each resolution adopted by the Council and each act adopted by the Council and approved by the Mayor, enacted without mayoral approval, or enacted by the override of a mayoral veto;
  - (b) Each final or emergency rule, regulation, or other document required by law to be codified in the *D.C. Municipal Regulations*;
  - (c) Each notice of proposed rulemaking or intent to adopt the contents of any other document required to be codified in the *D.C. Municipal Regulations*.
  - (d) Each notice of public hearing issued by the Council or an agency; and
  - (e) Other documents accepted for publications pursuant to §§305.6, 305.7, or 305.8.
- 305.2 Documents required or authorized to be published in the *D.C. Register* shall be published as promptly after submission as possible within limitations imposed by considerations of accuracy, and substantial compliance with the publication standards set forth in this chapter.
- 305.3 In prescribing rules governing headings, notice format, effective dates, authority citations, and other matters of form, the Office of Documents and Administrative Issuances shall not affect the validity of any document that is filed and published under the law.

- 305.4 The *D.C. Register* serves as the ongoing supplement to the *D.C. Municipal Regulations*. Each document that is subject to codification in the *DCMR* and published in the *D.C. Register* shall be cross-referenced to the *DCMR*.
- 305.5 Each rulemaking document submitted to the Office of Documents and Administrative Issuances for publication in the *D.C. Register* must comply fully with the format, style, and other requirements established for the *D.C. Municipal Regulations*.
- 305.6 The following documents must be submitted to the Office of Documents and Administrative Issuances for publication in the *D.C. Register*:
- (a) Each act and resolution of the Council of the District of Columbia;
  - (b) Each notice of public hearing;
  - (c) Each notice of proposed, final, or emergency rulemaking;
  - (d) All administrative issuances of the Mayor, including orders and memoranda;
  - (e) Each document having general applicability and legal effect; and
  - (f) Other documents required by law to be published in the *Register*.
- 305.7 The Administrator is authorized to publish the following documents in the *D.C. Register*:
- (a) Documents requested to be published by the Chairperson of the Council or the Chairperson's designee;
  - (b) Documents requested to be published by the Joint Committee on Judicial Administration in the District of Columbia;
  - (c) Information on changes in the organization of the government of the District of Columbia;
  - (d) Notices of public hearings not required by law or regulation to be published in the *D.C. Register*; and
  - (e) Documents requested to be published by the Mayor of the District of Columbia.
- 305.8 Whenever the Administrator determines that the publication of a document not required by §305.6 or authorized by §305.7 would be of general public interest, the Administrator may permit the document to be published in the *D.C. Register*.
- 305.9 The following documents are generally not authorized to be published in the *Register*, except as provided by §305.8:
- (a) Proclamations or other ceremonial documents;

- (b) Notices of meetings or other activities;
  - (c) Correspondence, memoranda, or internal agency documents;
  - (d) Press releases, news items, commentary, or editorials;
  - (e) Adjudicatory notices, opinions, or orders;
  - (f) Judicial Declaratory Orders;
  - (g) Resolutions, petitions, or recommendations submitted for consideration by the Council, Mayor, or an agency; and
  - (h) Employment information, job announcements, or position descriptions.
- 305.10 Without prejudice to any other form of citation, the *D.C. Register* shall be cited by volume and page number, and the short form “**DCR**” shall be used in the citation. The date of publication of the weekly edition should also generally be included in the citation. For example, material which begins on page 8264 of volume 54 of the *D.C. Register* (published on August 24, 2007) should be cited “54 DCR 8264 (August 24, 2007).”
- 305.11 Each document published in the *D.C. Register* shall be placed under one of the following table of contents categories, as indicated:
- (a) **COUNCIL OF THE DISTRICT OF COLUMBIA** - Which shall contain all resolutions and approved acts of the Council, mayoral vetoes of Council acts, notices of D.C. Law numbers assigned, notices of filing and intent to consider legislation, notices of public hearings, and other documents requested to be published by the Chairperson;
  - (b) **PUBLIC HEARINGS** - Which shall contain all notices of public hearings issued by an agency or authorized for publication under §305.7(c);
  - (c) **FINAL RULEMAKING** - Which shall contain all final rules, notices of final rulemaking action, and documents having general applicability and legal effect;
  - (d) **PROPOSED RULEMAKING** - Which shall contain all notices of intent to adopt rules or documents of general applicability and legal effect, except combined notices pursuant to §305.11(e);
  - (e) **EMERGENCY RULEMAKING** - Which shall contain all notices of emergency rulemaking and combined notices of emergency and proposed rulemaking; and
  - (f) **NOTICES AND INFORMATION** - Which shall contain all other documents authorized for publication under §§305.7 or 305.8.
  - (g) **ADMINISTRATIVE ISSUANCES**- Which shall contain all Mayor’s Orders, Mayor’s Memorandum, and Mayor’s Administrative Instructions.

- 305.12 The Office of Documents and Administrative Issuances will publish annually a cumulative index of all matters published in the *D.C. Register* during the year. The complete index for each volume will also be published on a calendar year basis.
- 305.13 Beginning with Volume 27, in January 1980, complete volumes of the *D.C. Register* shall be published on a calendar year basis. <sup>1</sup>
- 305.14 The certification and publication of a document in the *D.C. Register* or *D.C. Municipal Regulations* (DCMR) creates a rebuttable legal presumption that the document was duly issued, adopted, prescribed, or enacted, and that all requirements of the Documents Act and the Administrative Procedure Act have been met.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9860 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4096 (September 18, 1981).

**306 SUBMISSION OF DOCUMENTS: PUBLICATION SCHEDULES, DEADLINES AND, SUBMISSION PROCEDURES.**

- 306.1 All Documents shall be submitted electronically by email to DCDocuments@dc.gov. The subject line shall identify the type of document, rulemaking, notice, or mayor's administrative issuance.
- 306.2 Persons unable to submit documents electronically may submit paper documents. Documents delivered by messenger or D.C. government agency personnel to the Office of Documents and Administrative Issuances will be time-stamped, put into electronic format and logged immediately upon receipt. Documents received through the U.S. Mail or departmental mail will be time-stamped and logged in the normal course of mail processing.
- 306.3 The *D.C. Register* is published on Friday each week. If a government holiday falls on Friday, the official publication date will remain the same.
- 306.4 Documents to be submitted for publication must conform to all style guidelines set forth in the ODAI Publications Style Manual, which is available online at <http://os.dc.gov>. Failure to conform to style guidelines may delay publication.
- 306.5 The method of submitting documents for publication is electronic. All documents that require signatures must be submitted as digital images of the paper original, using a format such as .pdf, .tif, or .jpg. Originals of all documents to be published shall be retained by the agency that submitted them, for a minimum of one year from the date of publication. ODAI will also print and retain a copy of each electronic submission.
- 306.6 In the event that an agency is unable to create a digital image of a signed document for submission, the agency liaison shall work with the editor of the DC Register to create the electronic version.

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<sup>1</sup> Volume 26 of the *D.C. Register* is a short volume; beginning July 1, 1979, and ending December 31, 1979.

- 306.7 All documents that do not require signatures (e.g. notices, proposed rulemakings, etc.) may be submitted as digital images or as properly formatted text files. As of the 2008 revision of these rules, Microsoft Word is the preferred word processing program of the Office of Documents and Administrative Issuances, although other programs that are convertible into Word format will be accepted.
- 306.8 Electronic submissions will be accepted via email, CD-ROM, and USB Flash Drive. Emailed documents for publication shall be sent to [dcdocuments@dc.gov](mailto:dcdocuments@dc.gov). CD-ROM and USB Flash submissions may be mailed or brought in-person to the ODAI office.
- 306.9 To avoid the publication of fraudulent submissions, electronic submissions shall not be approved for publication until actively verified by the agency liaison or Director. Upon initial receipt of the submission, whether received by email, CD-Rom or USB Flash drive, a confirmation email will be sent to the agency liaison and agency director, requesting verification that the document is, in fact, approved by the agency director for publication. Until such return verification is received by [dcdocuments@dc.gov](mailto:dcdocuments@dc.gov), the document will not be placed in the queue for publication. Exceptions will only be made in the event of an email service disruption that is verified by the Office of the Chief Technology Officer (OCTO).
- 306.10 Upon receipt of the verification email, the time and date stamp of the receiving computer shall be recorded as the official time of submission for publication, not the initial submission time.
- 306.11 The deadline for submission of verification of documents for publication in each Friday edition of the *D.C. Register* is 12:00 Noon on each of the following days of the week of publication:
  - (a) Council Public Hearing Notices.....Noon Wednesday;
  - (b) Acts and Resolutions of the Council.....Noon Wednesday;
  - (c) Summaries of Council legislative sessions and other council notices.....  
.....Noon Wednesday;
  - (d) Council notices of intent to adopt new legislation.....Noon Wednesday;
  - (e) Agency Final and Proposed Rulemaking Notices.....Noon Tuesday;
  - (f) Agency Emergency Rulemaking Notices.....Noon Tuesday;
  - (g) Other Agency Notices and Documents.....Noon Tuesday.
- 306.12 Documents filed for publication in an issue of the *D.C. Register* which is scheduled to be published on the Friday of a week containing an official District government holiday must be submitted one business day earlier than the deadline set forth in §306.11.
- 306.13 Whenever an official government holiday falls on a Friday, the DC Register will be published one day earlier (Thursday), which means that all documents for

publication in the *D.C. Register* are required to be submitted one business day earlier, as set forth in 306.11.

- 306.14 All documents subject to codification in the *D.C. Municipal Regulations* shall be reviewed by ODAI and certified by the Administrator prior to publication in the *D.C. Register*.
- 306.15 A pre-publication review service shall be provided by the Office of Documents and Administrative Issuances, as set forth in §308, in order to expedite the publication of proposed rulemaking and other documents requiring detailed review.
- 306.16 Proposed rulemaking and other documents subject to codification in the *D.C. Municipal Regulations* which have not been through the pre-publication review process should be submitted several days in advance of the deadlines set forth in §306.11 in order to allow time for editing.
- 306.17 Documents which have been tentatively certified by the Office of Documents and Administrative Issuances following pre-publication review will not normally require additional review prior to publication.
- 306.18 The publication of a document on an emergency basis may be requested when the document involves the prevention, alleviation, control, or relief of an emergency situation.
- 306.19 An agency requesting emergency publication shall briefly describe the nature of the emergency situation and the benefits which would result from immediate publication.
- 306.20 Requests for emergency publication shall be made in writing to DCdocuments@dc.gov.
- 306.21 If the Administrator concurs with the request for emergency publication, the document shall be posted online as soon as possible, and will be officially published in the next edition of the *D.C. Register*.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9863 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4099 (September 18, 1981).

### **307      FORMATTING AND PREPARATION OF DOCUMENTS**

- 307.1 ODAI shall accept electronic submissions of documents. A person seeking to submit a document to ODAI shall submit the following to [DCdocuments@dc.gov](mailto:DCdocuments@dc.gov). Submissions should be in Microsoft Word format and accompanied by a signed PDF format transmittal form. Rulemaking submissions should adhere to the rules in §307.9-307.15.
- 307.2 All documents submitted to ODAI must adhere to the ODAI Handbook and Style Manual. The requirements include:
- a) To be eligible for publication in the *D.C. Register*, a document must be formatted for eight and one-half inch by eleven inch (8½ in. x 11 in.) white,

opaque paper. The text must be set within margins not less than one (1) inch on all sides.

- b) The preferred font family for all ODAI publications is Times New Roman, in 12 point size with “Automatic” font color. The use of color in type faces or charts is discouraged, to enable ease of reading when printed in black and white.
  - c) All documents submitted for publication in the *D.C. Register* must be single-spaced. Extra single spaces between paragraphs or sections, as well as additional spaces between major divisions of documents, are generally acceptable. Documents should be prepared with attention to the ease of reading.
  - d) Documents should be prepared to be read vertically. Charts or other materials that cannot be reproduced in vertical form may be accepted for publication. In such cases, the text should be prepared for the publication so that the top of the text will appear on the left margin of the page.
  - e) Documents generally should not be signed on the originals, except Council acts and Mayor's Orders. Signed originals or copies are not acceptable as substitutes for the signature required on the applicable transmittal form.
- 307.5 Documents on letterhead and documents in the form of letters or memoranda are generally not acceptable for publication in the *D.C. Register*.
- 307.6 Except when considered necessary by the Administrator, blank forms for applications, registrations, reports, contracts, and similar items, and the instructions for preparing the forms, may not be published in full. A brief description or list of forms describing the purpose and use of each form, as well as where copies of the form(s) may be obtained (website address, telephone number, etc), may be submitted for publication.
- 307.7 After a document has been submitted for publication, a substantive error in the text may be corrected only by the filing of another document making the correction. Pending the receipt of the corrected document, the Office of Documents and Administrative Issuances should be informed by telephone or email to [dcdocuments@dc.gov](mailto:dcdocuments@dc.gov) of the need to withhold publication pending the submission of the corrected document.
- 307.8 If a document has been adopted by a legislative or quasi-legislative body in session, substantive or technical errors in the documents as adopted will not be corrected by the Office of Documents and Administrative Issuances unless the correction is approved by the body in public session or the correction is made pursuant to the lawful adopted procedural rules of the body.
- 307.9 All rulemaking documents submitted for publication in the *D.C. Register* must be accompanied by a completed, signed transmittal form. Copies of the transmittal form shall be available from the Office of Documents and Administrative Issuances. Non-rulemaking documents shall not be submitted with an official transmittal form, but must be accompanied by an informal memorandum or letter which

indicates the agency or other source of the notice, the name of the official authorizing publication, and the address and telephone number of a contact person.

- 307.10 The transmittal form shall include the signature of the official authorized to issue the rules or the official legally designated to attest to the adoption of rules by a quasi-legislative or administrative body composed of more than one person. Signatures not personally executed by the authorized official and signatures of person not legally vested with authority to adopt rules or attest to the adoption of rules by a rulemaking body will not be accepted.
- 307.11 The transmittal form must contain the signature of the Office of the Attorney General or Agency Counsel, designated Assistant Attorney General, or approved agency counsel certifying that the substance of the text of the rule(s) has been reviewed and is, in the opinion of legal counsel, legally sufficient.
- 307.12 Certification of legal sufficiency, by the Office of the Attorney General or Agency General Counsel, must be included with all rulemaking actions. Certification of proposed rules may be conditioned upon review of final rules. If the substance of proposed rules for which final certification has been given is not modified prior to final rulemaking action, the final rules do not require duplicate certification.
- 307.13 Certification of the form and contents of notices of proposed, final, and emergency rulemaking shall be made by the Office of Documents and Administrative Issuances, pursuant to the provisions of §§309 through 311 of this chapter.
- 307.14 The Administrator will not certify and publish rulemaking notices in the *D.C. Register* unless it is clear that the promulgator of the rule or proposed rule named on the transmittal form has legal authority to issue the rules.
- 307.15 The transmittal form shall include a complete citation to the statute or other legal authority for the promulgation of the rules (including the applicable section, subsection, and paragraph), for each of the following:
- (a) The legal authority for the official or entity named in the transmittal form as the promulgator to adopt the rules; and
  - (b) The legal authority for the adoption of the substance of the rules.
- 307.16 In each instance where a document submitted for publication is rejected, pursuant to §305.5 (formatting), the Office of Documents and Administrative Issuances shall issue a notice of rejection which shall indicate the reason(s) for rejection. The notice of rejection shall be issued as soon as possible after review of the document.
- 307.17 An agency may request reconsideration of the rejection of any document for publication in the *D.C. Register* by submitting a written request for reconsideration to the Administrator stating the reasons why the document should be published as submitted. The Office of Documents and Administrative Issuances will respond to each request for reconsideration in writing within two (2) days of the receipt of the request.

307.18 If a rulemaking notice is rejected and subsequently submitted in corrected form, it must be accompanied by a new transmittal form executed in accordance with this section.

**SOURCE:**Final Rulemaking published at 25 DCR 9855, 9865 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4101 (September 18, 1981).

### **308 PRE-PUBLICATION REVIEW OF DOCUMENTS**

308.1 Agencies are encouraged to submit final drafts of rulemaking documents and other documents subject to codification in the *D.C. Municipal Regulations* or publication in the *D.C. Register* to ODAI for pre-publication review in accordance with the provisions of this section.

308.2 The purpose of pre-publication review is to provide agencies with assistance and guidance in the application of the provisions of this chapter to specific documents while the documents are in the “final draft” stage. The review process is not intended to be a substitute for agency preparation of the substance of documents in compliance with the provisions of this chapter; therefore, “rough” drafts and drafts that contain gross errors of grammar, format, and style will not be accepted for review.

308.3 Documents that have been reviewed prior to adoption or approval as proposed rulemaking will generally not require additional review of ODAI prior to certification and publication in the *D.C. Register*. Pre-publication review should also greatly reduce the possibility that a document will be rejected for publication due to lack of compliance with the publication standards set forth in this chapter.

308.4 Documents submitted for pre-publication review should be in the same form as required for submission for publication; however, originals should not be submitted for review. Text that is double or triple-spaced will not be accepted for pre-publication review.

308.5 The pre-publication review process will include examination and recommendations on the following elements:

- (a) Numbering of chapters, sections, and paragraphs;
- (b) Grammar, usage, and other matters of style;
- (c) Format of notices and text;
- (d) Contents of draft notices;
- (e) General readability and organization text; and
- (f) Compliance with the provisions of this chapter.

308.6 Every attempt will be made to complete the review process expeditiously; however, in cases where the drafts are lengthy and complex, agencies should allow at least two (2) weeks for review of final drafts.

308.7 The Administrator may treat a document submitted for publication in the *D.C. Register* that has been rejected under §301.5 as a document submitted for pre-publication review under this section.

**SOURCE:**Final Rulemaking published at 25 DCR 9855, 9868 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4104 (September 18, 1981).

### 309 PROPOSED RULEMAKING NOTICES

309.1 A Proposed Rulemaking that is submitted for publication, including rulemakings that give notice of intent to adopt a new rule, amend an existing rule, or repeal an existing rule, shall be filed in accordance with the provisions of this section, and any other applicable provisions of this chapter.

309.2 The heading of each proposed rulemaking document shall state, in bold upper case print, the name of the agency promulgating the proposed rule and the phrase “**NOTICE OF PROPOSED RULEMAKING.**”

309.3 The text of the proposed rule(s) shall be preceded by a notice that shall contain the following:

- (a) The name of the promulgating official or body authorized to issue rules;
- (b) A citation to the rule(s) amended or repealed or the proposed citation of the new rule(s);
- (c) If the proposed rulemaking is being re-published, pursuant to §310.5, a citation to the previous notice(s) of proposed rulemaking published in the *D.C. Register*;
- (d) A brief description or title of the proposed rule(s); and
- (e) A statement of intent to adopt, amend, or repeal the rule(s) in not less than thirty (30) days from the date notice is published in the *D.C. Register*. A longer notice period may be stated if required by law or adopted by the agency.

309.4 The text of the proposed rule(s) shall be followed by a notice that indicates the following:

- (a) The manner in which public comments will be received, including an email address, telephone number, and other pertinent information;
- (b) The manner in which a copy of the proposed rule(s) may be obtained, upon request, including a requirement for payment of a reasonable fee, if applicable;
- (c) The date that the notice period begins. The date the notice period begins is the date of publication of a proposed rule;

309.5 In the event there are changes to a proposed rulemaking, the rulemaking must be republished in full as a proposed rulemaking for a length of time determined by the Administrator, but in no case shall be fewer than seven (7) days, and shall include the information required in §309.4 (a), (b), and (c).

309.6 Proposed rules that are re-submitted for publication, pursuant to §310.5, shall indicate those portions of the text that have been substantially altered by setting forth the previously published text in brackets [...] and underlining the new text that has been altered; provided, that this requirement shall not apply to a Notice of Proposed Rulemaking that completely supersedes a previously published notice, so long as the rules were never adopted. The new notice shall cite the earlier notice and indicate that it has been superseded.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9869 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4105 (September 18, 1981).

### 310 FINAL RULEMAKING NOTICES

310.1 A Final Rulemaking that is submitted for publication, including rulemakings that give notice of the adoption of a new rule, the amendment of an existing rule, or the repeal of an existing rule, shall be filed in accordance with the provisions of this section, and any other applicable provisions of this chapter.

310.2 The heading of each final rulemaking document shall state, in bold upper case print, the name of the agency promulgating the rule and the phrase “**NOTICE OF FINAL RULEMAKING.**”

310.3 The text of the final rule(s) shall be preceded by a notice that shall contain the following:

- (a) The name of the promulgating official or body authorized to issue rules;
- (b) The date on which the final action was taken;
- (c) A brief description or title of the rule(s);
- (d) A citation to the notice(s) of proposed rulemaking previously published in the *D.C. Register*; and
- (e) The effective date of the final rule(s). If no effective date is stated, it will be presumed that the rule(s) will become effective upon publication of the notice of final rulemaking in the *D.C. Register*.

310.4 The Administrator of ODAI may omit publication of the entire text of a final rulemaking document if the final text is identical to the text published with the notice of proposed rulemaking;

310.5 If the text of a rulemaking document is substantially altered from the text published with the notice of proposed rulemaking, the promulgating agency must re-submit the text as a proposed rule, pursuant to §309. An agency does not have to wait the full notice period before re-filing an altered proposed rule. A new notice period begins upon re-publication.

310.6 For the purposes of this chapter, “substantial alteration” of the text shall not include the following:

- (a) Re-arrangement or renumbering of portions of the text;
- (b) Re-wording to correct errors in format or style;
- (c) Re-wording of the document, including the addition or deletion of material, that serves to clarify the intent, meaning, or application of the rule(s) and that does not substantially change the intent, meaning, or application of the proposed rule(s) or exceed the scope of the rule(s) as published with the notice of proposed rulemaking, as determined by ODAI.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9870 (May 5, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4106 (September 18, 1981).

### **311 EMERGENCY RULEMAKING NOTICES**

- 311.1 A document that is submitted for publication as emergency rulemaking, including any document that purports to adopt a new rule on an emergency basis or amend or repeal an existing rule on an emergency basis, shall be filed in accordance with the provisions of this section, in addition to other applicable provisions of this chapter.
- 311.2 A notice of emergency rulemaking may be combined with a notice of proposed rulemaking. Combined notices must meet the requirements of this section and the requirements of §309.
- 311.3 The heading on each emergency rulemaking document shall state, in bold upper case print, the name of the agency promulgating the rule and the phrase “**NOTICE OF EMERGENCY RULEMAKING.**” A combined notice of emergency and proposed rulemaking shall use the phrase “**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING.**”
- 311.4 The text of the emergency rule(s) shall be preceded by a notice that shall contain the following:
  - (a) The name of the promulgating official or body authorized to issue rules;
  - (b) The date of adoption of the emergency rule(s) and the effective date of the rule(s);
  - (c) A citation to an existing rule that is being amended or repealed or a temporary citation for a new rule;
  - (d) A brief description or title of the rule(s);
  - (e) A statement giving the justification for emergency rulemaking action which clearly explains why the action is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals;
  - (f) The date of expiration of the emergency rule(s); and
  - (g) If the notice is for combined emergency and proposed rulemaking, it shall include the language required by §309.3, and the requirements of §309.4 must

be met by the addition of the proper notice to the end of the text of the emergency and proposed rule(s)

- 311.5 The one hundred twenty (120) day maximum effective period for emergency rules begins on the date of adoption of the rules. A shorter period of effectiveness may be stated in the notice. Emergency rules may take effect on the date of adoption, on the date of publication in the *D.C. Register*, or on another date after adoption.
- 311.6 A combined Notice of Emergency and Proposed Rulemaking shall state that the rule(s) will expire one hundred twenty (120) days after adoption (or a shorter stated period) or upon publication of final rules, whichever occurs first.

**SOURCE:** Final Rulemaking published at 25 DCR 9855, 9871 (May 4, 1979); as amended by Final Rulemaking published at 28 DCR 4091, 4107 (September 18, 1981).

## **312 D.C. MUNICIPAL REGULATIONS: PUBLICATION POLICY**

- 312.1 The incorporation of existing and future documents in the official compilation of the District of Columbia rules and regulations, the *D.C. Municipal Regulations (DCMR)*, shall be governed by the publication policy set forth in this section.
- 312.2 The *DCMR* shall include every regulation enacted by the District of Columbia Council. These documents are generally known as "Council Regulations."
- 312.3 The *DCMR* shall include every act of the elected Council of the District of Columbia which specifically amends or modifies an existing Council Regulation; which is designated by its provisions as a regulation or amendment to the *DCMR*; which is designated by its provisions as an amendment to the *District of Columbia Rules and Regulations (DCRR)*; or which has not been codified or scheduled to be codified in the *District of Columbia Code*. The provisions of this subsection shall not apply to emergency or budget acts of the Council of the District of Columbia.
- 312.4 The *DCMR* shall include every document of general applicability and legal effect that is designated for publication in the *DCMR* by resolution of the Council of the District of Columbia.
- 312.5 *The DCMR* shall include every rule, regulation, or document having general applicability and legal effect which was lawfully adopted by the Board of Commissioners of the District of Columbia; the Commissioner of the District of Columbia; or an authorized agency, board, commission, or official of the District of Columbia prior to the effective date of the Administrative Procedure Act ( D.C. Official Code § 2-501 *et seq.* (2001).
- 312.6 The *DCMR* shall include every rule, regulation, or document having general applicability and legal effect promulgated by the Mayor, Commissioner, or any authorized agency, board, commission, or official of the District of Columbia since October 2, 1969, which has been properly adopted and published in accordance with the provisions of §§6 and 7 of the Administrative Procedure Act.
- 312.7 All rules, regulations, and documents of general applicability and legal effect incorporated in the *DCMR* shall reflect the following:

- (a) All amendments, deletions, and other modifications that have been duly enacted or adopted by the District of Columbia Council;
- (b) The Council of the District of Columbia;
- (c) The Mayor; or
- (d) Any authorized agency, board, commission, or official of the District of Columbia.

**SOURCE:** Final Rulemaking published at 28 DCR 4091, 4108 (September 18, 1981).

### **313 D.C. MUNICIPAL REGULATIONS: STRUCTURE AND FORMAT**

313.1 The major divisions of the *D.C. Municipal Regulations* (DCMR) are titles, each of which brings together broadly related rules and regulations by subject matter categories.

313.2 Titles of the *D.C. Municipal Regulations* are designated by the Office of Documents. Assignment of rules and regulations to the various titles of the *D.C. Municipal Regulations* by the Office of Documents and Administrative Issuances will be based on the structure set forth in §313.3.

313.3 The structure of the *D.C. Municipal Regulations* is the following:

- 1 MAYOR AND EXECUTIVE AGENCIES
- 3 ELECTIONS AND ETHICS
- 4 HUMAN RIGHTS
- 5 BOARD OF EDUCATION
- 6 D.C. PERSONNEL REGULATIONS
- 6A POLICE PERSONNEL
- 7 EMPLOYMENT BENEFITS
- 8 UNIVERSITY OF THE DISTRICT OF COLUMBIA
- 8A DISTRICT OF COLUMBIA LAW SCHOOL
- 9 TAXATION AND ASSESSMENTS
- 10 DISTRICTS COMPREHENSIVE PLAN (PART 1)
- 10A PLANNING AND DEVELOPMENT (PART 2)
- 11 ZONING
- 12 CONSTRUCTION CODES

- 13B BOILER AND PRESSURE VESSEL CODE
  - 14 HOUSING
  - 15 PUBLIC UTILITIES & CABLE TELEVISION
  - 16 CONSUMERS, COMMERCIAL PRACTICES & CIVIL INFRACTIONS
  - 17 BUSINESS, OCCUPATIONS & PROFESSIONALS
  - 18 VEHICLES & TRAFFIC
  - 19 AMUSEMENTS, PARKS & RECREATION
  - 20 ENVIRONMENT – CHAPTERS 1-39
  - 20 ENVIRONMENT – CHAPTERS 40-70
  - 21 WATER & SANITATION
  - 22 PUBLIC HEALTH & MEDICINE  
HEALTH CARE & COMMUNITY RESIDENCE FACILITIES SUPPLEMENT
  - 22A MENTAL HEALTH
  - 23 ALCOHOLIC BEVERAGES
  - 24 PUBLIC SPACE AND SAFETY
  - 25 FOOD AND FOOD OPERATIONS
  - 25A FOOD PROCESSING
  - 26 INSURANCE
  - 26A BANKING
  - 27 CONTRACTS AND PROCUREMENT
  - 28 CORRECTIONS, COURTS & CRIMINAL JUSTICE
  - 29 PUBLIC WELFARE
  - 30 LOTTERY AND CHARITABLE GAMES
  - 31 TAXICABS & PUBLIC VEHICLES FOR HIRE
- 313.4 Subtitles may be assigned by the Office of Documents and Administrative Issuances to group chapters within a title by specific subject matter or agency. Specific chapters grouped within a subtitle may be made available to the public separately by subtitle.

- 313.5 A Title may be divided in two ways. First, if there are large sub-sections of each Title, ODAI may determine that new titles should be formed. Second, in the alternative, ODAI may advise the agency to create **SUBTITLES**. However, if there are many smaller subsections of each title, ODAI may advise the agency to create **CHAPTERS**. Subtitles and Chapters are assigned or approved by ODAI on the basis of subject matter. Each chapter or subtitle shall have a descriptive heading.
- 313.6 The divisions of each chapter are **SECTIONS**. Each section shall consist of a body of rules that covers a specific, closely related segment of the chapter's subject matter. Each section shall have a descriptive heading.
- 313.7 The major divisions of each section are **SUBSECTIONS**. Subsections are the basic units of the *D.C. Municipal Regulations*. Each subsection shall contain a single, specific requirement, provision, or a declarative statement of policy. Generally, subsections consist of one sentence or, occasionally, two (2) or three (3) sentences. Subsections do not have descriptive headings.
- 313.8 Subsections may include **PARAGRAPHS** and **SUBPARAGRAPHS** that set forth lists, examples, or subdivisions of the specific provision set forth in the subsection. Paragraphs and subparagraphs shall not be used in place of separate subsections.
- 313.9 The various divisions of the *DCMR* shall be designated in the following manner:
- (a) **TITLES** - Consecutively in Arabic numerals in accordance with the structure set forth in this section. (1, 2, 3, ...);
  - (b) **SUBTITLES** - Consecutively in uppercase Arabic letters immediately following the DCMR designation (1 DCMR **A**, 6 DCMR **B**, ...);
  - (c) **CHAPTERS** - Consecutively in Arabic numerals throughout each title (100, 200.0, 300.0, ... 3400.0, 35 0.0, ...);
  - (d) **SECTIONS** - Consecutively in Arabic numerals throughout each chapter. (100, 101, 102, ... 3420, 3421, 3422, ...);
  - (e) **SUBSECTIONS** - Consecutively in Arabic numerals throughout each section. (106.1, 106.2, 106.3, ... 106.15, 106.16, ...);
  - (f) **PARAGRAPHS** - Consecutively in lower case Arabic letters set within parenthesis. (106.1(a), 106.1(b), 106.1(c) ...);
  - (g) **SUBPARAGRAPHS** - In outline style, as follows: (1), (2), (3), ... (1)(A), (1)(B), (1)(C), ... (1)(A)(i), (1)(A)(ii), (1)(A)(iii). Subparagraphs are rarely used in the DCMR.
- 313.10 The numbering system of the *DCMR* can be used to identify the types of divisions contained in a citation. For example: 18 DCMR A §235.6(a)(4) is subparagraph (4) of paragraph (a) of subsection 6 of section 35 of chapter 2 of subtitle A of title 18 DCMR.

Comments on this proposed regulation should be submitted, in writing, to Mrs. Andrea Garvey, Director, Office of Documents and Administrative Issuances, 441 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed regulation are available at the above address.

**DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING**

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**NOTICE OF PROPOSED RULEMAKING**

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The Commissioner of the Department of Insurance, Securities and Banking, pursuant to the authority set forth in section 18 of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.18 (2001)), hereby gives notice of his intent to adopt the following amendments to Chapter 1 (Licensure as Insurance Producer) of Title 26 of the District of Columbia Municipal Regulations (“DCMR”), entitled “Insurance,” in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The proposed amendments, if adopted, would establish uniformity between District of Columbia regulations and national standards by, among other actions, establishing categories of limited lines licenses, modifying the term of an initial producer license, and correcting and clarifying various provisions in chapter 1 of Title 26 of the DCMR.

Chapter 1 (Licensure as Insurance Producer) of Title 26 of the DCMR is amended as follows:

Subsection 100.2 is amended to read as follows:

- 100.2 An applicant for a license as a producer may receive qualification in one or more of the following lines of insurance:
- (a) Life;
  - (b) Accident and health or sickness;
  - (c) Property;
  - (d) Casualty;
  - (e) Variable life and variable annuity products;
  - (f) Bail bonds;
  - (g) Surplus lines; and
  - (h) One or more of the following limited lines of insurance:

- (1) Credit;
- (2) Car rental;
- (3) Crop;
- (4) Surety;
- (5) Travel;
- (6) A line of insurance the Commissioner recognizes as a limited line of insurance for the purposes of complying with section 8(e) of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.08(e) (2001)).

Subsection 100.3 is amended by striking the phrase “along with a certificate evidencing completion of the required course of preclicensing education or a certificate evidencing waiver of that requirement,”.

Subsection 100.4 is amended to read as follows:

100.4 An applicant who is a non-resident of the District shall submit a properly completed application and shall hold a valid license, issued by the applicant’s home state, that authorizes the applicant to transact insurance business in the lines of insurance for which application is made.

Subsection 100.5 is amended to read as follows:

100.5 A Business Entity applying for a producer license with major lines of authority shall:

- (a) Have at least one individual affiliated with the Business Entity with the same lines of authority being requested in the application.
- (b) Have an individual producer license for every officer, director, employee, and shareholder who personally engages in selling, soliciting or negotiating policies of insurance

Subsection 100.5(b) is amended by adding the phrase “employee,” after the phrase “director,”.

Subsection 100.6 is renumbered 100.10 and amended to read as follows:

100.10 A person shall not be issued a license in the bail bonds or surplus lines line of insurance unless the person holds, or is simultaneously issued, a license in the property or casualty line of insurance.

New subsections 100.6 through 100.9 are added to read as follows:

- 100.6 A Business Entity applying for a producer license with limited lines authority shall have at least one individual affiliated with the business entity with the same lines of authority being requested in the application.
- 100.7 An employee or representative of a limited lines Business Entity shall be authorized to offer, sell, or solicit limited lines insurance under the authority of the limited lines Business Entity limited lines producer license if all of the following conditions have been satisfied:
- (a) The employee or representative is 18 years of age or older; and
  - (b) The employee or representative has completed a training and education program.
- 100.8 A limited lines Business Entity is responsible for all actions of its employees and representatives relating to the offering, sale or solicitation of limited lines insurance. The conduct of an employee or a representative related to insurance shall be deemed to be the conduct of the Business Entity producer for purposes of this regulation.
- 100.9 Each limited lines Business Entity shall provide a training and education program for each employee or representative prior to allowing such person to offer, sell or solicit limited lines insurance which shall meet the following minimum standards:
- (a) Include instruction about the kinds of insurance specified in the regulation that are offered for sale; and
  - (b) Provide training about the requirements and limitations imposed on limited lines producers and employees.
  - (c) Limited lines car rental training shall include specific instruction on the law which prohibits an employee from making any statement or engaging in any conduct, express or implied, that would lead a consumer to believe:
    - (1) That the purchase of rental car insurance is required in order for the renter to rent a motor vehicle;
    - (2) That the renter does not have insurance policies in place that already provide the coverage being offered by the rental car company; and
    - (3) That the employee/agent is qualified to evaluate the adequacy of the renter's existing coverage as it relates to rental.

Section 101 is repealed.

Section 102 is amended as follows:

The section heading is amended by inserting the phrase “**TERM OF LICENSES;**” before the word “**RENEWAL**”.

Subsection 102.1 is amended to read as follows:

102.1 The terms of licenses and renewal of licenses shall be as follows:

- (a) An initial license issued to an individual after the effective date of the Producer Licensing Amendment Act of 2006 (and the first renewal after the effective date of the Producer Licensing Amendment Act of 2006 of an individual insurance producer license initially issued before the effective date of the Producer Licensing Amendment Act of 2006) shall expire on the calendar day which both: (i) is the last day of the birth month of the producer; and (ii) falls not less than eighteen (18) months, and not more than twenty-nine (29) months, after the effective date of the initial license;
- (b) An initial license issued to a business entity after the effective date of the Producer Licensing Amendment Act of 2006 (and the first renewal after the effective date of the Producer Licensing Amendment Act of 2006 of a business entity insurance producer license initially issued before the effective date of the Producer Licensing Amendment Act of 2006) shall expire on the May 31 which falls not less than eighteen (18) months, and not more than twenty-nine (29) months, after the effective date of the initial license.
- (c) A renewal of an existing license shall expire two (2) years after the expiration date of the initial license; except, the first renewal after the effective date of the Producer Licensing Amendment Act of 2006 of a license initially issued before the effective date of the Producer Licensing Amendment Act of 2006 shall be governed by paragraphs (a) and (b) of this subsection”.

Subsection 102.2 is amended to read as follows:

102.2 An applicant for license renewal shall apply for renewal before the expiration date of the license and shall pay the required renewal fee as provided in section 105 of this chapter.

Subsection 105.1 is amended to read as follows:

105.1 The following fees shall apply to producer initial applications, renewal applications, and reinstatement applications:

- (a) One hundred dollars (\$100) for qualifications in one or more of the following lines of insurance (the “life and health group”) as described in section 8(a) of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.08(a) (2001)):
  - (1) Life;
  - (2) Accident and health or sickness; and
  - (3) Variable life and variable annuity products;
  
- (b) One hundred dollars (\$100) for qualifications in one or more of the following lines of insurance (the “property and casualty group”) as described in section 8(a) of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.08(a) (2001)):
  - (1) Property;
  - (2) Casualty;
  - (3) Personal lines; and
  - (4) Bail bonds;
  
- (c) One hundred dollars (\$100) for qualifications in one or more of the following limited lines of insurance:
  - (1) Credit;
  - (2) Car rental;
  - (3) Crop;
  - (4) Surety;
  - (5) Travel;
  
  - (6) A line of insurance the Commissioner recognizes as a limited line of insurance for the purposes of complying with section 8(e) of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.08(e) (2001)).

- (d) Two hundred dollars (\$200) for qualification as a surplus lines producer;
- (e) The renewal fee is the same as the initial license fee and, if applicable, a late fee is double the initial fee;
- (f) The reinstatement fee of each license is double the initial fee; and
- (g) A processing fee of one hundred dollars (\$100) shall be applied to each application filed in paper form.”

Section 106 is amended as follows:

Subsection 106.1 is amended to read as follows:

- 106.1 Except if a producer is licensed only as a limited lines producer and except as otherwise provided in this section, a producer seeking to renew a license shall certify to the Commissioner that he or she has successfully completed at least twenty-four (24) credit hours of approved continuing education, including at least three (3) credit hours of ethics, within the license period.

Subsections 106.2 through 106.5 and subsections 106.7 through 106.9 are repealed.

New subsections 106.2, 106.3 and 106.4 are added as follows:

- 106.2 A producer seeking to renew a license in both the life and health and property and casualty groups of authority shall complete at least six (6) credit hours for each group.
- 106.3 A producer seeking to renew a license in the property and casualty group shall complete at least four (3) credit hours in flood insurance during the licensee’s first license renewal period after the effective date of this provision that includes at least 120 days.
- 106.4 A producer licensed only as a limited lines producer is not required to complete continuing education.

Subsection 106.10 is amended as follows:

The lead-in text is amended by striking the phrase “sixteen (16)” and inserting the phrase “twenty-four (24)” in its place.

Paragraph (j) is amended by inserting the word “and” after the word “Property”.

Subsection 106.11 is repealed.

Subsection 106.14 is amended to read as follows:

106.14 Licensees and instructors shall not earn credit for attending or instructing a subsequent offering of the same course during the same license period.

Subsection 106.15 is amended to read as follows:

106.15 Excess credit hours accumulated during a license period shall not be carried forward to the next license period.

Subsection 106.16 is repealed.

Subsection 106.18 is amended by adding the sentence “The program of independent study, and the number of credit hours, shall be approved by the Commissioner” at the end.

Subsection 106.19 is amended by striking the word “may” and inserting the word “shall” in its place.

Subsection 106.20 is repealed.

Subsection 106.22 is repealed.

Section 107 is amended as follows:

Subsection 107.1 is amended by striking the phrase “prelicensing or”.

Subsection 107.2 is amended as follows:

The introductory text is amended by striking the phrase “106.4” and inserting the phrase “107.4” in its place.

Paragraph (d) is repealed.

Subsection 107.3(b) is amended to read as follows:

(b) Certify that each instructor:

- (1) Is experienced and qualified for the course being taught; and
- (2) Meets one of the following standards:

- (A) The instructor has been engaged in the insurance business, or has served as an insurance education instructor, for at least three (3) years;
- (B) The instructor has been licensed as a producer for the past five (5) years and has sufficient knowledge of the subject matter that he or she will be teaching;
- (C) The instructor is a member of the bar of any state or the District and is engaged in an area of the law related to insurance; or
- (D) The instructor is a certified public accountant licensed in any state or the District and is engaged in a practice related to insurance.

Subsection 107.4 is amended as follows:

The lead-in text is amended by striking the phrase “prelicensing or”.

Paragraph (a) is amended by striking the phrase “, which” and inserting the word “that” in its place.

Subsection 107.5(c) is amended by inserting the phrase “a producer or” after the word “by”.

Subsection 107.6 is amended to read as follows:

107.6 If the application is in proper form and the applicable requirements of this section are met, the Commissioner shall issue a certificate of approval, which shall contain the effective date and expiration date of the approval.

New subsections 107.7a, 107.7b, and 107.7c are added to read as follows:

107.7a The Commissioner shall approve only courses that impart substantive and procedural knowledge relating to the insurance field. The following courses shall not be approved:

- (a) A prelicensing education course;
- (b) A course designed to prepare a person for a license examination;
- (c) A course in mechanical, office or business skills, including typing, speed reading, or the use of calculators or other machines or equipment;
- (d) A course in sales promotion;

- (e) A course in motivation, salesmanship, stress management, time management, psychology, communication, or writing; or
- (f) A course relating to office management, client relations, or improving the operation of the licensee's business.

107.7b The Commissioner may grant approval for courses approved by the insurance regulatory agency in another state provided the course meets the requirement of subsection 107.7a, or the state accords reciprocity in accordance with the National Association of Insurance Commissioners Continuing Education Reciprocity process.

107.7c The Commissioner shall determine the number of credit hours to be assigned to each course. In general, one credit hour shall be assigned for each fifty (50) minutes of classroom instruction. The number of approved credit hours shall not include time spent on meals, breaks, or other unrelated activities.

Subsection 107.10 is repealed.

Subsection 107.12 is amended as follows:

Insert the phrase "sponsor or" after the word "The".

Strike the phrase "prelicensing or".

Subsection 107.13 is amended as follows:

Strike the word "may" and insert the phrase "or director shall".

Strike the phrase "A sponsor shall" and insert the phrase "A sponsor or director shall".

Subsection 107.14 is amended by amending the lead-in text as follows:

Advertising shall not be deceptive or misleading. Upon written request by a sponsor or director, the Commissioner shall grant permission to the sponsor or director to use the term "approval pending" if the:

Subsection 107.15 is amended to read as follows:

107.15 Sponsors and directors shall provide that fees for courses are reasonable and clearly identified in any advertisement for the course. If a course is cancelled for any reason, the sponsor or director shall refund all fees within thirty (30) days of the cancellation, or, at the request of the license holder, shall transfer the fee to another course offered by the sponsor or director. A sponsor or director shall have a refund policy that addresses a license holder's cancellation or failure to complete a course.

Section 108 is amended as follows:

Subsection 108.1 is amended by adding the phrase “or section 107” after the word “section”.

Subsection 108.3 is amended as follows:

Paragraph (a) is amended by inserting the phrase “or section 107” after the word “section”.

Subsection (e) is amended by striking the phrase “For continuing education programs only, the failure” and inserting the word “Failure” in its place.

Subsection 108.5 is amended by striking the phrase “or impose monetary penalties not to exceed \$1,000 for the first violation and \$2,000 for each succeeding violation”.

A new subsection 108.5a is added to read as follows:

108.5a In addition to suspending or revoking approval, or placing a program on probation, the Commissioner may impose monetary penalties not to exceed \$1,000 for the first violation and \$2,000 for each succeeding violation.

Subsection 108.6 is amended by inserting the phrase “(5)” after the word “five”.

A new section 199 is added to read as follows:

## **199 DEFINITIONS**

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed:

**Birth month** – The month of the calendar year in which an individual insurance producer, or an applicant for licensure as an individual insurance producer, was born.

**Car rental limited line insurance** – Insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars for a period of up to sixty (60) days, whether at the rental office or by pre-selection of coverage in master, corporate, group, or individual agreements that:

- (a) Is non-transferable;
- (b) Applies only to the rental car that is the subject of the rental agreement; and
- (c) Is limited to the following kinds of insurance:

- (1) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs during the rental period;
- (2) Liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
- (3) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period;
- (4) Roadside assistance and emergency sickness protection insurance;  
or
- (5) Any other coverage designated by the Commissioner.

**Credit limited line insurance** – Credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the Commissioner as limited line credit insurance.

**Crop limited line insurance** – Insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

**Home state** – The District of Columbia or any state or territory of the United States in which an insurance producer: (1) Maintains his or her principal place of residence or principal place of business; and (2) Is licensed as a resident insurance producer.

**License period** – The period of time starting on, and including, the day on which an insurance producer license becomes effective and ending on, and including, the day on which the license expires absent renewal. For the purposes of this definition, a license that is renewed becomes effective on the date the renewal is effective.

**Surety limited line insurance** – Insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. For the purposes of limited line licensing, surety limited line insurance does not include surety bail bonds.

**Travel limited line insurance** – Insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

Persons desiring to comment on these proposed rules should submit comments in writing to Mrs. Leslie E. Johnson, Hearing Officer, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Copies of the proposed rules may be obtained from the Department at the address stated above.

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

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 1061, IN THE MATTER OF THE APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY FOR A CERTIFICATE OF AUTHORITY  
AUTHORIZING IT TO ISSUE DEBT SECURITIES AND PREFERRED STOCK

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to D.C. Official Code §§ 2-505, 34-502 and 34-503, that it intends, in not less than seven (7) days from the date of publication of this Notice in the *D.C. Register* (“publication date”), to take final action on the Amended Application for Authority to Issue Debt Securities and Preferred Stock (“Amended Application”) filed by Washington Gas Light Company (“WGL” or “Company”) on November 4, 2008.<sup>1</sup>

2. On June 13, 2008, WGL filed its original Application seeking authority to issue and sell one or more series of debt securities or preferred stock in an aggregate amount not to exceed \$356.5 million during the three-year period beginning October 1, 2008 and ending September 30, 2011.<sup>2</sup> WGL made the filing under the Commission’s expedited review process outlined in 15 DCMR § 3500, *et seq.* A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 27, 2008.<sup>3</sup> No comments were filed. Thus, in accordance with Chapter 35, the Application was deemed approved as of August 6, 2008.<sup>4</sup>

3. By its Amended Application, WGL seeks to amend certain information provided in its original Application. The Company submits that it needs flexibility in determining the effective cost of long-term debt securities and proposes a credit spread of 700 basis points above the most comparable maturity U.S. Treasury securities, excluding underwriters' compensation and other expenses, as compared to the 300 basis point credit spread stated in the original Application. WGL makes clear that the \$356.5 million financing amount previously authorized by the Commission will

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<sup>1</sup> *Formal Case No. 1061, In the Matter of the Application of Washington Gas Light Company for a Certificate of Authority Authorizing it to Issue Debt Securities and Preferred Stock* (“F.C. 1061”); Washington Gas Light’s Motion to Amend the Application for Authority to Issue Debt Securities and Preferred Stock, filed November 4, 2008 (“Amended Application”). The Commission will treat WGL’s Motion as an Amended Application for Authority to Issue Debt Securities and Preferred Stock to be expedited under the rules in 15 DCMR § 3500, *et seq.*

<sup>2</sup> F.C. 1061, Washington Gas Light Company’s Application for Authority to Issue Debt Securities and Preferred Stock, filed June 13, 2008 (“WGL’s Application”).

<sup>3</sup> 55 *D.C. Reg.* 7119-7120 (June 27, 2008).

<sup>4</sup> 15 D.C.M.R. § 3501.9 (2000), states in pertinent part that “[i]f no objection to the application is filed...then the issuance of stock or evidence of indebtedness is deemed approved.”

remain unchanged; the purpose of this filing being to obtain authorization to raise the basis point credit spread.<sup>5</sup>

4. WGL stated in the original Application that "[t]he effective cost will be no more than 300 basis points above the most comparable maturity U.S. Treasury securities, excluding underwriters' compensation and other expenses."<sup>6</sup> The Company submits in its Amended Application that: (1) market indications in May 2008 were that the 300 basis points estimate would be more than sufficient to estimate the incremental cost of long term debt; (2) as recently as August the Company received estimates of a credit spread of 200 basis points over ten-year treasuries; (3) since the onset of the credit market crisis, the credit spread above comparable maturity U.S. Treasury securities has increased dramatically, and credit spreads have been much higher and more volatile; and (4) recent issuances of ten-year senior notes from high credit quality companies (A3/A- or above) have included credit spreads in the range of 362.5 to 487.5 basis points.<sup>7</sup>

5. WGL claims that it is likely that the Company will pay a "liquidity" premium in order to attract investors; that investors add a liquidity premium to the credit spreads of smaller issues because it is likely that they will have to hold these medium term notes ("MTN") until maturity, since it is difficult to trade the notes. The Company is forecasting the need to issue up to \$50 million of MTNs in the November/December time period, possibly as early as November 20, in order to maintain adequate liquidity during the peak period of the heating season financing requirements. Therefore, the Company asks that the Commission recognize the impact of recent changes in financial markets on the incremental cost of capital, and allow the Company to issue MTNs at the then current market-determined rate. WGL believes that a spread of 700 basis points would be a sufficiently high estimate today, but cannot forecast changes in financial markets that might have an adverse impact on credit spreads between now and an MTN issuance.<sup>8</sup>

6. In accordance with Section 3504 of the Commission's rules, the Commission may, for good cause, waive any rule under Chapter 35.<sup>9</sup> Similarly, under D.C. Code § 2-505(a), an agency may shorten a comment period to less than 30 days for good cause.<sup>10</sup> Under the

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<sup>5</sup> *Id.* at 1-2.

<sup>6</sup> WGL's Application at 4.

<sup>7</sup> WGL's Amended Application at 2.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> 15 DCMR § 3504 provides that "[t]he Commission may for good cause, waive any rule under Chapter 35 unless the rule contains a provision that is expressly required by statute."

<sup>10</sup> This section of the District of Columbia Administrative Procedure Act provides in pertinent part that "[t]he publication or service required by this subsection of any notice shall be made not less than 30 days prior to the effective date of the proposed adoption ..., except as otherwise provided by the Mayor or the agency upon good cause found and published with the notice."

unusual and extraordinary circumstances set forth in WGL's Amended Application pertaining to: (1) the current credit market crisis; (2) the recent dramatic increase and volatility in the credit spread above comparable U.S. Treasury securities; (3) the constraints on the Company's liquidity and financing requirements during the peak of the heating season; and (4) the need to issue securities in the November/December time period, the Commission finds it necessary, proper and expedient to waive the normal operation of the Chapter 35 rules concerning the expedited review process for WGL's Amended Application. The Commission makes this extraordinary exception to its rules in this case due to the unique circumstances as set forth herein. The Commission also finds under these circumstances good cause to shorten the period for comments to be filed to seven (7) days from the publication date of this Notice, and to dispense with the filing of reply comments. The Commission will then act on the Amended Application immediately thereafter.

7. WGL's Amended Application and supporting documentation are on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday or may be viewed on the Commission's website at [www.dcpssc.org](http://www.dcpssc.org). Copies of the Amended Application are available, upon request, at a per-page reproduction fee.

8. Any person desiring to comment on the Amended Application may submit written comments no later than seven (7) days from the publication of this Notice in the *D.C. Register* to Dorothy Wideman, Commission Secretary, at the above address. Due to the expedited nature of this matter, no reply comments will be permitted. Once the comment period expires, the Commission will take final rulemaking action on WGL's Amended Application.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176) and amended by the Public Education Reform Amendment Act of 2007, (D.C. Law 17-9), D.C. Official Code § 38-2602(b)(11)) (2008 Supp), hereby gives notice of her intent to adopt this proposed rulemaking to amend Chapter 16 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed amendments to Section 1601, entitled “Professional Education Requirements,” establish credentials that will be required of candidates seeking to qualify for a position as a teacher in the District of Columbia Public Schools system. The amendment to Section 1601 also provides the State Superintendent with discretion to develop an Advanced Teaching Credential which would require a candidate to demonstrate effectiveness to maintain the Credential and continue teaching in a District of Columbia Public School. The effectiveness measure is not being implemented at this time and will continue to be developed with input based upon expert research. A proposed regulation will be published for public comment prior to final adoption of a regulation.

Corresponding to the amendments being proposed for Section 5-1601, the State Superintendent of Education is also proposing revisions to Section 5-1687, entitled “License Denial, Suspension or Revocation,” to substitute the title “State Superintendent of Education” for “Superintendent” found throughout this Section with regard to the process and procedures related to license denial, suspension, or revocation under this chapter. Additionally, sections and subsection within Title 5 that are superseded by these amendments are deleted.

**Section 1601 of Title 5 of the DCMR is amended to read as follows:****5-1601 TEACHING CREDENTIAL**

- 1601.1 An individual must have a license known as a Teaching Credential to serve as a teacher in the District of Columbia Public Schools for the subjects enumerated in this chapter. For any subjects not covered in this chapter, a substitute teaching credential must be obtained.
- 1601.2 The Office of the State Superintendent of Education (OSSE) shall issue a Teaching Credential in accordance with the provisions of this section.
- 1601.3 Regular I Teaching Credential. To qualify for a Regular I Teaching Credential, the candidate must:

- (a) Have earned a bachelor's degree from an accredited institution of higher education;
- (b) Be enrolled in a preparation program in the District of Columbia for practicing teachers approved by the OSSE, or in a program approved by another state and recognized by the OSSE in accordance with subsection 1601.8 of this chapter;
- (c) Have successfully completed the Praxis I examination, or other nationally recognized test as may be designated by the State Superintendent of Education, with a qualifying score determined by the State Superintendent of Education or met an equivalency score determined by the State Superintendent of Education on the SAT, ACT, or Graduate Record Examination (GRE);
- (d) Have successfully completed the Praxis II Content examination, or other nationally recognized test as may be designated by the State Superintendent of Education, with a qualifying score determined by the State Superintendent of Education, in the content area in which the candidate will practice; and
- (e) Be employed by a local education agency in the District of Columbia.

1601.4 Regular I Teaching Credential Upgrade. Candidates who hold a Regular I Teaching Credential shall receive an upgrade to a two-year Regular II Teaching Credential if the candidate successfully completes a state-approved preparation program for practicing teachers in which he or she was enrolled and where applicable, the Praxis II, Pedagogy examination, or other nationally recognized test as may be designated by the State Superintendent of Education, with a qualifying score determined by the State Superintendent of Education.

1601.5 Regular II Teaching Credential. To qualify for a Regular II Teaching Credential, a candidate must:

- (a) Have earned a bachelor's degree from an accredited institution of higher education;
- (b) Have successfully completed a preparation program for teachers approved by the OSSE in accordance with subsection 1601.10 of this chapter or by another state and recognized by the OSSE;
- (c) Have successfully completed the Praxis I, Pre Professional Skills Test or other nationally recognized test as may be designated by

the State Superintendent of Education, with a qualifying score determined by the State Superintendent of Education or met an equivalency score determined by the State Superintendent of Education on the SAT, ACT or GRE; and

- (d) Have where applicable, successfully completed the appropriate Praxis II Content and Pedagogy examinations, or other nationally recognized test as may be designated by the State Superintendent of Education, with a qualifying score determined by the State Superintendent of Education.

1601.6 Transitional Teaching Credential. At the written request of a local education agency (LEA) located in the District of Columbia, the State Superintendent of Education may issue a one-year non-renewable Transitional Teaching Credential to a candidate if the candidate was never employed as a teacher by the District of Columbia Public Schools and has earned a bachelor's degree from an accredited institution of higher education and either the candidate's academic major qualifies the individual to teach in the content area in which the teacher shall practice, or the candidate completed a state-approved teacher preparation program. This Transitional Teaching Credential also includes qualifying candidates who hold a valid teaching license from another state or jurisdiction within the United States of America, and have not taken the examinations required for a Regular II Teaching Credential.

1601.7 The terms and renewal requirements for the Regular I and Regular II teaching credentials shall be as follows:

- (a) The term of the Regular I Teaching Credential shall be two calendar years from the date of issuance, unless a shorter term is prescribed by the State Superintendent of Education. The Regular I Teaching Credential is not renewable.
- (b) The term of the Regular II Teaching Credential shall be four calendar years from the date of issuance, and in the case of a Regular II Teaching Credential upgraded from a Regular I Teaching Credential, in accordance with the requirements of subsection 1601.4, for a term of two calendar years, unless a shorter term is prescribed by the State Superintendent of Education,
- (c) The Regular II Teaching Credential is renewable upon completion of six semester hours of coursework from an accredited institution of higher education; or 90 clock hours documenting professional development activities; or a combination thereof, one semester

hour being equivalent to 15 clock hours, that contribute to performance and effectiveness as a teacher.,

- (d) The Regular II License will become non renewable upon development and promulgation of final regulations for an Advanced Teaching Credential described in subsection 1601.9.

1601.8 All Teaching Credentials current as of the effective date of final adoption of this regulation shall remain in effect until the expiration date for each license.

1601.9. The Advanced Teaching Credential. The State Superintendent of Education shall consider the development and promulgation of further regulations creating a new Advanced Teaching Credential that would require a candidate to demonstrate effectiveness to continue teaching in a District of Columbia Public School. Any effectiveness regulation will be developed using expert research and will be proposed and published for public comment prior to any final adoption.

1601.10 Substitute Teaching Credential. Applicants must have completed a Bachelor's degree at an accredited institution of higher education to qualify for a substitute teaching credential. The substitute teaching credential is valid for two years from the date of issuance.

1601.11 The State Superintendent of Education shall develop policies or directives setting forth objective and verifiable standards for the approval, renewal, and revocation of approval by the OSSE of teacher preparation and practicing teacher programs in the District of Columbia that qualify candidates to earn a Regular Teaching Credential pursuant to subsections 1601.3, 1601.4 or 1601.5 of this chapter and for purposes of interstate reciprocity.

- (a) Only programs sponsored by an accredited institution of higher education, a non-profit organization, or LEA may be considered for approval pursuant to this subsection by the OSSE.
- (b) Any approval granted by the OSSE pursuant to this subsection, shall specify the objective and verifiable standards that must be successfully completed to qualify a candidate for the Regular Teaching Credential pursuant to subsections 1601.3, 1601.4 or 1601.5 of this chapter.
- (c) Any such programs in existence as of the date of the final approval of this regulation, shall maintain their qualified status pursuant to this subsection, for the duration of the term of their current approval as a qualified program. Programs approved by other

states and recognized by the OSSE may also qualify candidates to earn a Regular II Teaching Credential.

- (d) Each application for the approval of a teacher preparation or practicing teacher program located in the District of Columbia under this Section shall at a minimum include industry recognized standards in child development, classroom management, and content knowledge.

1601.12 Each candidate for a Teaching Credential shall be required to undergo a criminal history record check prior to receiving the Credential, and may be required to submit to additional checks for purposes of renewing or continuing to hold the credential.

- (a) The State Superintendent of Education shall develop policies or directives setting forth objective and verifiable criteria for the review of such records in accordance with appropriate law.
- (b) Only criminal convictions and pending charges shall be taken into account with regard to criminal background information in determining whether or not an individual is qualified to hold the credential.

1601.13 To receive an endorsement in individual subject matter areas enumerated in Sections 1602 through Section 1665 of this chapter, a candidate must have a valid Regular II credential, successfully completed Praxis II Pedagogy examination, where applicable, or other nationally recognized tests, as designated by the State Superintendent of Education and one of the following:

- (a) Successful completion of the Praxis II Content exam; or
- (b) Meet the requirements for the subject matter area in Sections 1602 through Section 1665 of this chapter; or
- (c) Successful completion of an academic major or major equivalent of thirty semester hours of course work from an accredited institution of higher education in a given subject matter.
- (d) This section shall not apply to licenses requiring advanced degrees in Sections 1634; 1656; 1657; 1658; 1659; 1660; 1662; and Section 1663 of this chapter.

1601.14 Each application for a credential submitted to the OSSE for processing under Chapter 16 shall be accompanied by a fee established by the State Superintendent of Education.

- (a) The State Superintendent of Education shall determine the amount of revenue that shall be required to administer the teacher credentialing process, and shall establish an application processing fee in the amount deemed necessary for such purposes;
- (b) All revenue collected by the State Superintendent of Education under this subsection for the processing of Credentials shall be deposited in the Office of the State Superintendent of Education "Academic Certification and Testing Fund," which shall be separate from the Local Operating Funds of the District of Columbia. This State Fund does not revert to the General Fund Balance of the District of Columbia at the end of any fiscal year or at any other time, and is continually available for the uses and purposes set forth in this Chapter, subject to Congressional authorization.
- (c) All revenue collected by the OSSE under this subsection for the processing of a Teaching Credential shall be continuously available for the uses and purposes directly related to credentialing activities, including, but not limited to:
  - (1) Travel;
  - (2) Professional training;
  - (3) Meetings;
  - (4) Stipends;
  - (5) Honorariums;
  - (6) Professional organization membership dues;
  - (7) Day-to-day office operational needs;
  - (8) Salaries of individuals who perform, manage, monitor or oversee the processing of credentials; and
  - (9) The maintenance of credentialing program records.
- (d) Fees shall be payable to the Office of the State Superintendent by money order, certified check, cashiers check or electronic payment.
- (e) Teacher Credentialing Fee Schedule:

(1)	Initial Certification	\$ 50.00
(2)	Duplicate Certificates	\$ 20.00
(3)	Renewal Certification	\$ 50.00
(4)	Substitute Certification	\$ 50.00

- 1601.15 Interstate Agreement on Qualification of Educational Personnel. At the direction of the State Superintendent of Education, periodic reviews shall be conducted to determine whether any state has established teacher preparation standards that are at least comparable and equivalent to teacher preparation standards in the District of Columbia;
- (a) When the State Superintendent of Education determines that the teacher preparation standards established by any state are at least comparable and equivalent to teacher preparation standards in the District of Columbia, the State Superintendent of Education shall initiate negotiations with that state to provide reciprocity in teacher or educator credentialing;
  - (b) The State Superintendent of Education shall award a credential to any applicant who holds or qualifies for an equivalent credential awarded by a state that has established a reciprocity agreement with the District of Columbia pursuant to subsection (a);
  - (c) The State Superintendent of Education shall grant an appropriate credential to any applicant from another state that has completed teacher preparation that is at least comparable and equivalent to preparation that meets teacher preparation standards in the District of Columbia, as determined by the OSSE, if both of the following circumstances exist:
    - (1) A reciprocity agreement with the other states is pending completion, or the other state has declined to enter into a reciprocity agreement with the District of Columbia;
    - (2) The applicant has met the requirements of the District of Columbia for obtaining a certificate of eligibility in accordance with this Section; and
  - (d) No reciprocity agreement establishment pursuant to subsection 1601.14 (b) shall exempt an out-of-state applicant from being required to submit to, and or comply with a background or criminal history record check, in conjunction with obtaining a license under this chapter.

1601.16 The procedures for entering and executing "Interstate Agreements" shall be established by the State Superintendent of Education, or his or her designee.

**Section 1687 of Title 5 of the DCMR is amended to read as follows:**

**5-1687 LICENSE DENIAL, SUSPENSION OR REVOCATION**

1687.1 A license issued pursuant to this chapter may be denied, or suspended for a period determined by the State Superintendent of Education or revoked by the State Superintendent of Education if the license holder has:

- (a) Fraudulently or deceptively obtained, or attempted to obtain the license;
- (b) Pled guilty or nolo contendere with respect to, or received probation before judgment with respect to, or been convicted of one of the following crimes or been held liable in a private cause of action based upon the following:
  - (1) Murder;
  - (2) Child abuse;
  - (3) Rape;
  - (4) A sexual offense involving a minor or non-consenting adult;
  - (5) Child pornography;
  - (6) Kidnapping or abduction of a child;
  - (7) Illegal possession, use, sale, or distribution of controlled substances;
  - (8) Illegal possession or use of weapons; or
  - (9) A felony involving moral turpitude to be defined as one characterized by behavior or acts that gravely violate moral sentiments or accepted moral standards of this community and are of a morally culpable quality;
- (c) Knowingly failed to report suspected child abuse or neglect, as required by District of Columbia Official Code Section 4-1321.02;

or

- (c) Had his or her application for a license denied, suspended or revoked in this or another jurisdiction within the last five (5) years for a cause which would be grounds for denial, suspension, or revocation under Section 1687.1.

1687.2 The following reporting procedures shall govern this chapter with regard to conduct in Section 1687.1.

- (a) The following individuals shall notify the State Superintendent in writing in the event a person with a current license issued under this chapter or applicant for a license under this chapter falls within the terms of Section 1687.1 above:

- (1) The Certificate applicant or person with a current Certificate; and
- (2) The Administrator of the school or an official of the District of Columbia Public School system if the conduct occurs during current employment or during a background check;

- (b) The written report shall include the following information:

- (1) Name and current or last know address of the person being reported;
- (2) Type of Certification(s) held by the person or applied for; and
- (3) Specific grounds set forth in Section 1687.1 to support denial, suspension, revocation.

1687.3 Before denying, suspending, or revoking a license, including without limitation for reasons set forth in Section 1687.1, the State Superintendent of Education or his or her designee shall:

- A. Send the potential or current license holder a written notification of the intent to deny, suspend or revoke his or her license, specifying the basis for intended action;
- B. Advise the potential or current license holder of the right to a hearing and advise further that:

1. The decision shall not become final until the conclusion of hearing, unless otherwise provided by law; and a request for a hearing is filed within ten (10) days of the receipt of a written copy of circumstances in Section 1687.1 affecting the applicant or current license holder;
  2. Absent the timely filing of a request for a hearing, the decision shall become final on the eleventh (11th) day after receipt of a written copy of charges against the potential or current license holder; and
  3. Advise the applicant or current license holder that, the burden of proof shall rest upon:
    - (A) The State Superintendent of Education to sustain a decision to suspend or revoke a license;
    - (B) The applicant in order to reverse a decision to deny a license; and
    - (C) That in all cases the standard of proof shall be a preponderance of the evidence.
- 1687.3 The State Superintendent of Education or his or her designee shall notify all other states of denial, suspension, and revocation decisions as part of the interstate certification data exchange.
- 1687.4 If the decision of denial, suspension, or revocation is based on Section 1687.1 (b), and if the decision subsequently is overturned in an appeal or other post decision proceeding, an applicant may re-apply for a license, and a license suspension or revocation shall end on the date a conviction or plea of guilty is overturned.
- 1687.5 A license which has been suspended under this chapter shall be automatically reinstated at the end of a suspension period; provided, that the license has not expired during the period of suspension.
- 1687.6. If a license expired during the period of suspension, a person may reapply and shall be required to meet the license requirements in effect at the time the application is submitted for a new license.

**The following Sections and Sub-sections of Title V of the DCMR are hereby deleted in their entirety:**

**Section 5-1001**

**Sub-Sections 5-1002.1, 5-1002.2, and 5-1002.3**

**Section 5-1003**

**Section 5-1308**

**Section 5-1310**

**Section 5-1311**

Persons wishing to comment on these proposed rules should submit their comments in writing to Ms. Erika Lomax, the Office of the State Superintendent of Education, 51 N Street, NE, Room 3019, Washington, D.C., 20002, Attn: Ms. Erika Lomax. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the DC Register. Copies of this proposed rule may be obtained by writing to the above address, or by calling the Office of the State Superintendent of Education at (202) 727-6436.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Section 3(b)(11) of the District of Columbia State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§38-2602 (b) (11) and 38-2609 (2008 Supp.), and Article II, Sections 1 and 4 of an Act to provide compulsory education and school attendance, and for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§38-202 through 205) (2001), hereby gives notice of its intent to amend Title 5, Chapter 21, Section 2103 of the *District of Columbia Municipal Regulations* (DCMR), entitled "Attendance and Transfers" in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Amendments to Section 2103 were first published for comment on September 26, 2008, at 55 *D.C. Register* 10025. The State Board of Education also held a public hearing on the proposed truancy regulations on October 1, 2008. This proposal is being published for public comment a second time with several revisions. The proposal has taken in to account comments received from the public and includes further refinements developed in collaboration with the Deputy Mayor's Office, the District of Columbia Public Schools, Child and Family Services Administration, Office of the Attorney General, the District of Columbia Public Charter School Board, and Court Social Services, Superior Court of the District of Columbia.

The purpose of the amendment is to develop a state standard and protocol to address a student's absence from the District of Columbia Public Schools and public charter schools, referred to collectively as Local Education Agencies ("LEAs").

This amendment requires LEAs to implement procedures for school based interventions developed in collaboration with parents, referrals to community based services or other agencies, including Child and Family Services Administration, Court Social Services, or the Office of the Attorney General, Juvenile Division, to address root causes for and reduce truant behavior, maximize student school attendance, and enhance a student's academic progress.

Both the first proposal and this proposal reflect the work of a District of Columbia Truancy Task Force, including among others, members of the public at large, representatives from the Office of the Deputy Mayor for Education, District of Columbia Public Charter School Board, educational advocates, staff from the District of Columbia Public Schools, the District of Columbia Child and Family Services Agency, other District of Columbia agencies, District of Columbia court officials, the Criminal Justice Coordinating Council and the Metropolitan Police Department.

The State Board of Education and the State Superintendent of Education recognize that a truancy prevention program should have a robust assessment capacity with a range of responses that are both preventive and intervening. Finally, this proposal seeks to

facilitate the ability of the State Superintendent of Education to collect accurate data in accordance with Federal and District of Columbia reporting requirements.

**Title 5 DCMR, Chapter 21, Section 2103 is amended to read as follows:**

**2103            Truancy**

2103.1            Each school-age child who resides in the District of Columbia is required to attend a public, independent, private, or parochial school or otherwise receive a thorough and regular education through private instruction pursuant to rules established by the Office of the State Superintendent of Education.

2103.2            Each LEA shall develop and implement in each of its schools a specific protocol for absenteeism that focuses on prevention of unexcused absences, also referred to as truancy, including academic and behavioral interventions to address the needs of students and shall include without limitation the following:

- (a)            A description of valid absences consistent with this chapter;
- (b)            A process for informing, training, and educating school staff, students, parents, guardians, and the community of the LEAs with regard to enhancing school attendance; implementing truancy reduction methods; administering attendance policy and procedures; and related collaborative services;
- (c)            Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:
  - (1)            A procedure requiring personal contact(s) with the parent or guardian of a student, each time a student has the equivalent of one (1) day of unexcused absence and defining the reasonable timeframe in which this contact must be made;
  - (2)            A continuum of school practices and services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism and consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists;
  - (3)            A referral process whereby within two (2) school days after a student has accumulated five (5) or more unexcused absences in one marking period or other similar time frame, the student shall be referred to a school-based student

support team which will meet within two days of the referral and regularly thereafter to:

- (A) Review and address the student's attendance and related issues;
- (B) Communicate and/or collaborate with the parents or guardian;
- (C) Provide timely response to the student's truant behavior;
- (D) Make recommendations for academic, diagnostic, or social work services;
- (E) Use school and community resources to abate the student's truancy including, without limitation, referral to a community-based organization when available; and
- (F) Develop an attendance intervention plan in consultation with the student's parents or guardian.

(4) In the event a student accumulates ten (10) unexcused absences at any time during a school year, the school-based student support team assigned to the student must notify the school administrator within two (2) days of the tenth (10th) unexcused absence with a plan for immediate intervention including, without limitation, delivery of community based programs and any other assistance or services to identify and address the student's needs on an emergency basis; and

(5) A process at the LEA, including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the LEA or an individual school within an LEA.

2103. 3 Each LEA shall maintain records and report in a format consistent with data reporting requirements specified by the Office of the State Superintendent of Education;

2103. 4 Each LEA shall develop a referral process for students to District of Columbia entities outside the LEA under the following circumstances:

- (a) Students between the ages of five (5) and thirteen (13) shall be referred by the LEA to the Child and Family Services Agency (CFSA) no later than two (2) school days after the accrual of ten

(10) consecutive unexcused absences and/or completion of the procedures specified in Section 2103.2 above, or immediately at any time that education neglect is suspected;

(b) Students between the ages of five (5) and thirteen (13) shall be referred by the LEA to the Child and Family Services Agency (CFSA) no later than two (2) school days after the accrual of twenty (20) unexcused absences within one school year and completion of the intervention process or immediately at any time education neglect is suspected; and

(c) Students over the age of thirteen (13) shall be referred by the LEA to the Court Social Services, Superior Court of the District of Columbia, and the Office of the Attorney General (OAG) Juvenile Section no later than two (2) school days after the accrual of twenty five (25) or more unexcused absences at any time within one school year.

2103.5 Copies of the following documents shall be provided with a referral made pursuant to this chapter:

(a) The student's attendance and absence record;

(b) Any prevention and intervention plans, documentation related to referrals and outcome of such referrals, and all documentation representing evidence of communications, services, and attendance related interventions taken by the school; documentation of suspected educational neglect; personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences; and,

(c) If applicable, the student's Individualized Education Program with any supporting evaluations or assessments.

2103.6 Written notification of any referral made pursuant to this Section shall be provided to a parent or guardian at the time a referral is made.

2103.7 The standards for school attendance may identify a specific number of excessive or unexcused absences allowed within a marking period, semester, or school year, provided that reporting is consistent with applicable laws and regulations.

2103.8 The Office of the State Superintendent shall develop reporting procedures as appropriate to assist educational institutions and private instructors with compliance with reporting requirements under applicable federal and District of Columbia laws.

**Title 5 DCMR, Chapter 21, Section 2199 is amended to read as follows:****2199 Definitions**

**“Educational Neglect”** means the failure of a parent or guardian to ensure that a child attends school consistent with the requirements of the law including, without limitation, the failure to enroll a school-age child in an educational institution or provide appropriate private instruction; permitting habitual absenteeism from school; inattention to special education needs; refusal to allow or failure to obtain recommended remedial education services; or the failure to obtain treatment or other special education services without reasonable cause.

**“Local Education Agency or LEA”** means an educational institution at the local level that exists primarily to operate schools or to contract for educational services, including the District of Columbia Public Schools (DCPS) and each individually chartered public charter school.

**“Truant”** means a school-age child who is absent without a valid excuse as defined in this chapter for a school day or portion of it.

**“School-based student support team”** means a team formed to support the individual student by developing and implementing action plans and strategies that are school-based or community-based depending on the availability to enhance the student’s success with services, incentives, intervention strategies, and consequences for dealing with absenteeism.

**“School-age child”** means a child who is five (5) years old or older by September 30 of a current school year but who has not yet reached his or her eighteenth (18th) birthday.

Persons wishing to comment on these proposed rules should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4<sup>th</sup> Street, NW, Room 350N, Washington, D.C. 20001, Attn: Kristin Yochum. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the *DC Register*. The proposed rulemaking amendment and related information may also be obtained on the Office of the State Superintendent website at [osse.dc.gov](http://osse.dc.gov); or by contacting the Office of the State Superintendent of Education in writing or calling (202) 727-6436.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

NOTICE OF PROPOSED RULEMAKING

APPLICATION NO. 17907

The Board of Zoning Adjustment of the District of Columbia, pursuant to the authority set forth in section 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 286, D.C. Official Code § 6-1306), and the Zoning Regulations of the District of Columbia, hereby gives notice of its intention to approve, or in the alternative, disapprove, Application No. 17907, of **The Embassy of Spain** to permit a chancery annex use (Spanish Cultural Center) in the R-5-D District at premises 2801 16<sup>th</sup> Street, N.W. (Square 2577, Lot 821).

Final action on this application will be taken in not less than thirty days from the date of publication of this notice.

Written comments may be submitted to the Board of Zoning Adjustment through Jerrily Kress, FAIA, Director of the Office of Zoning, at 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this notice are available from the Office of Zoning. For further information, call the Office of Zoning at (202) 727-6311.