

**D.C. DEPARTMENT OF HUMAN RESOURCES****NOTICE OF FINAL RULEMAKING**

The Director, D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with sections 951 through 958 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-609.51 et seq.) (2006 Repl.), hereby gives notice that final rulemaking action was taken to adopt the following rules. **The main purpose of this rulemaking notice is to amend section 3809 on placement by reassignment or demotion, of Chapter 38, Management Supervisory Service, of Title 6B of the District of Columbia Municipal Regulations (DCMR).** Specifically, section 3809, *Placement by Reassignment or Demotion*, is being amended to clarify the language in subsections 3809.1 through 3809.3, and add a new subsection 3809.8 to provide that a Management Supervisory Service employee may be reassigned or demoted non-competitively from one subordinate agency to another subordinate agency, in addition to a reassignment or demotion within the employing agency and provide the criteria for such reassignments and demotions. Additionally, section 3807 on competitive and non-competitive placement, is being amended; non-substantive changes are being made to sections 3800.1, 3800.2, 3801.1, 3804.1, 3808.3, 3810.1, 3812.1, 3813.3; and section 3899, *Definitions*, is being amended to add the definition of the term "*demotion*;" make a non-substantive change to the definition of the terms "*personnel authority*" and "*reassignment*;" and add the definition of the term "*transfer*." No comments were received and no changes were made to the Notice of Proposed Rulemaking published on October 9, 2009 (56 DCR 008059). Final rulemaking action was taken on June 17, 2010.

**CHAPTER 38****MANAGEMENT SUPERVISORY SERVICE**

*Chapter 38, Management Supervisory Service, of Title 6 of the District of Columbia Municipal Regulations is amended as follows:*

*Non-substantive changes are made to sections 3800.1, 3800.2, and 3800.3:*

**3800 POLICY**

3800.1 Pursuant to section 951 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-609.51), the Management Supervisory Service is established within the District government to ensure that each agency has the highest quality of managers and supervisors who are responsive to the needs of the government.

- 3800.2 This chapter applies to all appointments to the Management Supervisory Service under the authority of sections 951 through 958 of the CMPA (D.C. Official Code § 1-609.51 *et seq.*).
- 3800.3 In accordance with section 954 of the CMPA (D.C. Official Code § 1-609.54), an appointment to the Management Supervisory Service is an at-will appointment.

*A non-substantive change is made to section 3801.1:*

- 3801.1 The Management Supervisory Service consists of all employees who meet the definition of “management employee” in section 1411(5) of the CMPA (D.C. Official Code § 1-614.11 (5)), that is, employees whose functions include responsibility for project management and supervision of staff and the achievement of the project’s overall goals and objectives.

*A non-substantive change is made to section 3804.1:*

- 3804.1 In accordance with section 953 of the CMPA (D.C. Official Code § 1-609.53), all appointments to the Management Supervisory Service, except as specifically limited in this chapter, shall be by open competition on the basis of merit by selection from the highest qualified applicants, based on specific job requirements with appropriate regard for affirmative action goals as provided by law and as determined under this chapter.

*Section 3807 is amended as follows:*

**3807 COMPETITIVE AND NON-COMPETITIVE PLACEMENT**

*A non-substantive change is made to section 3807.1:*

- 3807.1 Except as otherwise provided in this chapter, competitive procedures shall apply to all initial appointments to the Management Supervisory Service, and subsequent assignments and placements to positions within the Management Supervisory Service, as follows:
- (a) Promotions;
  - (b) Temporary promotions exceeding one hundred twenty (120) days;
  - (c) Selection for a detail for more than two hundred forty (240) days to a position at a higher grade or to a position at the same grade level with known promotion potential; and

- (d) Selection for a position, including by reassignment or demotion, with more promotion potential than the last grade held under a Management Supervisory Service competitive appointment.

3807.2 Competitive procedures shall not apply to the following actions within the Management Supervisory Service:

- (a) The following types of Management Supervisory Service promotions:
  - (1) A promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error;
  - (2) A promotion resulting from an employee's position being reclassified at a higher grade because of accretion of additional duties and responsibilities without planned management action;
  - (3) A career ladder promotion if the original competition for the position clearly established the career ladder; or
  - (4) A temporary promotion under this chapter for a period of one hundred twenty (120) days or less.

*Subsection 3807.2 (b) is amended to read as follows:*

- (b) An indefinite reassignment or transfer to a position of the same grade with no known promotion potential or with no greater promotion potential than the position previously held;
- (c) A temporary reassignment for a period of one hundred twenty (120) days or less;
- (d) A reassignment or demotion pursuant to section 3809 of this chapter;
- (e) Consideration of a candidate not given proper consideration in a competitive promotion action; or promotion of an employee who was denied promotion as a result of other error, on order of the D.C. Department of Human Resources or independent personnel authority;
- (f) A detail of two hundred forty (240) days or less to a position at a higher grade or to a position with known promotion potential; and
- (g) Temporary Appointments Pending the Establishment of Registers (TAPER).

*Subsection 3807.3 (a) is renumbered as section 3807.3 and non-substantive changes are made to the text:*

3807.3 While this chapter does not include time-in-grade requirements or restrictions for promotion to or within the Management Supervisory Service (MSS) that would prevent a MSS employee from advancing to a higher grade position before serving at the lower grade for at least one (1) year, agencies must exercise discretion concerning any such promotions, and consider establishing internal controls and procedures to handle such promotions, with regard to equity and reasonableness.

*Subsection 3807.3 (b) is renumbered as section 3807.4 and non-substantive changes are made to the text:*

3807.4 The following criteria shall be followed when considering promoting an employee to or within the Management Supervisory Service when the employee meets the qualifications requirements for the higher grade position but has served at the lower grade level for less than one (1) year. Under such circumstances, consideration shall be given to the following:

- (a) The employee's total work history;
- (b) The employee's education, superior academic credentials, or superior academic achievements;
- (c) Any work performed by the employee that is related to the higher grade position and at a level at least commensurate (equivalent) to the higher grade position;
- (d) Any negative impact that an action to advance an employee who has not served at the lower grade level for at least one (1) year may have on other agency Management Supervisory Service employees;
- (e) The impact that an action to advance an employee who has not served at the lower grade level for at least one (1) year may have on the agency's salary structure; or
- (f) Hardship, inequity, or especially meritorious cases.

*Sections 3807.4 and 3807.5 are renumbered as 3807.5 and 3807.6, respectively:*

3807.5 An employee's salary history (i.e., previous higher salary) shall not automatically be considered as the determining factor in the employee's promotion under the circumstances and criteria described in section 3807.4 of this section; however, it may be considered along with the criteria listed in that section.

3807.6 An employee promoted under the circumstances described in section 3807.4 of this section may be advanced more than two (2) grade levels at a time.

*A non-substantive change is made to section 3808.3:*

3808.3 The following employees shall be referred to selecting officials in subordinate agencies along with other qualified candidates, for interview by management and special consideration for placement and advancement for Management Supervisory Service positions they apply for; provided that no person referred for such special consideration shall be selected ahead of a candidate claiming the residency preference pursuant to section 957 of the CMPA (D.C. Official Code § 1-609.57), if any:

- (a) Graduates of the District government's Certified Public Manager Program; and
- (b) Persons appointed as Capital City Fellows.

*Section 3809 is amended as follows:*

**3809 PLACEMENT BY REASSIGNMENT OR DEMOTION**

*Sections 3809.1 through 3809.3 are amended to read as follows:*

- 3809.1 A personnel authority may fill a vacancy within the Management Supervisory Service by reassignment of a Management Supervisory Service employee to another position of the same grade and salary, either competitively or non-competitively, as provided in this section.
- 3809.2 When, as a result of attrition, reductions in force, reorganizations, or approved realignments within an agency, a Management Supervisory Service employee ceases to perform managerial or supervisory functions or duties, the employing agency may reassign or demote the employee to a vacant Management Supervisory Service position within the agency for which he or she qualifies; provided that there is no reduction in the benefits of the employee, and the position has no greater promotion potential than the position previously held.
- 3809.3 An agency may determine that it is necessary to reassign or demote a Management Supervisory Service employee to a vacant Management Supervisory Service position within the agency for which he or she qualifies, for reasons other than those listed in section 3809.2 of this section. In such cases the reassignment or demotion may be effected; provided that the position has no greater promotion potential than the position previously held.

- 3809.4 A time-limited reassignment may be made for a period not to exceed one (1) year.
- 3809.5 A time-limited reassignment exceeding one hundred twenty (120) days to a position with established promotion potential higher than the currently held position will be effected competitively.
- 3809.6 Any reassignment or demotion under the circumstances described in sections 3809.2 and 3809.3 of this section shall be effected non-competitively.
- 3809.7 An employee may voluntarily accept a reassignment or demotion pursuant to sections 3809.2 or 3809.3 of this section, or be terminated as specified in section 3813 of this chapter.

*A new section 3809.8 is added to read as follows:*

- 3809.8 In addition to a reassignment or demotion within the employing agency as specified in sections 3809.2 and 3809.3 of this section, a Management Supervisory Service employee may be reassigned or demoted non-competitively to a vacant Management Supervisory Service position from one subordinate agency to another subordinate agency; provided that all of the following criteria are met:
- (a) The two (2) subordinate agencies involved mutually agree with the reassignment or demotion action;
  - (b) There is no reduction in the benefits of the employee;
  - (c) The position being reassigned or demoted to has no greater promotion potential than the position previously held; and
  - (d) The Management Supervisory Service employee qualifies for the position being reassigned or demoted to.

*A non-substantive change is made to section 3810.1:*

- 3810.1 In accordance with section 955 of the CMPA (D.C. Official Code § 1-609.55), each employee appointed to the Management Supervisory Service will be required to maintain and enhance his or her management and supervisory skills through mandatory training courses every year, as prescribed by the personnel authority.

*A non-substantive change is made to section 3812.1:*

- 3812.1 The residency preference provisions of section 801(e) (1), (2), (3), (5), (6), and (7) of the CMPA (D.C. Official Code § 1-608.01(e) (1), (2), (3), (5), (6),

and (7)), as amended, and Chapter 3 of these regulations, shall apply to employment in the Management Supervisory Service.

*A non-substantive change is made to section 3813.3:*

3813.3 In accordance with section 954 of the CMPA (D.C. Official Code § 1-609.54 (b)), an employee in the Management Supervisory Service shall be entitled to severance pay upon termination for non-disciplinary reasons.

*Section 3899 is amended to add the definition of the term “demotion;” make a non-substantive change to the definition of the terms “personnel authority” and “reassignment;” and add the definition of the term “transfer:”*

**Demotion** – the change of an employee to a lower grade, or to a position with a lower rate of pay, when both the old and new positions are under the same pay schedule or in different pay schedules.

**Personnel authority** – an individual or entity with the authority to administer all or part of a personnel management program as provided in section 401 of the CMPA (D.C. Official Code § 1-604.01 *et seq.*).

**Reassignment** – the change of an employee from one position to another position with the same (exact) representative rate without promotion or demotion.

**Transfer** – a change, without a break in service of a full workday, of a Management Supervisory Service (MSS) employee to another MSS position without promotion or demotion, and under a different personnel authority.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGGAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No.3

1. The Public Service Commission of the District of Columbia ("Commission") pursuant to its authority under D.C. Official Code § 2-505,<sup>1</sup> hereby gives notice of its final rulemaking action taken in the above-captioned proceeding. On June 21, 2010, the Commission released Order No. 15862, approving Washington Gas Light Company's ("WGL or the Company") Application for an updated Rights-of-Way ("ROW") Surcharge.<sup>2</sup>

2. On March 19, 2010, pursuant to D.C. Official Code Section 10-1141.06,<sup>3</sup> WGL filed with the Commission the ROW Current Factor.<sup>4</sup> The ROW Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. In the tariff filing, WGL sets forth the process used to recover from its customers the D.C. Public ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3**  
**Section 22**  
**3<sup>rd</sup> Revised Page 56**

3. According to its tariff, WGL's surcharge rate for the ROW Current Factor would become effective commencing with the April 2010 billing cycle.<sup>5</sup> Based on our review of the Tariff Application, the Commission finds that WGL's calculations for the ROW Current Factor comply with General Services Tariff, P.S.C. No. 3, Section 22, 3<sup>rd</sup> Revised Page No. 56. A Notice of Proposed Rulemaking ("NOPR") regarding WGL's Surcharge Filing was published in

---

<sup>1</sup> D.C. Code § 2-505 (2001 Ed.).

<sup>2</sup> *GT00-2, In The Matter Of Washington Gas Light Company's Rights-Of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, ("GT00-2")* Rights of Way Current Factor Surcharge Filing of Washington Gas Light Company, ("Tariff Application"), filed March 19, 2010.

<sup>3</sup> D.C. Code § 10-1141.06 (2001 Ed.) states that "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

<sup>4</sup> *GT00-2*, Tariff Application at 1.

<sup>5</sup> *GENERAL SERVICES TARIFF*, P.S.C.-D.C. No. 3, Section 22, 3<sup>rd</sup> Revised Page 56.

the *D.C. Register* on April 16, 2010.<sup>6</sup> No comments were filed in response to the NOPR and the Commission is satisfied that the surcharge proposed by WGL complies with D.C. Code Section 10-1141.06 (2001 Ed.). Subsequently, the Commission approved WGL's Surcharge Filing by Order No. 15862.

---

<sup>6</sup> 57 *D.C. Reg.* 3307-3308 (April 16, 2010).

## DISTRICT DEPARTMENT OF TRANSPORTATION

---

**NOTICE OF FINAL RULEMAKING**

---

The Director of the Department of Transportation, pursuant to the authority of sections 5(3)(D) and 6(b) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(3)(D) and 921.05(b)) (transferring the parking management function previously delegated to the Department of Public Works under section III (H) of Reorganization Plan No. 4 of 1983), and 18 DCMR 2404.18, hereby gives notice of the adoption of the following rulemaking to amend Chapter 24 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic).

The rulemaking eliminates hour restrictions on parking meters after 6:30 p.m. and before 7:00 a.m. Two comments were received. One commenter raised a concern that this rulemaking would require patrons to return to the meter to lawfully feed the meter. Meters will be adjusted to allow patrons to pay for as much time as they need at the meter one time. Another commenter requested the elimination of hour restrictions on parking on Saturday. This suggestion will be examined; however, it does not affect the publication of this final rulemaking. No substantive changes have been made to the text of these proposed rules. Reference to the High Demand Parking Meter Rate Zone has been removed because that zone no longer exists. The proposed rule was published in the D.C. Register on Vol. 57 DCR 3788 (April 30, 2010). These rules will be effective upon publication of this notice in the D.C. Register.

**Chapter 24, of Title 18, DCMR, is amended as follows:****Section 2404, PARKING METERS AND PARKING METER ZONES, is amended as follows:****A. Subsection 2404.9 is amended to read as follows:**

2404.9 Parking meter zones may be used without charge at times when the signs and meters in those zones indicate payment is not needed.

**B. New subsections 2404.27 through 2404.29 are added to read as follows:**

2404.27 Notwithstanding subsection 2404.7, a person may, during evening hours, park a vehicle for longer than the posted time limit in a parking meter zone that is located in an Unlimited Evening Hour Zone; provided, that the person must still pay for parking during the times metered parking is enforced.

2404.28 For the purposes of this section, evening hours are defined as the hours between 6:30 p.m. and 7:00 a.m. the following day.

2404.29 The Unlimited Evening Hour Zone shall include all metered street segments in the Premium Demand Parking Meter Rate Zone.