

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY**

**NOTICE OF PROPOSED RULEMAKING**

The Director of the Homeland Security and Emergency Management Agency (HSEMA), pursuant to section 210 of An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes (Act), effective August 16, 2008 (D.C. Law 17-219; 55 DCR 7602), and Mayor’s Order 2008-135, effective October 10, 2008, gives notice of intent to adopt in not less than thirty (30) days, a new Chapter 38 of Title 24 of the District of Columbia Municipal Regulations (DCMR), entitled “Homeland Security and Emergency Management Agency Use of Closed Circuit Television”. The purpose of this is to enable HSEMA to utilize and coordinate closed circuit television resources of existing departments, offices, and agencies of the District to improve its ability to rapidly identify and respond to emergency circumstances that occur within the District. The proposed rules will also be submitted to the Council for a 45-day period of review.

Title 24 DCMR is amended by adding the following new Chapter 38.

**CHAPTER 38            HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT AGENCY USE OF CLOSED  
CIRCUIT TELEVISION**

**3800            PURPOSE**

3800.1            The Homeland Security and Emergency Management Agency (HSEMA) has employed a network of closed circuit televisions (CCTV) within the Unified Communication Center (UCC) that are highly secured and protected against unauthorized access.

3800.2            HSEMA’s CCTV system is generally intended to be used: (1) to coordinate overall safety and provide increased situational awareness; (2) to provide a common framework to enable a single and shared CCTV system among existing disparate CCTV networks; (3) to improve monitoring efficiency and to reduce emergency response time; and (4) to provide the District with an advanced video monitoring capability.

**3801            POLICY**

3801.1            HSEMA shall comply with all federal and District law applicable to the use of CCTV cameras in public space.

3801.2            Under no circumstances shall the CCTV systems be used for the purpose of infringing upon First Amendment rights.

3801.3            Operators of the CCTV systems shall not target/observe individuals solely because of their race, gender, ethnicity, sexual orientation, disability or other

classifications protected by law.

- 3801.4 CCTV systems shall be used to observe locations that are in public view and where there is no reasonable expectation of privacy.
- 3801.5 HSEMA shall not use audio in conjunction with the CCTV unless appropriate court orders are obtained.
- 3801.7 HSEMA is authorized to enter into agreements with public entities to access their external video feeds for the purposes established in section 3800 of this chapter.
- 3801.8 HSEMA is authorized to enter into agreements with private entities to access their external video feeds for discrete periods and only in exigent circumstances.
- 3801.9 HSEMA shall abide by these regulations if it receives CCTV feeds from another agency, jurisdiction, or entity.
- 3801.10 Additional permanent cameras will only be deployed after public notification has been provided and only in locations that will advance the purposes defined in section 3800 of this chapter.

## **3802 PUBLIC NOTIFICATION**

- 3802.1 Except under exigent circumstances and/or when the CCTV systems are deployed pursuant to a court order, the Director shall provide public notice of HSEMA's intention to deploy an additional permanent camera in public space.
- 3802.2 Public notice shall include the general capabilities of CCTV systems, their use in operations, and the duration of the deployment. Public notice will also identify the viewing area, but not necessarily the precise location of the camera. The precise location of a camera may be disclosed if the HSEMA Director determines that disclosure will not undermine the security of the camera and the efficacy of the deployment.
- 3802.3 The public shall have thirty (30) days to submit comments regarding a proposed deployment to the HSEMA Director. The public may submit comments to the HSEMA Director at any time regarding a particular existing camera deployment or the CCTV system in general.
- 3802.4 The HSEMA Director shall consider the comments submitted by the public in determining whether to go forward with deployment of the camera. The HSEMA Director will provide public notice of his/her decision and provide an explanation.
- 3802.5 In exigent circumstances, the HSEMA Director is authorized to deploy cameras without first consulting or soliciting comments from the public. After the

conclusion of the exigent circumstance, the camera shall be turned off immediately. As soon as feasible after the conclusion of the exigent circumstance, the HSEMA Director shall have the camera removed. The HSEMA Director will provide post-deployment public notification of any camera deployed under this provision.

- 3802.6 When cameras are deployed pursuant to a court order, neither pre nor post-deployment notification is required.
- 3802.7 The HSEMA Director will post on the HSEMA website, and supply a copy to all District Public Libraries, the areas of the District monitored by the CCTV systems.
- 3802.8 On a semi-annual basis, HSEMA will provide updates on the CCTV system at community meetings to be announced to the public.
- 3802.9 HSEMA will provide information about the CCTV system and its usage in its Annual Report to Council. The information shall include the viewing area of cameras, disposition of any recordings, and an evaluation of whether the camera achieved the purposes stated in section 3800 of this chapter. HSEMA shall not include any information pertaining to cameras deployed pursuant to a court order or deployed as part of an on-going criminal investigation.

### **3803 OPERATOR CERTIFICATION**

- 3803.1 Only operators certified by the HSEMA Director shall operate the CCTV system. All operators will be trained to operate and monitor CCTV systems in accordance with applicable privacy protections required by District or federal law.
- 3803.2 All operators of the CCTV systems shall sign a certification that they have read and understand the CCTV regulations and acknowledge the potential criminal and/or administrative sanctions for unauthorized use or misuse of the CCTV systems.
- 3803.3 Anyone who engages in the unauthorized use or misuse of CCTV systems shall be subject to criminal prosecution and/or administrative sanctions, including termination. The administrative sanctions will depend on the severity of the infraction and shall be taken in accordance with the adverse and corrective action procedures as provided in the District Personnel Manual.

### **3804 ACTIVATION AND USAGE**

- 3804.1 CCTV operators shall not focus on hand bills, fliers, or similar materials being distributed or carried pursuant to activities protected by the First Amendment. Except under exigent circumstances or pursuant to a court order or other lawful

authority, CCTV operators shall not engage in any individualized surveillance that is focused on identifying and tracking and individual's movement or activities.

3804.2 An HSEMA official at the rank of Management Supervisory Service (MSS) shall be present and shall supervise or monitor CCTV activities.

3804.3 The CCTV room shall be secured at all times. Only authorized CCTV operators and HSEMA supervisors may be permitted entry into the CCTV room.

### **3805 AUTHORIZATION TO RECORD AND RETAIN RECORDINGS**

3805.1 All recorded CCTV footage shall be maintained and secured by the official in command of the HSEMA monitoring center.

3805.2 Access to the video center or image storage location is restricted to authorized CCTV operators, HSEMA supervisors, and other personnel as authorized by District law or regulation. Access to the video center or image storage location by anyone other than authorized HSEMA personnel shall be recorded by HSEMA in a log.

3805.3 Video recordings shall be indexed, stored, and maintained for 10 business days after which time they will be recorded over or destroyed.

3805.4 Recordings may be retained beyond 10 business days because the recordings contain evidence of criminal activity, because the recordings capture an occurrence that may subject HSEMA to civil liability, or because the recording will be used for training purposes. Recordings that contain evidence of criminal activity or recordings that capture an occurrence that may subject HSEMA to civil liability shall be maintained until final case disposition.

3805.5 The HSEMA Director must prepare, in writing, a rationale for any decision to retain any recording beyond 10 business days.

3805.6 Decisions to retain recordings beyond 10 business days must include the purpose of the retention, the nature of the recording, and length of time for the retention. Retention of recordings for training purposes must additionally include a written description of the training purpose to be served by the recording as well as a description of the recording's unique suitability for the training purpose.

3805.7 Recordings retained for training purposes may only be retained as long as they are actively used for training purposes.

3805.8 Recordings retained for criminal or civil purposes, special event, or an emergency shall be secured as evidence, and access to the recordings shall be appropriately

limited and documented.

3805.9 Monitoring center staff shall maintain a video catalog of all tapes held beyond 10 days.

**3807 AUDITS**

3807.1 HSEMA will have independent, periodic audits conducted annually to ensure compliance with these regulations.

3807.2 The audits conducted pursuant to section 3807.1 of this chapter shall be provided to the Mayor and the Council of the District of Columbia.

**3899 DEFINITIONS**

3899.1 When used in this chapter, the following words and phrases shall have the meanings ascribed:

Closed-Circuit Television -- Any live video link that is electronically received into the HSEMA monitoring center.

Demonstration -- A temporary presentation of the capacity of the Monitoring Center to visitors of the HSEMA.

Exigent Circumstances -- Unanticipated situations that threaten the immediate safety of individuals or property within the District of Columbia.

External Video Feeds -- Any video link received in the HSEMA monitoring center on a live basis from a source other than HSEMA.

Public Entities -- District of Columbia or Federal agencies.

Public notice -- Shall at a minimum include, but is not limited to, publication in the *D.C. Register*, posting on the HSEMA website, written notice to the relevant Councilmember, written notice to the relevant Advisory Neighborhood Commissioner, and issuance of a press release.

Persons wishing to comment on this proposed rule should submit their comments in writing to Steven Kral, Senior Policy Analyst, Homeland Security and Emergency Management Agency, 2720 Martin Luther King Jr. Avenue, SE, Suite 200, Washington, DC 20032. All comments must be received by the Homeland Security and Emergency Management Agency 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, or by calling (202) 727-6161.