DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 10 of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48, D.C. Official Code § 44-509(e)(1)), Mayor's Order 98-137, dated August 20, 1998, section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code § 2-1801.04), Mayor's Order 2006-61, dated June 14, 2006, and Reorganization Plan No. 4 of 1996, hereby gives notice of the intention to adopt the following amendments to Chapter 36 (Civil Infractions) of Title 16 of the District of Columbia Municipal Regulations (DCMR). The amendments prescribe civil infraction fines for violations of regulations governing the licensing and operating standards of nursing facilities.

Chapter 36 (Civil Infractions) of Title 16 DCMR is amended by repealing the current section 3607 in its entirety, and replacing it with a new section 3607 to read as follows:

3607 LICENSING OF NURSING FACILITIES

3607.1 Violation of any of the following provisions shall be a Class 1 infraction:

(a) 22 DCMR 3200.1 (failure to comply with requirements concerning a provision in the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 or failure to comply with requirements concerning a provision in the federal regulations on nursing facilities);

(b) 22 DCMR 3203.1 (operating a nursing facility without a license);

(c) 22 DCMR 3216 (failure to comply with requirements concerning residents' rights to Freedom From Restraints);

(d) 22 DCMR 3236.4 (failure to have hot water automatically controlled; failure to maintain water temperature between 95ºF and 110ºF).

3607.2 Violation of any of the following provisions shall be a Class 2 infraction:

(a) 22 DCMR 3207 (failure to comply with requirements concerning Physician Services and Medical Supervision of Residents);

(b) 22 DCMR 3208 (failure to comply with requirements concerning Nursing Services);

(c) 22 DCMR 3209 (failure to comply with requirements concerning Nursing Services Supervision);

(d) 22 DCMR 3210 (failure to comply with requirements concerning Licensed Nursing Coverage);

(e) 22 DCMR 3211 (failure to comply with requirements concerning Nursing Personnel);

(f) 22 DCMR 3212 (failure to comply with requirements concerning Temporary Nursing Personnel);

(g) 22 DCMR 3213 (failure to comply with requirements concerning Restorative Nursing Care);

(h) 22 DCMR 3215 (failure to comply with requirements concerning Ventilator Care Services);

(i) 22 DCMR 3222 (failure to comply with requirements concerning Immunizations);

(j) 22 DCMR 3223 (failure to comply with requirements concerning Rehabilitative Care);

(k) 22 DCMR 3224 (failure to comply with requirements concerning Supervision of Pharmaceutical Services);

(l) 22 DCMR 3225 (failure to comply with requirements concerning Physician Orders for Medications);

(m) 22 DCMR 3226 (failure to comply with requirements concerning Administration of Medications);

(n) 22 DCMR 3227 (failure to comply with requirements concerning Labeling and Storage of Medication);

(o) 22 DCMR 3232 (failure to comply with requirements concerning Incident Reporting); or

(p) 22 DCMR 3235 (failure to comply with requirements concerning Electrical Systems).

3607.3 Violation of any of the following provisions shall be a Class 3 infraction:

(a) 22 DCMR 3201 (failure to comply with requirements concerning Administrative Management);

(b) 22 DCMR 3202 (failure to comply with requirements concerning Personnel Policies);

(c) 22 DCMR 3203 (failure to comply with requirements concerning Licenses and Administrative Records), except 22 DCMR 3203.1;

(d) 22 DCMR 3205 (failure to comply with requirements concerning Insurance Coverage);

(e) 22 DCMR 3206 (failure to comply with requirements concerning Resident Care Policies);

(f) 22 DCMR 3214 (failure to comply with requirements concerning In-Service Education for Nursing Personnel);

(g) 22 DCMR 3217 (failure to comply with requirements concerning Infection Control);

(h) 22 DCMR 3218 (failure to comply with requirements concerning Dietary Supervision);

(i) 22 DCMR 3219 (failure to comply with requirements concerning Dietary Services);

(j) 22 DCMR 3220 (failure to comply with requirements concerning General Dietary Requirements);

(k) 22 DCMR 3221 (failure to comply with requirements concerning Dietary Management and Records);

(l) 22 DCMR 3228 (failure to comply with requirements concerning Podiatry Services);

(m) 22 DCMR 3229 (failure to comply with requirements concerning Social Services);

(n) 22 DCMR 3230 (failure to comply with requirements concerning Resident Activities);

(o) 22 DCMR 3231 (failure to comply with requirements concerning Medical Records);

(p) 22 DCMR 3233 (failure to comply with requirements concerning Grievances);

(q) 22 DCMR 3234 (failure to comply with requirements concerning Environmental Requirements);

(r) 22 DCMR 3236 (failure to comply with requirements concerning Water Supply and Distribution), except 3236.4;

(s) 22 DCMR 3237 (failure to comply with requirements concerning Sewage and Solid Waste Disposal);

(t) 22 DCMR 3238 (failure to comply with requirements concerning Heating and Cooling);

(u) 22 DCMR 3239 (failure to comply with requirements concerning Ventilation and Exhaust);

(v) 22 DCMR 3240 (failure to comply with requirements concerning Acoustical Insulation and Noise Reduction);

(w) 22 DCMR 3241 (failure to comply with requirements concerning Elevators);

(x) 22 DCMR 3242 (failure to comply with requirements concerning Walls, Ceilings, Floors, and Finishes);

(y) 22 DCMR 3243 (failure to comply with requirements concerning Ramps, Stairs, and Corridors);

(z) 22 DCMR 3244 (failure to comply with requirements concerning Outdoor Space);

(aa) 22 DCMR 3245 (failure to comply with requirements concerning Nursing Unit Design);

(bb) 22 DCMR 3246 (failure to comply with requirements concerning Resident Bedrooms);

(cc) 22 DCMR 3247 (failure to comply with requirements concerning Resident Toilets and Bathrooms);

(dd) 22 DCMR 3248 (failure to comply with requirements concerning Refreshment Stations);

(ee) 22 DCMR 3249 (failure to comply with requirements concerning Resident Recreation and Social Areas);

(ff) 22 DCMR 3250 (failure to comply with requirements concerning Food Service Areas);

(gg) 22 DCMR 3251 (failure to comply with requirements concerning Therapy Service Areas);

(hh) 22 DCMR 3252 (failure to comply with requirements concerning resident service areas other than recreation, food and therapy service areas);

(ii) 22 DCMR 3253 (failure to comply with requirements concerning Public and Staff Facilities);

(jj) 22 DCMR 3254 (failure to comply with requirements concerning Laundry Areas);

(kk) 22 DCMR 3255 (failure to comply with requirements concerning Housekeeping and Maintenance);

(ll) 22 DCMR 3256 (failure to comply with requirements concerning Housekeeping and Maintenance Services);

(mm) 22 DCMR 3257 (failure to comply with requirements concerning Pest Control);

(nn) 22 DCMR 3258 (failure to comply with requirements concerning General Safety and Inspection);

(oo) 22 DCMR 3259 (failure to comply with requirements concerning Fire and Emergency Preparedness);

(pp) 22 DCMR 3264 (failure to comply with requirements concerning Physical Structure and Construction); or

(qq) 22 DCMR 3265 (failure to comply with requirements concerning Wheelchair Access and Handicapped Access).

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rule may be obtained from the Department at the same address during the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY PRACTICES

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code and the Clean and Affordable Energy Act of 2008,[1] of its intent to adopt the following amendments to Chapter 29 of Title 15 DCMR. This chapter governs the District of Columbia's Renewable Energy Portfolio Standard. The amendments change compliance requirements, generator certification, and definitions. The Commission gives notice of it intent to take final rulemaking action not less than thirty (30) days after publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

CHAPTER 29 RENEWABLE ENERGY PORTFOLIO STANDARD

2901 RPS COMPLIANCE REQUIREMENTS

2901.1 An Electricity Supplier shall meet the Renewable Energy Portfolio Standard requirement by obtaining Renewable Energy Credits ("REC") that equal the annual percentage requirement for electricity sold at retail or by paying the specified compliance fee. An Electricity Supplier shall not apply any surplus Renewable Energy Credits derived from voluntary purchases of energy from qualified renewable sources toward its mandatory compliance requirements.

(a) An electricity supplier shall meet the solar requirement by obtaining the equivalent amount of renewable energy credits from solar energy systems interconnected to the distribution grid serving the District of Columbia. Only after an electricity supplier exhausts all opportunity to meet this requirement that the solar energy systems be connected to the grid within the District of Columbia, can that supplier obtain renewable energy credits from jurisdictions outside the District of Columbia.

2901.9 The Compliance Fee shall be:

(a) $50 ~~$25~~ for each Renewable Energy Credit shortfall for Tier One resources;

[1] Clean and Affordable Energy Act of 2008, D.C. Law 17-250.

(b) $10 for each Renewable Energy Credit shortfall for Tier Two resources; and

(c) $300 for each Renewable Energy Credit shortfall for Solar Energy resources in 2008 and $500 for each Renewable Energy Credit shortfall for Solar Energy resources in 2009 until 2018.

2902 GENERATOR CERTIFICATION

2902.6 In addition to the information required in § 2902.5, an applicant submitting a Regular Application must also attach:

(a) A current Certificate of Good Standing for the applicant issued by the state in which the business was formed;

(b) A copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860, if the rated capacity is greater than 1.0 MW;

(c) A Certificate of Authorization to Conduct Business in the District of Columbia, if applicable;

(d) An Affidavit of General Compliance;

(e) Documentation of authority to sign on behalf of the Applicant; ~~and~~

(f) An Affidavit of Environmental Compliance from the state where the facility is located;

(g) Documentation that nonresidential solar heating, cooling, or process heat property systems, as well as residential solar thermal systems, are certified by the Solar Rating and Certification Corporation (SRCC), if applicable;

(h) Documentation that the energy output of the nonresidential solar heating, cooling, or process heat property systems producing or displacing greater than 10,000 kilowatt hours per year is determined by an on-site energy meter that meets performance standards established by the International Organization of Legal Metrology (OIML), if applicable;

(i) Documentation that the energy output of the nonresidential solar heating, cooling, or process heat property systems producing or displacing 10,000 or less kilowatt-hours per year is determined by the SRCC OG-300 annual system performance rating protocol

applicable to the property, by the SRCC OG-100 solar collector rating protocol, or by an on-site energy meter that meets performance standards established by OIML, if applicable; and

(j) Documentation that the residential solar thermal system energy output is determined by the SRCC OG-300 annual rating protocol or by an on-site energy meter that meets performance standards established by OIML, if applicable.

2902.7 In addition to the information required in § 2902.5, an applicant submitting a Streamlined Application must also attach: ~~an Affidavit of General Compliance and an Affidavit of Environmental Compliance.~~

(a) An Affidavit of General Compliance;

(b) An Affidavit of Environmental Compliance, if the rated capacity is greater than 10 kW;

(c) Documentation that nonresidential solar heating, cooling, or process heat property systems, as well as residential solar thermal systems, are certified by the SRCC, if applicable;

(d) Documentation that the energy output of the nonresidential solar heating, cooling, or process heat property systems producing or displacing greater than 10,000 kilowatt hours per year is determined by an on-site energy meter that meets performance standards established by the OIML, if applicable;

(e) Documentation that the energy output of the nonresidential solar heating, cooling, or process heat property systems producing or displacing 10,000 or less kilowatt-hours per year is determined by the SRCC OG-300 annual system performance rating protocol applicable to the property, by the SRCC OG-100 solar collector rating protocol, or by an on-site energy meter that meets performance standards established by OIML, if applicable; and

(f) Documentation that the residential solar thermal system energy output is determined by the SRCC OG-300 annual rating protocol or by an on-site energy meter that meets performance standards established by OIML, if applicable.

2999 DEFINITIONS

"Solar energy" means radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy, that is collected, generated, or stored for use at a later time.

2. Comments on the proposed amendments to Chapter 29 must be made in writing to Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., Suite 200, West Tower, Washington, D.C. 20005. Copies of the NOPR may be obtained, at cost, by writing the Commission Secretary at the above address or on the Commission's website at www.dcpsc.org. All comments must be received within thirty (30) days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than forty-five (45) days after the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Sections 2-505 (a) and 34-1518 of the District of Columbia Official Code, of its intent to adopt the following amendments to Chapter 9 of Title 15 of the District of Columbia Municipal Regulations ("DCMR"), not less than thirty (30) days after publication of this notice in the *D.C. Register*. The proposed rules amend the provisions governing net energy metering in the District of Columbia to comport with the "Clean and Affordable Energy Act of 2008"[1] and the implementation of the Commission's Interconnection Rules.[2]

Proposed Amendment: The present Chapter 9 is repealed in its entirety and is substituted by the following Chapter 9.

CHAPTER 9 NET ENERGY METERING

900 GENERAL PROVISIONS

900.1 The purpose of this chapter is to set forth the policies and procedures for implementation of the net energy metering provisions of the "Retail Electric Competition and Consumer Protection Act of 1999," as amended**,** and the Clean and Affordable Energy Act of 2008.

900.2 This chapter establishes the Public Service Commission of the District of Columbia Rules and Regulations Governing Net Energy Metering, including eligibility for participating net energy metering, a bill crediting mechanism, net energy billing requirements for participants, net metering-related equipment requirements, a standard contract requirement, and safety and performance standards. This chapter shall be cited as the "District of Columbia Net Energy Metering Rules".

900.3 The provisions of this chapter are promulgated pursuant to the authority set forth in Section 34-1518 of the D.C. Official Code.

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[1] The Clean and Affordable Energy Emergency Act of 2008 ("The CAEA") was enacted October 1, 2008. *See D.C Act 17-508.* The permanent version of the CAEA of 2008 became law on October 22, 2008. *See D.C Law 17-250.*

[2] *Formal Case No. 1050, In the Matter of the Investigation of Implementation of Interconnection Standards in the District of Columbia* ("*F.C. 1050*")*, 56 D.C. Reg.* 001415-001486 (2009).

901 ELIGIBLE CUSTOMER-GENERATORS

901.1 Eligible customer-generators utilizing renewable resources, cogeneration, fuel cells, or microturbines may elect and shall be afforded the opportunity to participate in net energy metering. An eligible customer-generator's facility shall meet all applicable safety and performance standards established by the National Electrical Code ("NEC"), National Electrical Safety Code ("NESC"), the Institute of Electrical and Electronics Engineers ("IEEE"), Underwriters Laboratories ("UL") and any other relevant standards specified by the Commission.

901.2 A customer that has elected net energy billing may obtain generation service from any Competitive Electricity Supplier that agrees to provide service on a net energy basis. If the customer obtains generation service from the Standard Offer Service ("SOS") Provider, the SOS Provider shall provide such service on a net energy basis.

902 NET ENERGY BILLING AND CREDITING

902.1 This section governs the billing practices applicable to participating net energy billing customers during a billing period.

902.2 If the customer's kWh usage exceeds the electricity generated by the customer's net metering facility during the billing period, the customer-generator will be billed for the net energy supplied at the Full Retail Rate for electricity service. In no event shall transmission or distribution related usage charges be applied to the kilowatt-hours generated by the customer's net metering facility.

902.3 For a customer-generator with an electric generating facility that has a capacity of not more than 100 kilowatts, if the electricity generated during the billing period by the customer-generator's facility exceeds the customer-generator's kWh usage during the billing period (excess generation), the customer-generator's next bill will be credited for the excess generation at the Full Retail Rate applicable during the billing period in which the excess generation occurred. If the full credit for excess generation is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.

902.4 For a customer-generator with an electric generating facility that has a capacity of more than 100 kilowatts, if the electricity generated during the billing period by the customer-generator's facility exceeds the customer's kWh usage during the billing period (excess generation), the customer-generator's next bill will be credited for the excess generation at the generation rate applicable during the billing period in which the excess generation occurred. If the full credit for excess generation is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.

902.5 Net energy billing applies only to kilowatt-hour usage charges. Net energy billing customers are responsible for all other charges applicable to the customer's rate class and recovered through fixed amounts or over units other than kilowatt-hours, including customer, demand and/or minimum charges, as applicable.

903 NET METERING-RELATED EQUIPMENT

903.1 The metering equipment installed for net energy metering shall be capable of measuring the flow of electricity in two directions.

903.2 Nothing in this section shall prohibit the Electric Company from installing additional meters to separately record electricity supplied to an eligible customer-generator from the electric grid and the electricity generated and supplied to the electric grid by the eligible customer-generator. However, no customer-generator that elects to be billed on a net energy basis shall be charged directly for the cost of the additional meters or other necessary equipment.

904 STANDARD CONTRACT

904.1 The Electric Company shall develop a standard contract, which shall be subject to the review and approval of the Commission. Such standard contract shall be consistent with the provisions of this chapter, as well as with the Energy Policy Act of 2005 and the Commission's NOFR in Formal Case No. 1050, published in the D.C. Register on February 13, 2009. [3]

905 WAIVER

905.1 Upon request of any person subject to this chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this chapter that is not required by statue or inconsistent with the purposes of this chapter.

999 DEFINITIONS

When used in this chapter; the following terms and phrases shall have the following meaning:

"Capacity" means the maximum output, expressed in kilowatts, of an electric generator under specific conditions designated by the manufacturer, as indicated on a nameplate physically attached to the generator.

"Commission" means the Public Service Commission of the District

[3] Energy Policy Act of 2005, Pub.L. 109-58, 119 Stat. 594 (2005); *F.C. 1050, 56 D.C. Reg.* 001415-001487 (2009).

of Columbia.

"Competitive Electricity Supplier" means a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale or retail customers: The term excludes the following: (A) Building owners, lessees, or managers who manage the internal distribution. system serving such building and who supply electricity solely to occupants of the building for use by the occupants; (B)(1) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or (2) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, or who does not: (a) Take title to the electricity; (b) Market electric services to the individually-metered tenants of his or her building; or (c) Engage in the resale of electric service to others; (C) Property owners who supply small amounts of power, at cost, as accommodation to lessors or licensees of the property; and (D) A consolidator.

"Customer-generator" means a residential or commercial customer that owns (or leases) and operates an electric generating facility that: (a) has a capacity of not more than 1000 kilowatts; (b) uses renewable resources, cogeneration, fuel cells, or microturbines; (c) is located on the customer's premises; (d) is interconnected with the Electric Company's transmission and distribution facilities; and (e) is intended primarily to offset all or part of the customer's own electricity requirements.

"Electric Company" means the company that provides distribution service.

"Eligible customer-generator" means a customer-generator whose net energy metering system for renewable resources, cogeneration, fuel cells, and microturbines meets all applicable safety and performance standards.

"Full Retail Rate" means the generation, transmission and distribution per kilowatt-hour usage charges applicable to the net energy billing customer during the billing period.

“Generation rate” means the kilowatt-hour usage charge associated with the SOS generation service that is applicable to the customer-generator.

"Net energy metering" means the difference between the kilowatt-hours consumed by a customer-generator and the kilowatt-hours generated by the customer-generator's facility over any time period determined as if measured by a single meter capable of registering the flow of electricity in two directions.

"Net energy billing" means a billing and metering practice under which a customer-generator is billed on the basis of net energy over the billing

period.

"Standard Offer Service Provider" means a provider of standard offer service chosen pursuant to Chapter 29 of the Commission's rules.

2. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit written comments and reply comments not later than thirty (30) and forty-five (45) days respectively, after publication of this notice in the *D.C. Register* with Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., 2nd Floor West Tower, Washington, D.C. 20005. Copies of the proposed rules may be obtained, at cost, by writing the Commission Secretary at the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Acting Director of the District of Columbia Department of Transportation, pursuant to the authority of section 3(b) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.02(b)); sections 103(a)(1) and 107(b) of the Urban Forest Preservation Act of 2002 (UFPA), effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code §§ 8-651.03(a)(1) and 8-651.07(b)); and Mayor's Order 2003-173 (December 1, 2003), hereby gives notice of the intent to take final rulemaking action to adopt the following amendments to Chapter 37 of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR). New section 3706 establishes an income-contingent program to assist District residents with the removal of hazardous Special Trees (*i.e.*, hazardous trees that have a minimum circumference of fifty-five inches (55 in.)).

Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register,* but not until the Council adopts a resolution approving these rules, as required by section 103(b) of the UFPA (D.C. Official Code § 8-651.03(b)).

Chapter 37 (Special Trees) of Title 24 DCMR is amended as follows:

Adding a new section 3706 to read as follows:

3706 INCOME CONTINGENT PROGRAM FOR HAZARDOUS TREE REMOVAL

3706.1 The owner of a single-family dwelling in the District of Columbia that receives a homestead deduction on the single-family dwelling from the District of Columbia Office of Tax and Revenue may apply to the Department on an application provided by the Department for assistance with the removal of a hazardous tree on the owner's private property on which the single-family dwelling is located or on the public parking area abutting the owner's private property.

3706.2 To be eligible for hazardous tree removal assistance, the owner must meet the income eligibility requirements of, and provide evidence of enrollment in, an income-contingent District government assistance program.

3706.3 Within thirty (30) calendar days of the Department's receipt of a complete application submitted by the owner pursuant to § 3706.1, an Urban Forestry Administration arborist, with the consent of the owner, shall inspect the tree to determine whether the tree is a hazardous tree.

3706.4 If, during the inspection, the Urban Forestry Administration arborist determines that the tree is not a hazardous tree, the Department shall notify the owner within fifteen (15) calendar days of the inspection explaining the determination.

3706.5 If the Urban Forestry Administration arborist determines that the tree is a hazardous tree, the Urban Forestry Administration may remove any or all of the hazardous tree, at the sole discretion of the Urban Forestry Administration. Removal of any or all of the hazardous tree shall be completed with one-hundred twenty (120) calendar days of the date of the inspection. Removal of any or all of the hazardous tree shall be completed by the Urban Forestry Administration within thirty (30) calendar days notice of removal to the owner.

3706.6 The Department shall not be responsible for the removal of any part of the hazardous tree that cannot be safely accessed by tree removal equipment or personnel in the sole discretion of the Urban Forestry Administration. The Department shall not be responsible for removing any hazardous tree debris from the owner's private property or the abutting public parking when the hazardous tree debris cannot be safely removed in the sole discretion of the Urban Forestry Administration.

3706.7 The owner agrees to hold harmless the District of Columbia and its officers, employees, and agents of the District for any loss or damage to persons or property arising out of or in any way related to the Department's activities contemplated under this section.

3706.8 Funding in a fiscal year from the Tree Fund for the income-contingent program for hazardous tree removal shall be predicated on the availability of funds in the Tree Fund, and shall be limited to fifteen percent (15%) of the ending balance of the Tree Fund from the prior fiscal year.

3706.9 When used in this section, the following terms and phrases shall have the meanings ascribed below:

Department – the District Department of Transportation.

Fiscal Year – a twelve (12) month period beginning on October 1 and ending on the following September 30.

Owner – the owner of a single-family dwelling in the District of Columbia who receives a homestead deduction on the single-family dwelling from the District of Columbia Office of Tax and Revenue.

Single-Family Dwelling – a structure housing one family or household

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in

the *D.C. Register*, with John Thomas, Associate Director, Urban Forestry Administration, District Department of Transportation, 2217 14th Street, N.W., 3rd Floor, Washington, D.C. 20009. Comments may also be sent electronically to publicspace.committee@dc.gov. Copies of this proposal are available, at cost, by writing to the above address, and also are available electronically, at no cost, on the District Department of Transportation's web site at www.ddot.dc.gov.

DEPARTMENT OF YOUTH REHABILITATION SERVICES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Youth Rehabilitation Services, pursuant to Mayor's Reorganization Plan No. 3 of 1986, and in accordance with the section 108(h)(3) of the Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.08(h)(3)), hereby gives notice of the intent to amend sections 1200 through 1211 of Chapter 12 (Community Placement of Juvenile Offenders) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), and to add a new section 1299 to add definitions. The Director also gives notice of the intent to take final rulemaking action to adopt this amendment in no less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The purpose of these amendments is to make changes to the process for reviewing and, if necessary, modifying and/or rescinding a youth's community placement status. These amendments clarify how to initiate the community status review process, the manner in which Community Status Review Hearings are conducted, and the procedure for appealing a decision. These amendments incorporate the phrase "community status review" rather than "revocation" because it better reflects that the objective of a hearing is to review the youth's community placement and that removal from a placement is not automatic.

Sections 1200 through 1211 of Title 29 DCMR are amended to read as follows:

1200 GENERAL PROVISIONS

1200.1 The Department of Youth Rehabilitation Services (DYRS), shall administer community service programs for delinquents and persons-in-need-of-supervision (PINS) who are committed to the legal custody of DYRS by the D.C. Superior Court.

1200.2 The provisions of this chapter applies to the supervision and treatment of youth in community placements including: group homes, therapeutic group homes, the youth's own home, a foster home, or similar community placement.

1200.3 DYRS retains jurisdiction over the community placement status of youth committed to the agency's custody until one (1) of the following occurs:

(a) The commitment is terminated by DYRS;

(b) The commitment expires; or

(c) The Court terminates its jurisdiction.

1200.4 DYRS shall have sole discretion to make specific placement decisions for youth committed to its custody. In the Matter of J.M.W., 411 A.2d 345 (D.C. 1980) and In Re P.S., 821 A.2d 905 (D.C. 2003).

1200.5 The community placement program shall be an alternative to a secure facility. The program consists of placing youth in the least restrictive environment consistent with public safety while being closely supervised by trained DYRS staff.

1200.6 Not all youth will benefit from a community placement, and a certain number will commit additional offenses or breaches of their Community Release Agreement that warrant a thorough review of their community status.

1200.7 This chapter establishes a review process to determine whether a youth has violated a Community Release Agreement and, if so, whether continued community placement best services the youth's needs and public safety.

1200.8 DYRS shall follow the procedures set forth in this chapter when reviewing a youth's community placement.

1200.9 This chapter sets forth the process for:

(a) Reviewing the status of youth in community placement; and

(b) Determining whether to place a youth in a secure facility or another more restrictive placement; or

(c) Permitting the youth to remain in the community under conditions articulated in a revised Community Release Agreement.

1200.10 A youth and/or guardian who is non-English speaking, deaf, or because of a hearing or other communications impediment cannot readily understand or communicate the spoken English language may apply to the agency for the appointment of a qualified interpreter.

1200.11 The agency's decision whether to appoint or not appoint a qualified interpreter does not provide the youth or guardian any rights or remedies not otherwise available by law.

1201 COMMUNITY RELEASE AGREEMENTS

1201.1 Department of Youth Rehabilitation Services (DYRS) shall place youth in a community status after a determination that he or she will benefit most

from the least restrictive environment consistent with public safety, and with D.C. Official Code § 2-1515.01 *et seq*., and § 16-2301.02.

1201.3 Each youth shall adhere to the specific terms of Community Release Agreements. The terms include, but are not limited to, the following:

(a) Attending school regularly;

(b) Meeting curfews;

(c) Refraining from the illegal use of controlled substances;

(d) Complying with all federal, state and local laws, rules and regulations; and

(e) Abiding by all court orders and directives of DYRS case management staff.

1201.4 The DYRS Case Worker shall thoroughly explain the terms of the agreement with the youth and the youth shall sign the Community Release Agreement as a condition of DYRS placing the youth in the community.

1201.5 The Case Worker shall make reasonable efforts to discuss the agreement with the youth's family and/or counsel of record.

1201.6 Counsel of record or alternate counsel may sign the Community Release Agreement after consultation with the youth if the guardian is unavailable. Counsel shall not be called as a witness against the youth if the youth is later alleged to have violated the agreement.

1201.7 Where the youth's community placement is a private residence, the DYRS Case Worker shall thoroughly explain the terms of the agreement with the youth and his or her guardian.

1201.8 The youth and a guardian shall sign the Community Release Agreement as a condition of DYRS placing the youth in a private residence.

1201.9 DYRS shall not place a youth in a private residence unless both the youth and a guardian sign the agreement.

1201.10 The youth shall sign a Community Release Agreement when the level of restrictiveness is lowered.

1201.11 Failure to comply with terms of the Community Release Agreement may result in the youth being placed in an alternative community placement and/or youth's community placement being rescinded.

1202 RESCISSION OF COMMUNITY PLACEMENT STATUS

1202.1 DYRS shall hold youth, who have entered into a Community Release Agreement, accountable for behavior contrary to public safety or the terms of the Community Release Agreement.

1202.2 DYRS shall initiate a review of the youth's community placement status within three (3) business days and shall convene a Community Status Review Hearing when:

(a) DYRS becomes aware that a committed youth has been arrested for the commission, attempted commission, or conspiracy to commit a dangerous crime, as defined in D.C. Official Code § 23-1331(3); or

(b) DYRS becomes aware that a committed youth has been arrested for the commission, attempted commission, or conspiracy to commit a crime of violence, as defined in D.C. Official Code § 23-1331(4).

1202.3 DYRS shall initiate a review of the youth's community status within three (3) business days and may convene a Community Status Review Hearing if:

(a) DYRS becomes aware that a youth has violated two or more terms of their Community Release Agreement;

(b) DYRS becomes aware that a youth has violated a term of their Community Release Agreement at least twice;

(c) DYRS becomes aware that a youth has unjustifiably absconded from the placement specified in the Community Release Agreement; or

(d) DYRS Case Worker determines, based upon on a complete evaluation of the youth's performance under the Community Release Agreement, that he or she should initiate the Community Status Review process.

1203 COMMUNITY STATUS REVIEW

1203.1 The DYRS Case Worker responsible for the youth who is arrested and charged with any criminal offense, including those cited in subsection 1202.2, or whose violations of the Community Release Agreement, as set out in subsection 1202.3, are considered serious after consultation with the appropriate DYRS Case Worker Supervisor, shall process the documentation for a Community Status Review Hearing within three (3) business days of notification of the arrest or latest violation.

1203.2 During the three (3) business days mentioned in subsection 1203.1, the DYRS Case Worker shall complete all documentation, including a recommendation for the Community Status Review Hearing, and meet with the appropriate supervisor.

1203.3 The DYRS Case Worker Supervisor shall review services provided to the Youth and the basis for the Case Worker's recommendation.

1203.4 The DYRS Case Worker Supervisor, after his or her review, may recommend:

(a) The DYRS Case Worker implement additional services;

(b) A Youth Family Team Meeting; or

(c) The youth's status be reviewed at a Community Status Review Hearing.

1203.5 The DYRS Case Worker Supervisor shall send the documentation to the Case Management Division Program Manager explaining the decision to convene a Community Status Review Hearing within one (1) business day of the DYRS Case Worker completing the documentation and meeting with the appropriate supervisor. The DYRS Case Worker shall place the documentation in the youth's case file.

1203.6 The DYRS Case Worker Supervisor shall transmit all of the documentation to the Case Management Division Program Manager. This documentation shall detail the circumstances of the arrest, charges, or violations of the Community Release Agreement including:

(a) The date and time of the offense(s) or violation(s);

(b) The report of the arresting officer, if applicable;

(c) The nature and seriousness of the charge(s), arrest or violation(s);

(d) The progress of the youth in community placement before the offense or violation took place;

(e) A copy of the Community Release Agreement with required signatures; and

(f) The Case Worker's effort to identify and secure additional or

alternative services that might be provided to the child in the community.

1203.7 If a police report is provided, it shall also be included in the transmitted documentation. If a police report was not written, the documentation shall indicate the source of the information on which the Case Worker is relying.

1203.8 All documentation shall be delivered to the Case Management Division Program Manager. No more than four (4) business days should pass between the time DYRS is informed of the charge or violation and transmitting the documentation to the Case Management Division Program Manager.

1203.9 Unless there is substantial harm or prejudice to the youth, a failure of DYRS to meet any of the timelines established herein shall not be the sole reason affecting the decision or ability to conduct a community status review.

1204 EMERGENCY REMOVALS

1204.1 The following procedures shall apply to Emergency Removals Without Youth's Consent:

(a) The DYRS Case Worker shall remove the youth from his or her placement, and place the youth in a secure DYRS facility, emergency shelter, in-patient drug treatment or appropriate medical or mental health facility when a youth in a community placement presents a clear and present danger to himself, herself or others, and requires immediate removal from a non-secure placement.

(b) The DYRS Case Worker shall request a custody order from the court for the youth so that the Metropolitan Police Department ("MPD") has the authority to take the youth into custody if the youth is unwilling to be removed by the Case Worker.

(c) The Case Worker shall provide the Chief of Committed Services with a summary of the basis for the youth's removal.

(d) The Chief of Committed Services shall make a probable cause determination based on the Case Worker's documentation within one (1) business day of the youth being removed.

(e) The Community Status Review Hearing shall convene within five (5) calendar days of a youth's emergency removal if the Chief of

Committed Services determines that there is probable cause to securely hold the youth. If the fifth calendar day is a Sunday or legal holiday, the hearing shall convene the next business day.

(f) DYRS shall return the youth to his or her community placement if the Chief of Committed Services determines that there is no probable cause to securely hold the youth.

(g) The Case Worker may request a Community Status Review Hearing in accordance with subsection 1202.3, in cases where there is a no probable cause determination.

(h) DYRS shall provide notice of the Community Status Review Hearing to the youth and counsel of record, or if counsel of record is unavailable, then alternate counsel, in any manner reasonably calculated to put the receiving party on notice.

(i) DYRS shall make all reasonable efforts to provide notice to the guardian(s).

(j) Notice may include, but is not limited to, actual notice, notice left on answering machine, electronic mail, facsimile, or notice hand-delivered to the office of the counsel of record, or alternate counsel and to the guardian's home in addition to the forms of notice in subsection 1207.4.

(k) DYRS shall make a note in the youth's case file, and signed by the individual who provided the notice, if the notice is made via telephone, electronic mail or facsimile.

(l) DYRS shall notify the Office of the Attorney General, Juvenile Section of the emergency removal and the date and time of the hearing.

(m) DYRS may continue the hearing for up to an additional five (5) business days if the counsel of record and alternate counsel is unavailable at the date and time that DYRS schedules the hearing.

1204.2 The following procedures shall apply to Emergency Removals with the Youth's Consent:

(a) If a youth in a community placement presents a clear and present danger to him/herself or others and requires immediate removal from a non-secure placement, or pending a hearing or transfer to a new placement, DYRS may remove the youth to another placement upon the youth's written consent after having the

opportunity to consult with counsel of record, or alternate counsel, if counsel is unavailable.

(b) If a youth in a community placement is admitted to an in-patient drug, medical, mental health facility or similar in-patient facility for treatment, the Community Program Specialist, the youth, and guardian or counsel of record, or if the youth's counsel is unavailable, alternate counsel, may agree to waive a Community Status Review Hearing.

(c) The Case Worker shall place the consent form, waiving the right to have a hearing and signed by the youth or youth's counsel, in the youth's case file.

(d) Upon discharge from the facility, the youth shall return to the placement she or he enjoyed immediately prior to the treatment or to a facility with the same or lower level of restrictiveness. In these instances, a youth's community placement is not revoked.

1205 RECOMMENDATION OF CASE MANAGEMENT DIVISION PROGRAM MANAGER

1205.1 A Case Management Division Program Manager or designee shall review the request for Community Status Review Hearing and accompanying documents, and make an independent decision regarding the need for a hearing.

1205.2 If the Case Management Division Program Manager concurs with the basis for convening a Community Status Review Hearing, he or she may recommend to the Chief of Committed Services that there is a sufficient basis to schedule a Community Status Review Hearing.

1205.3 If the Case Management Division Program Manager disagrees with the basis for initiating the Community Status Review Hearing, she or he may use discretion to request that the Case Worker convene a Youth/Family Team meeting or make referrals for the youth for alternative community services.

1205.4 The Case Management Division Program Manager shall document the basis for the conclusion that she or he reaches under § 1205 and shall include that documentation in the youth's case file.

1206 RECOMMENDATION OF DYRS CASE MANAGEMENT DIVISION

1206.1 The final decision to schedule a Community Status Review Hearing shall

be made by the Chief of Committed Services or designee. After receiving the recommendation from the Case Management Division Program Manager, the Chief of Committed Services shall make a determination. The youth's case file shall include a memorandum identifying the reason(s) for the decision taken.

1206.2 If the Chief of Committed Services concurs, he or she shall contact the Community Program Specialist the same business day and follow the procedures set forth in §§ 1207, 1208, 1210 and 1211.

1206.3 If the Chief of Committed Services disagrees, the Chief shall notify the Office of the Attorney General, the youth and the youth's counsel. After consultation, the Chief may use his or her discretion to require the Case Worker to convene a Youth/Family Team Meeting or implement alternative community services.

1207 NOTICE OF COMMUNITY STATUS REVIEW HEARING

1207.1 After receiving the recommendation of the Chief of Committed Services, an official notice of the time, place and location of the Community Status Review Hearing shall be sent to the youth, the youth's parent(s) or guardian(s), and counsel of record, or alternate counsel, if counsel is unavailable, by the Community Program Specialist.

1207.2 The Community Program Specialist shall also send a copy of the police report, if applicable, the Community Release Agreement, the DYRS Case Worker's recommendation, the decision to proceed with the hearing, progress reports and Youth/Family Team meeting reports.

1207.3 Upon request of the youth, the counsel of record or alternate counsel may review the youth's case file in accordance with D.C. Official Code §§ 2-1515.06, 16-2332, and 16-2333.

1207.4 The notice to those specified in subsection 1207.1 may be made in any manner reasonably calculated to put the receiving party on notice of the hearing, and may include, but is not limited to actual notice, notice by hand-delivery, electronic mail, facsimile, registered or certified mail, or overnight express delivery, return receipt requested.

1207.5 If the notice is hand-delivered, a note shall be made in the youth's case file and signed by the individual who served the notice.

1207.6 DYRS shall retain the receipt that notice was sent or other confirmation in the record as proof of proper notification.

1207.7 Notice of any Community Status Review Hearing shall be sent to the

Juvenile Section Chief for the Office of the Attorney General when:

(a) The youth is already committed to DYRS for any felony offense as defined in D.C. Official Code § 23-1331(3) or D.C. Official Code § 23-1331(4); or

(b) The youth has been charged with any felony offense as a juvenile or as an adult as defined in D.C. Official Code § 23-1331(3) and D.C. Official Code § 23-1331(4);

1208 FAILURE TO APPEAR AT A HEARING AND ABSCONDENCE

1208.1 After receiving notice, in accordance with § 1207, if the youth fails to appear at the stated time and place, for a Community Status Review Hearing the DYRS Care Manager responsible for the youth shall do the following:

(a) Ask the Absconder's Unit (MPD) to request a court order for the apprehension and return of the youth to the appropriate facility for failing to comply with official notice to appear at a given time and location;

(b) Note in the next progress report on the youth that the failure to appear for the scheduled hearing constitutes a violation of the Community Release Agreement; and

(c) Begin intensive efforts to locate the youth and return him or her to the appropriate facility. The DYRS Case Manager may ask for police assistance in apprehending the youth.

1208.2 After having received notice, in accordance with § 1207, if a youth fails to appear at the stated time and place for a Community Status Hearing, the panel shall proceed.

1208.3 If the panel proceeds with a hearing and rescinds the youth's community status, upon the youth's return the youth shall be held securely for up to five (5) business days pending a second Community Status Review Hearing.

1208.4 The time limitations imposed by subsections 1202.2 and 1202.3 shall be tolled by the youth's failure to appear for the scheduled hearing.

1208.5 If a youth absconds from a DYRS community placement, the DYRS Case Worker shall inform the Chief of Committed Services or designee and request a custody order.

1208.6 Upon the youth's return to custody from abscondence, the DYRS Case Worker shall determine whether or not the youth's community status should be reviewed at a hearing. If the youth is returned to DYRS after an arrest on a new charge, the Case Worker may take into account the decision of the Court concerning release status with respect to any new charges.

1208.7 If the Case Worker determines that the youth should return to his or her community placement, the Case Worker shall determine whether to request a Community Status Review Hearing.

1208.8 If the Case Worker determines that the youth who had absconded should be held in secure custody, the Case Worker shall provide the Chief of Committed Services with documentation in support of his or her recommendation that the youth be securely held.

1208.9 The Chief of Committed Services shall make a probable cause determination within one (1) business day, based on the Case Worker's documentation.

1208.10 If the Chief of Committed Services determines that there is probable cause to securely hold the youth, DYRS shall conduct the Community Status Review Hearing within five (5) calendar days of the youth's return from abscondence. If the fifth calendar day is a Sunday or legal holiday, the hearing shall convene the next business day.

1208.11 If the Chief of Committed Services determines that there is no probable cause to securely hold the youth, DYRS shall return the youth to his or her community placement.

1208.12 In cases where there is a no probable cause determination, the Case Worker may request a Community Status Review Hearing in accordance with subsection 1202.3.

1208.13 The Chair of the Community Status Review Panel shall provide notice of the time, place and location of the Community Status Review Hearing to the youth, guardian(s), and counsel of record, consistent with § 1207.

1209 HEARING UPON YOUTH'S RETURN FROM ABSCONDENCE

1209.1 In those cases where the youth was not present at the scheduled Community Status Review Hearing and the hearing proceeded in his or her absence, the youth may request a second hearing.

1209.2 The post-custody hearing shall occur within five (5) calendar days of the youth's return if the youth is securely detained pursuant to subsections

1204 or 1208.10. If a youth is not securely detained, a post-custody hearing shall occur within a reasonable amount of time.

1209.3 Proper notification pursuant to § 1207 shall be sent to the youth's guardian(s), and counsel of record indicating the date, time and place of this hearing.

1209.4 All conditions of §§ 1208, 1210 and 1211 shall apply to this hearing.

1210 COMMUNITY STATUS REVIEW HEARINGS

1210.1 All hearings shall be held at the time, place and location shown on the notice to appear before the Community Status Review Hearing form, unless otherwise notified.

1210.2 The Community Status Review Panel shall consist of three (3) DYRS staff, including the Community Program Specialist or designee from the Judicial Processing Unit, from the Department of Youth Rehabilitation Services.

1210.3 Each panelist shall be drawn from DYRS staff with at least two (2) years of experience in the direct care of youth and trained in community review policies and procedures. Case Managers/Workers are not permitted to be on the panel.

12101.4 No one shall serve on the panel who is in anyway involved with the case being heard or has worked with the youth whose community status is being reviewed. This includes facility staff who have worked with the youth.

1210.5 The youth may be represented at the hearing by parents, legal counsel, or any other person whom the youth may designate.

1210.6 DYRS employees are prohibited from representing a youth.

1210.7 At the hearing, the panel shall inform the youth of his or her right to have counsel of record present, alternate counsel, parent, guardian, or other representative with him or her.

1210.8 The youth, counsel of record, or other representative for the youth is permitted, after consulting with the youth, one (1) brief continuance. All subsequent continuances shall not be provided absent a showing of good cause or extreme hardship.

1210.9 If a youth is indigent and requests that counsel be provided, the panel shall review the request and, in its discretion, decide whether counsel will be

provided.

1210.10 If the panel decides that counsel will not be provided, it shall state its reason in writing and provide a copy to the youth and his or her guardian.

1210.11 Except as set forth in subsection 1210.12, the panel shall not be responsible in any way for providing witnesses on behalf of the youth whose case is being heard.

1210.12 Upon adequate notification by the youth that a witness' presence is necessary, DYRS shall bring a witness within DYRS' control, including youth committed to its care, to the review hearing.

1210.13 The youth may bring any other witnesses to the hearing who may assist in putting forth his or her position.

1210.14 The youth may question any witnesses or challenge any documents.

1210.15 Only evidence that is material to the charges or violations that have made the hearing necessary shall be admitted at the hearing.

1210.16 The Community Status Review Panel shall not interview or question the youth about substantive matters concerning any pending criminal or delinquency matters.

1210.17 Any information unrelated to the charges or violations shall be disregarded by the panel in reaching its decision about whether the community status should be continued or revoked.

1210.18 The panel may consider information unrelated to the charges or violations in its decision on the level of restrictiveness.

1210.19 The preponderance of the evidence shall be the standard of proof the panel shall use in weighing testimony about the charges or violations.

1210.20 After all testimony has been heard and evidence presented, the panel shall retire to weigh the evidence and statements, and reach a decision.

1210.21 The Community Status Review Panel shall notify the counsel of record of all hearings where counsel is not present or counsel's presence is waived.

1211 HEARING DECISION, DISPOSITION, AND APPEAL

1211.1 All hearing decisions shall be read to the youth in the hearing room and the Chair of the Community Status Review Panel or designee shall provide the written findings to the youth, his or her parent(s) or

guardian(s), and attorney of record or alternate counsel, and the Chief of the Juvenile Section of the Office of Attorney General within five (5) business days.

1211.2 If the decision of the panel is to continue the community status, the youth shall be returned to the same placement he or she enjoyed before the hearing was held under either the conditions of the existing Community Release Agreement or conditions of a new agreement, consistent with subsection 1202.3.

1211.3 The panel may decide to permit the youth to remain in the community, but under different conditions spelled out in a new Community Release Agreement, consistent with subsection 1202.3.

1211.4 If the decision of the panel is to terminate the community status, the youth shall be placed, based on the Community Status Review Panel's recommendation, in an appropriate facility until his or her return to community status is indicated or the original commitment order ends.

1211.5 The Case Worker shall make efforts to identify an appropriate placement and make appropriate referrals within a reasonable time after the Community Status Review Hearing.

1211.6 The panel, youth, and attorney of record, alternate counsel, or representative may seek to resolve the case by stipulation, agreed settlement, or consent order.

1211.7 The youth may appeal the results of the Community Status Review Hearing, to the DYRS Director within seven (7) business days from receipt of the Community Status Review Panel's written findings.

1211.8 The DYRS Director shall review the request for appeal and make a final written determination within ten (10) business days.

1211.9 All final administrative agency rulings may be appealed to the D.C. Court of Appeals.

A new section 1299 is added to read as follows:

1299 DEFINITIONS

1299.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

"**Business day**"- a day of the week consisting of Monday through Friday, and excludes Saturday, Sunday, any legal holiday, or inclement weather that results in a day in which the Court is closed. In addition, a business

day is calculated beginning on the day after the triggering event occurs.

"Case Management Division Program Manager"- a DYRS employee who supervises the Case Management Unit in the Committed Services Administration. The Program Manager supervises all of the managers who supervise DYRS Case Workers

"Chief of Committed Services"- a DYRS employee who supervises the Committed Services Administration, which includes the Oak Hill Youth Center, the Case Management Division, the Judicial Processing Unit, and the Community Residential Programs Unit.

"Clear and Present Danger"- the absence or lack of basic necessities such as food, shelter, or clothing; suicidal actions, tendencies or threats of suicide; serious de-compensating emotional character and mental health; seriously destructive behavior creating an imminent danger to one's life or health; or engaged in abusive or threatening, or other dangerous conduct thereby creating an imminent danger to self or others.

"Community Release Agreement"- an agreement between the youth and DYRS, that the youth and his/her guardian will agree to certain rules in exchange for being released to the community. This agreement was formerly called an aftercare agreement.

"Community Placement or Community Status"- a status conferred upon a youth who has been committed to the legal custody of DYRS and housed in the community in a non-secure placement.

"Community Status Review Hearing"- an administrative process to evaluate recommendations for modifying a youth's community placement.

"Community Status Review Panel"- a group of impartial DYRS employees who are responsible for reviewing the community placement status of a youth.

"Community Program Specialist"- a DYRS employee responsible for scheduling Community Status Review Hearings and is the Chair as well as a member of the Community Status Review Panel.

"DYRS Case Worker"- a DYRS employee who provides case management services to a case load of youth committed to DYRS by the courts.

"DYRS Case Worker Supervisor"- a DYRS employee who supervises a unit of four to six DYRS Case Workers.

"Emergency Removal"- immediate removal from the community and subsequent placement in a more restrictive setting after a determination has been made that the youth presents a clear and present danger to himself or others.

"Guardian"- a natural or adoptive parent whose parental rights have not been judicially terminated, a person appointed by the court, legal custodian, or caretaker approved by the agency.

"Non-Secure Placement"- a community placement which is not locked and which allows for unsupervised movement in and out of the placement and allows youth to participate in various community activities, such as school, employment or other activities consistent with the youth's Community Release Agreement.

"Probable Cause"- a reasonable belief that an event or action occurred or existed, or is likely to occur or exist.

"Secure Facility"- a locked residential placement which provides treatment and/or educational programs within the facility and does not allow for unsupervised movement within or outside of the facility.

"Youth/Family Team Meeting"- a group of individuals involved in the case planning and development of treatment and educational plans for the youth and family.

"Violation"- an act that is non-compliant with the terms of the Community Release Agreement.

Persons wishing to comment on this proposed rule should submit their comments in writing to Attn: Adrianne Lord-Sorensen, Assistant General Counsel, Department of Youth Rehabilitation Services, 1000 Mount Olivet Road, N.E., 3rd Floor, Washington, D.C. 20002. All comments must be received by the Department of Youth Rehabilitation Services not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of this rulemaking amendment and related information may be obtained by writing to the above address.