Delaware Register of Regulations

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IN THIS ISSUE:

Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the Register contains all documents required to be published, and received, on or before March 15, 2003.

DELAWARE REGISTER OF REGULATIONS

The Delaware Register of Regulations is an official State publication established by authority of 69 Del. Laws, c. 107 and is published on the first of each month throughout the year.

The Delaware Register will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

The Register will also publish some or all of the following information:

- Governor's Executive Orders
- Governor's Appointments
- Attorney General's Opinions in full text
- Agency Hearing and Meeting Notices
- Other documents considered to be in the public interest.

CITATION TO THE DELAWARE REGISTER

The Delaware Register of Regulations is cited by volume, issue, page number and date. An example would be:

6 **DE Reg.** 279 - 280 (09/01/02)

Refers to Volume 6, pages 279 - 280 of the Delaware Register issued on September 1, 2002.

SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the Delaware Register of Regulations is $120.00. Single copies are available at a cost of $12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

Delaware citizens and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written

evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the Register of Regulations, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

Except as provided in the preceding section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the Register of Regulations.

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
MAY 1	APRIL 15	4:30 P.M.
JUNE 1	MAY 15	4:30 P.M.
JULY 1	JUNE 15	4:30 P.M.
AUGUST 1	JULY 15	4:30 P.M.
SEPTEMBER 1	AUGUST 15	4:30 P.M.

DIVISION OF RESEARCH STAFF:

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PROPOSED

FINAL

The table printed below lists the regulations that have been proposed, adopted, amended or repealed in the preceding issues of the current volume of the Delaware Register of Regulations.

The regulations are listed alphabetically by the promulgating agency, followed by a citation to that issue of the Register in which the regulation was published. Proposed regulations are designated with (Prop.); Final regulations are designated with (Final); Emergency regulations are designated with (Emer.); and regulations that have been repealed are designated with (Rep.).

Symbol Key

Roman type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

Proposed Regulations

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation; The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

DELAWARE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6603 (16 **Del.C.** §6603)

Notice of Public Hearing

The Delaware State Fire Prevention Commission will hold a hearing pursuant to 16 Del.C. 6603 and 29 Del.C. 101 on Thursday, April 24, 2003, at 1:00 pm and 7:00 pm to be held at the Delaware State Fire School, Delaware Fire Service Center, 1463 Chestnut Grover Road, Dover, Delaware in Rooms 4A & 4B. The commission is proposing changes to the following Regulations.

Part I, Annex A	Adopted NFPA Codes & Standards (Numerical & Alphabetical Listing)
Part I, Annex B	Additions, Deletions & Changes to Codes & Standards Listed in Annex A
Part I, Chapter 2	Definitions
Part II, Chapter 6	Standard for Fire Flow for Fire Protection
Part II, Chapter 7	Minimum Requirements for Water Suppliers
Part III, Chapter 1	Operation, Maintenance and Testing of Fire Protection Systems
Part III, Chapter 2	Sales & Servicing of Portable Fire Extinguishers
Part III, Chapter 3	Standard for Fire Hydrant Maintenance, Inspection, Testing & Marking
Part III, Chapter 4	Licensing Regulations for Fire Alarm Signaling Systems
Part III, Chapter 5	Licensing Regulations for Fire Suppression Systems
Part III, Chapter 6	Licensing Regulations for Fire Alarm Signaling Systems In-House Licensee's
Part III, Chapter 7	Licensing Regulations for Fire Suppression Systems In-House Licensee's
Part III, Chapter 8	Licensing and Reporting Requirements for Central Station and Remote Station Services
Part IV, Chapter 2	Fireworks Display
Part IV, Chapter 3	Explosives, Ammunition, Blasting Agents
Part IV, Chapter 4	Amusement Ride Safety
Part V, Chapter 5	Standard for the Marking, Identification and Accessibility of Fire Lanes, Exits, Fire Hydrants, Sprinkler, and Standpipe Connections.
Part V, Chapter 5	Figures 1 through 9

Persons may view the proposed changes to the Regulations between the hours of 8:00 am to 4:30 pm, Monday through Friday, at the Delaware State Fire Prevention Commission, Delaware State Fire School, 1463 Chestnut Grove Road, Dover, DE 19904 or Office of the State Fire Marshal located at the Delaware Fire Service Center, 1537 Chestnut Grove Rd, Dover, DE 19904, or the Regional State Fire Marshal's Offices located 2307 MacArthur Road, New Castle, Delaware 19720 and 22705 Park Avenue, Georgetown, DE 19947. Proposed changes

are also available on the Office of State Fire Marshal webpage. The webpage address is www.delawarestatefiremarshal.com under the tabs "Technical Services" and "Proposed Changes".

Persons may present their views in writing by mailing their views to the Commission at the above addresses prior to the hearing, and the Commission will consider those response received before 10:00 am on April 23, 2003 or by offering testimony at the Public Hearing. If the number of persons desiring to testify at the Public Hearing is large, the amount of time allotted to each speaker will be limited. There will be a reasonable fee charge for copies of the proposed changes.

Part I - Annex A

Most of the changes consist of updating the edition of the adopted documents to the latest version. Some documents have been withdrawn from NFPA and no longer exist since they have been incorporated in other adopted documents. Some documents have had their titles changed and some documents have been assigned different numbers by NFPA.

Part I - Annex B

Many modifications throughout this Annex consist of merely updating the edition year and the proper chapter and section numbers. If the requirement is not changed, the section is not repeated in this synopsis.

In NFPA 13, Standard for the Installation of Sprinkler Systems, section 6.8.1 is amended to specify that hose connections are to be compatible to the local fire company.

In NFPA 13R, Standard for the Installation of Sprinkler Systems In Residential Occupancies Up To And Including Four Stories, section 1.1 is amended in order to reiterate that these systems are only permitted where the Regulations doesn't require a NFPA 13 system.

In NFPA 14, 2000, Standard for the Installation of Standpipe and Hose Systems, deleted an Exception in section 5-3.2 which has been causing confusion in the field. The exception has been applied as a "permission".

In NFPA 70, National Electrical Code, Article 210.12B and 550.25B is amended to prohibit single or multiple station hard wire smoke detectors in dwellings unit bedrooms from being placed on a circuit that can be interrupted and require such circuit to be dedicated and physically protected from being inadvertently opened.

In NFPA 101, Life Safety Code, AMEND section 16-2.2.2.2, is amended to show that the panic /fire exit hardware requirement does not apply to Day Care Homes.

In NFPA 101, Life Safety Code, add a new section 18.3.2.8 is amended to address newly introduced hazard to the health care arena.

In NFPA 101, Life Safety Code, amend section 30.3.5.1, Exception No. 1, is amended to reiterate that this exception only applies to buildings that are not required to be provided with sprinklers by another section of the Regulation.

Part I - Chapter 2

Change one definition (**HEIGHT**) to be consistent with other Codes and to eliminate a conflict with definition in later section of the Regulation.

Part II - Chapter 6

Table 1 modified to place Title key for columns directly above the column in the Title row.

Changes in text reflect new titles, new NFPA reference number and spelling corrections.

Added an additional column for clarity and modify the last column with the proper NFPA reference number.

Remaining Tables also modified to place Title key for columns directly above the column in the Title row.

Part II - Chapter 7

Section 7-3.1 modified to eliminate a conflict with contradictory language in Chapter 6 - Fire Flow Table 2 for one and two-family dwellings.

Section 7-5.1 Changed to reflect the correct reference Title.

Part III - Chapter 1

Numerous changes made where proper wording is replacing existing text. For instance, throughout the document, "fire dispatch center" is now used to define such centers by any other names. An additional definition is inserted. Unnecessary appendix sections are removed.

Sections 1-4.1.4 is amended and existing 1-4.1.6 deleted to clarify the manner in which fees are to be submitted for Certificates of Inspection. This requirement coincides with the original requirement of the fee being the responsibility of the licensed contractor when it was first adopted in July 1995 (1995 Addendum to the 1993 Delaware State Fire Prevention Regulations). Other means of obtaining the fee have been clumsy, inefficient, and unsuccessful.

Section 1-8.2 is amended to emphasize that it is the responsibility of the contractor to make the proper notifications prior to testing systems.

Part III - Chapter 2

Section 2-2.3.1 is amended by clarifying an exception to the requirement.

Part III - Chapter 3

Only significant change is the additional requirement (3-2.4.3) for actions to be taken by the water supplier when a hydrant will be out of service for more than 30 days.

Part III - Chapters 4 through 7

Numerous changes where proper wording is replacing existing text.

Removal of some obsolete sections that are no longer necessary.

Change 30 days to 10 days for insurance termination notice to reflect insurance industry standard.

Repeat the requirement that the fee is to be submitted along with the certificate of Inspection.

Add a new section addressing fees for certificates for systems located in the jurisdiction of a Jurisdictional Fire Marshal

Add a new section addressing compliance.

Part III - Chapter 8

Some changes where proper wording is replacing existing text.

Removal of some obsolete sections that are no longer necessary.

Change 30 days to 10 days for insurance termination notice to reflect insurance industry standard.

Part IV - Chapter 2 (Fireworks)

One change that emphasizes that retail sale of fireworks is prohibited.

Amend 2-2.3 to coincide with language in Title 16.

Add 2-2.5 to require site inspection prior to permit.

Other minor wording changes.

Part IV - Chapter 3 (Explosives/Blasting)

Add 3-1.4 to require site inspection prior to permit.

Amend 3-2.2 to require the log to be available to the State Fire Marshal.

Amend 3-6.1 to require a permit for transportation of Hazardous Materials.

Part IV - Chapter 4 (Amusement Rides)

Amend 4-2 to require a permit and specify the information needed on the application for permit.

Add 4-5.1 to require site inspection prior to permit.

Part V - Chapter 5

Many words and references changed to reflect correct text.

Established an effective date for the revisions that affect marking of fire lanes.

Added a definition for "Fire Lane".

Section 5-6.1.2(a) amended to show specific choices for marking primary fire lanes. Section 5-6.1.2(c) added to address options for dealing with the outer edge of a fire lane when it intersects an access roadway or parking lot aisle.

Amended 5-6.1.3 to require marking of secondary fire lanes. Present text disallows enforcement of the secondary fire lanes.

Amended 5-9 and 5-11 to require bollards only when deemed necessary; not always.

Amended 5-10 to clearly specify what is needed to mark paved areas near fire hydrants.

Added section 5-11.9 to define the required FDC sign. Presently this is only specified in the Figures.

Figures updated to reflect the changes.

Part I, Annex A

Adopted NFPA Codes & Standards
Numerical Listing

Each of the following Codes and Standards, published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, are hereby adopted in their entirety with the exception of any changes, additions or deletions as listed in Annex B of these Regulations as a supplement and addition to the Delaware State Fire Prevention Regulations. The text of these adopted Codes and Standards shall be fully enforceable as provisions of these Regulations as if the same were incorporated and set forth at length herein. If a newer Code or Standard has been adopted and issued by the National Fire Protection Association, the State Fire Marshal may accept the newer Code or Standard as an alternative, provided that such Code or Standard affords an equivalent level of safety in the opinion of the State Fire Marshal. Where the Codes or Standards as listed herein, are updated versions of adopted Codes or Standards, the updated versions will replace the existing versions in these Regulations.

NFPA NO.	DATE OF PUBLICATION	TITLE
10[1]	2002	Standard for Portable Fire Extinguishers
~~10R~~	~~1992~~	~~Portable Fire Extinguishing Equipment in Family Dwellings and Living Units, Recommended Practice for~~
11[1]	2002	Standard for Low-Expansion Foam
11A[1]	1999	Standard for Medium- and High-Expansion Foam Systems

12[1]	2000	Standard on Carbon Dioxide Extinguishing Systems
12A[1]	1997	Standard on Halon 1301 Fire Extinguishing Systems
13[1,3]	2002	Standard for the Installation of Sprinkler Systems
13D[1,3]	2002	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
13R[3]	2002	Standard for the Installation of Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height
14[3]	2000	Standard for the Installation of Standpipe, Private Hydrant and Hose Systems
15[1]	2001	Standard for Water Spray Fixed Systems for Fire Protection
16[1]	1999	Standard for the Installation of Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems
~~16A~~	~~1994~~	~~Standard for the Installation of Closed-Head Foam-Water Sprinkler Systems~~
17[1]	2002	Standard for Dry Chemical Extinguishing Systems
17A[1]	2002	Standard on Wet Chemical Extinguishing Systems
18	1995	Standard on Wetting Agents
20	1999	Standard for the Installation of Stationary Pumps for Fire Protection
22	1998	Standard for Water Tanks for Private Fire Protection
24[1]	2002	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
25[1]	2002	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
30[1,3]	2000	Flammable and Combustible Liquids Code
30A[1,3]	2000	Motor Fuel Dispensing Facilities
30B[1]	2002	Code for the Manufacture and Storage of Aerosol Products
31[1]	2001	Standard for the Installation of Oil-Burning Equipment
32[1]	2000	Standard for Drycleaning Plants
33[1]	2000	Standard for Spray Application Using Flammable and Combustible Materials
34[1]	2000	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
35[1]	1999	Standard for the Manufacture of Organic Coatings
36[1]	2001	Standard for Solvent Extraction Plants
37[1]	2002	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
40[1]	2001	Standard for the Storage and Handling of Cellulose Nitrate Film
~~40E~~	~~1993~~	~~Code for the Storage of Pyroxylin Plastic~~
42[2]	2002	Code for the Storage of Pyroxylin Plastic
~~43B~~	~~1993~~	~~Code for the Storage of Organic Peroxide Formulations~~
~~43D~~	~~1994~~	~~Code for the Storage of Pesticides in Portable Containers~~
45[1]	2000	Standard on Fire Protection for Laboratories Using Chemicals
50[1]	2001	Standard for Bulk Oxygen Systems at Consumer Sites
50A[1]	1999	Standard for Gaseous Hydrogen Systems at Consumer Sites
50B[1]	1999	Standard for Liquefied Hydrogen Systems at Consumer Sites
51[1]	2002	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
51A[1]	2001	Standard for Acetylene Cylinder Charging Plants
51B[1]	1999	Standard for Fire Prevention During Welding, Cutting, and other Hot Work
52[1]	2002	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
54[1,3]	2002	National Fuel Gas Code
55[1]	2001	Standard for Compressed and Liquefied Gases in Portable Cylinders
57[1]	2002	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
58[1,3]	2001	Liquefied Petroleum Gases
59[1]	2001	Utility LP-Gas Plant Code
59A[1]	2001	Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)
61[1]	2002	Standard for the Prevention of Fire and Dust Explosions in Agricultural and Food Products Facilities
65	1993	Standard for the Processing and Finishing of Aluminum
68[2]	2002	Venting of Deflagrations, Standard of

69[1]	2002	Standard on Explosion Prevention Systems
70[1,3]	2002	National Electrical Code
72[1]	2002	National Fire Alarm Code
73[1]	2000	Residential Electrical Maintenance Code for One- and Two-Family Dwellings
75 [1]	1999	Standard for the Protection of Electronic Computer/ Data Processing Equipment
76[2]	2002	Telecommunications Facilities
79[1]	2002	Electrical Standard for Industrial Machinery
80[1]	1999	Standard for Fire Doors and Windows
82[1]	1999	Standard on Incinerators, Waste and Linen Handling Systems and Equipment
86[1]	1999	Standard for Ovens and Furnaces
86C[1]	1999	Standard for Industrial Furnaces Using a Special Processing Atmosphere
88A [1]	2002	Standard for Parking Structures
88B	1997	Standard for Repair Garages
90A[1]	2002	Standard for the Installation of Air Conditioning and Ventilating Systems
90B [1]	2002	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
91[1]	1999	Standard for Exhaust Systems for Air Conveying Vapors, Gases, Mists, and Noncombustible Particulate Solids
92A[1]	2000	Recommended Practice for Smoke-Control Systems
92B[1]	2000	Smoke Management Systems in Malls, Atria and Large Areas
96[1]	2001	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
99[1, 3]	2002	Standard for Health Care Facilities
101[3]	2000	Safety to Life from Fire in Buildings and Structures
102	1995	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
110[1]	2002	Standard for Emergency and Standby Power Systems
111[2]	2001	Stored Electrical Energy Emergency and Standby Power Systems
120[1]	1999	Standard for Coal Preparation Plants
150[1]	2000	Standard on Fire Safety in Race Track Stables
170[1]	2002	Standard for Fire Safety Symbols
211[1]	2000	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
214[1]	2000	Standard on Water-Cooling Towers
220	1999	Standard on Types of Building Construction
221[1]	2000	Standard for Fire Walls and Fire Barrier Walls
230	1999	Fire Protection of Storage
~~231D~~	~~1994~~	~~Standard for Storage of Rubber Tires~~
~~231F~~[1]	~~1996~~	~~Standard for the Storage of Roll Paper~~
232[1]	2000	Standard for the Protection of Records
241[1]	2000	Standard for Construction, Alteration, and Demolition Operations
302[1]	1998	Fire Protection Standard for Pleasure and Commercial Motor Craft
303[1]	2000	Fire Protection Standard for Marinas and Boatyards
306[1]	2001	Standard for the Control of Gas Hazards on Vessels
307[1]	2000	Standard for the Construction and Fire Protection of Marine Terminals, Piers and Wharves
312[1]	2000	Standard for Fire Protection of Vessels During Construction, Repair and Lay-up
326[1]	1999	Standard Procedures for the Safeguarding Tanks and Containers
~~327~~	~~1993~~	~~Standard Procedures for Cleaning or Safeguarding Small Tanks and Containers Without Entry~~
~~385~~	~~1990~~	~~Standard for Tank Vehicles for Flammable and Combustible Liquids~~
~~386~~	~~1990~~	~~Standard for Portable Shipping Tanks for Flammable and Combustible Liquids~~
395[3]	1993	Standard for Storage of Flammable and Combustible Liquids on Farms and Isolated Sites
407[1]	2001	Standard for Aircraft Fuel Servicing
408[1]	1999	Standard on Aircraft Hand Portable Fire Extinguishers
409[1]	2001	Standard on Aircraft Hangars
410[1]	1999	Standard on Aircraft Maintenance
415[1]	2002	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
~~416~~	~~1993~~	~~Standard on Construction and Protection of Airport Terminal Buildings~~
~~417~~	~~1990~~	~~Standard on Construction and Protection of Aircraft Loading Walkways~~
418 [1]	2001	Standard on Heliports
430[1]	2000	Code for the Storage of Liquid and Solid Oxidizers

434[2]	2002	Storage of Pesticides, Code for the
~~480[1]~~	~~1998~~	~~Standard for the Storage, Handling, and Processing of Magnesium~~
~~481[1]~~	~~2000~~	~~Standard for the Production, Processing, Handling and Storage of Titanium~~
~~482~~	~~1996~~	~~Standard for the Production, Processing, Handling, and Storage of Zirconium~~
484[2]	2002	Standard for Combustible Metals, Metal Products and Metal Dusts
490[1]	2002	Code for the Storage of Ammonium Nitrate
495[1]	2001	Explosive Materials Code
496[1]	1998	Standard for Purged and Pressurized Enclosures for Electrical Equipment
498[1]	2001	Standard for Safe Haven for Vehicles Transporting Explosives
501A[1]	2000	Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities
~~501C[1]~~	~~1996~~	~~Standard on Recreational Vehicles~~
~~501D[1]~~	~~1996~~	~~Standard for Recreational Vehicle Parks and Campgrounds~~
502[1]	2001	Road Tunnels, Bridges, and Other Limited Access Highways
505[1]	2002	Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Maintenance, and Operation
~~513~~	~~1994~~	~~Standard for Motor Freight Terminals~~
560[1]	2002	Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation
~~650~~	~~1990~~	~~Standard for Pneumatic Conveying Systems for Handling Combustible Materials~~
~~651[1]~~	~~1998~~	~~Standard for the Manufacture of Aluminum and Aluminum Powder~~
654[1]	2000	Standard for the Prevention of Fire and Dust Explosions from Manufacturing Combustible Particulate Solids
655[1]	2001	Standard for Prevention of Sulfur Fires and Explosions
664[1]	2002	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
703[1]	2000	Standard for Fire-Retardant Impregnated Wood and Fire-Retardant Coatings for Building Materials
704[1]	2001	Standard for the Identification of the Hazards of Materials
750[1]	2000	Standard on Water Mist Fire Protection Systems
780[1]	2000	Installation of Lightning Protection Systems
804[1]	2001	Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants
909[1]	2001	Standard for the Protection of Cultural Resources
1123[1]	2000	Code for Fireworks Display
1122[1]	2002	Code for Model Rocketry
1124[1]	1998	Code for the Manufacturer, Transportation and Storage of Fireworks and Pyrotechnic Articles
1125[1]	2001	Code for the Manufacture of Model Rocket and High Power Rocket Motors
1126[1]	2001	Standard for the Use of Pyrotechnics before a Proximate Audience
1127[1]	2002	Code for High Power Rocketry
1142[2]	2001	Standard on Water Supplies for Suburban and Rural Fire Fighting
1221[1]	2002	Standard for the Emergency Services Communications
~~1231~~	~~1993~~	~~Standard on Water Supplies for Suburban and Rural Fire Fighting~~
1961[1]	2002	Standard on Fire Hose
1962[1]	1998	Standard for the Care, Use, and Service Testing of Fire Hose Including Connections and Nozzles
1963[1]	1998	Standard for Fire Hose Connections
2001[1]	2000	Standard on Clean Agent Fire Extinguishing Systems

(1) Indicates an Updated Document; (2) Indicates a Document New to the SFPR; and (3) Indicates a Document Amended in Annex B

Adopted NFPA Codes & Standards
Alphabetical Listing

Each of the following Codes and Standards, published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, are hereby adopted in their entirety with the exception of any changes, additions or deletions as listed in Annex B of these Regulations as a supplement and addition to the Delaware State Fire Prevention Regulations. The text of these adopted Codes and Standards shall be fully enforceable as provisions of these Regulations as if the same were incorporated and set

forth at length herein. If a newer Code or Standard has been adopted and issued by the National Fire Protection Association, the State Fire Marshal may accept the newer Code or Standard as an alternative, provided that such Code or Standard affords an equivalent level of safety in the opinion of the State Fire Marshal. Where the Codes or Standards as listed herein, are updated versions of adopted Codes or Standards, the updated versions will replace the existing versions in these Regulations.

NFPA NO.	DATE OF PUBLICATION	TITLE
51A[1]	2001	Acetylene Cylinder Charging Plants, Standard for
804[1]	2001	Advanced Light Water Reactor Electric Generating Plants, Standard for Fire Protection for
30B[1]	2002	Aerosol Products, Code for the Manufacture and Storage of
61[1]	2002	Agricultural and Food Products Facilities, Standard for the Prevention of Fires and Dust Explosions in
90A[1]	2002	Air Conditioning and Ventilating Systems, Standard for the Installation of
90B[1]	2002	Air Conditioning Systems, Warm Air Heating and, Standard for the Installation of
415	1997	Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways, Standard on
407[1]	2001	Aircraft Fuel Servicing, Standard for
408[1]	1999	Aircraft Hand Portable Fire Extinguishers, Standard for
409[1]	2001	Aircraft Hangars, Standard on
~~417~~	~~1990~~	~~Aircraft Loading Walkways, Standard on Construction and Protection of~~
410[1]	1999	Aircraft Maintenance, Standard on
~~416~~	~~1993~~	~~Airport Terminal Buildings, Standard on Construction and Protection~~
~~651[1]~~	~~1998~~	~~Aluminum and Aluminum Powder, Standard for the Manufacture~~
~~65~~	~~1993~~	~~Aluminum, Standard for the Processing and Finishing of~~
490[1]	2002	Ammonium Nitrate, Code for the Storage of
30A[1,3]	2000	Automotive and Marine Service Station Code
220	1999	Building Construction, Standard for Types
703[1]	2000	Building Materials, Standard for Fire-Retardant Impregnated Wood and Fire-Retardant Coatings
50[1]	2001	Bulk Oxygen Systems at Consumer Sites, Standard for
12[1]	2000	Carbon Dioxide Extinguishing Systems, Standard on
40[1]	2001	Cellulose Nitrate Film, Standard for the Storage and Handling of
654[1]	2000	Chemical, Dye, Pharmaceutical, and Plastics Industries, Standard for the Prevention of Fire and Dust Explosions in the
211	2000	Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, Standard for
2001[1]	2000	Clean Agent Fire Extinguishing Systems, Standard on
120 [1]	1999	Coal Preparation Plants, Standard for
484 [2]	2002	Combustible Metals, Metal Products, and Metal Dusts, Standard for the Protection of
37[1]	2002	Combustion Engines and Gas Turbines, Standard for the Installation and Use of Stationary
96[1]	2001	Commercial Cooking Operations, Standard for Ventilation Control and Fire Protection
55[1]	2001	Compressed and Liquefied Gases in Portable Cylinders, Standard for the Storage, Use, and Handling of
52[1]	2002	Compressed Natural Gas (CNG) Vehicular Fuel Systems, Standard for
241[1]	2000	Construction, Alteration, and Demolition Operations, Standard for
909 [1]	2001	Cultural Resources, Standard for the Protection of
16[1]	1999	Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems, Standard for the Installation of
34[1]	2000	Dipping and Coating Processes Using Flammable or Combustible Liquids Standard
17 [1]	2002	Dry Chemical Extinguishing Systems, Standard for
32 [1]	2000	Drycleaning Plants, Standard for
1221[1]	2002	Emergency Services Communications, Standard for the
560[1]	2002	Ethylene Oxide for Sterilization and Fumigation, Standard for the Storage, Handling, and Use of
70[1, 3]	2002	Electrical Code, National
496 [1]	1998	Electrical Equipment, Purged and Pressurized Enclosures, Standard for

73[1]	2000	Electrical Inspection for Existing Dwellings
79[1]	1997	Electrical Standard for Industrial Machinery
75[1]	1999	Electronic Computer/Data Processing Equipment, Standard for the Protection of
110[1]	2002	Emergency and Standby Power Systems, Standard for
91[1]	1999	Exhaust Systems for Air Conveying of Materials, Standard for
69[1]	2002	Explosion Prevention Systems, Standard on
495[1]	2001	Explosive Materials Code
498 [1]	2001	Explosives, Standard for Safe Havens for Vehicles Transporting
72[1]	2002	Fire Alarm Code, National
80[1]	1999	Fire Doors and Windows, Standard for
10[1]	2002	Fire Extinguishers, Portable, Standard for
~~10R~~	~~1992~~	~~Fire Extinguishing Equipment, Portable, in Family Dwellings and Living Units, Recommended Practice for~~
1961[1]	2002	Fire Hose, Standard on
1963[1]	1998	Fire Hose Connections, Standard for
1962[1]	1998	Fire Hose Including Connections and Nozzles, Standard for the Care, Use, and Service Testing of
230	1999	Fire Protection of Storage, Standard for the
170[1]	1999	Fire Safety Symbols, Standard for
221 [1]	2000	Fire Walls and Fire Barrier Walls, Standard for
1124[1]	1998	Fireworks and Pyrotechnic Articles, Code for the Manufacturer, Transportation and Storage of
1123[1]	2000	Fireworks Display, Code for
30[1,3]	2000	Flammable and Combustible Liquids Code
395[3]	1993	Flammable and Combustible Liquids on Farms and Isolated Sites, Standard for Storage of
~~386~~	~~1990~~	~~Flammable and Combustible Liquids, Portable Shipping Tanks, Standard for~~
~~385~~	~~1990~~	~~Tank Vehicles for Flammable and Combustible Liquids, Standard for~~
11[1]	2002	Foam, Standard for Low-Expansion
11A [1]	1999	Foam Systems, Standard for Medium- and High-Expansion
~~16A~~	~~1994~~	~~Foam-Water Sprinkler Systems, Closed-Head, Standard for the Installation of~~
54[1,3]	2002	Fuel Gas Code, National
306[1]	2001	Gas Hazards on Vessels, Standard for the Control of
50A[1]	1999	Gaseous Hydrogen Systems at Consumer Sites, Standard for
102	1995	Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, Standard for
12A[1]	1997	Halon 1301 Fire Extinguishing Systems, Standard on
704[1]	2001	Hazards of Materials, Standard for the Identification of the
99[1,3]	2002	Health Care Facilities, Standard for
418[1]	2001	Heliports, Standard for
1127[1]	2002	High Power Rocketry, Code for
82[1]	1999	Incinerators, Waste and Linen Handling Systems and Equipment, Standard for
86C[1]	1999	Industrial Furnaces Using a Special Processing Atmosphere, Standard for
45[1]	2000	Laboratories Using Chemicals, Standard on Fire Protection for
780[1]	2000	Lightning Protection Systems, Installation of
50B[1]	1999	Liquefied Hydrogen Systems at Consumer Sites, Standard for
59A[1]	2001	Liquefied Natural Gas (LNG), Standard for the Production, Storage, and Handling of
57[1]	2002	Liquefied Natural Gas (LNG) Vehicular Fuel Systems, Standard for
59[1]	2001	Liquefied Petroleum Gases at Utility Gas Plants, Standard for Storage and Handling of
58[1, 3]	2001	Liquefied Petroleum Gas Code
~~480[1]~~	~~1998~~	~~Storage, Handling, and Processing of Magnesium, Standard for the~~
501A[1]	2000	Manufactured Home Installations, Sites, and Communities, Standard for Fire Safety Criteria for
303[1]	2000	Marinas and Boatyards, Fire Protection Standard for
307[1]	2000	Marine Terminals, Piers and Wharves, Standard for the Construction and Fire Protection
1125[1]	2001	Model Rocket and High Power Rocket Motors, Code for the Manufacture of
1122[1]	2002	Model Rocketry, Code for
302[1]	1998	Pleasure and Commercial Motor Craft,

		Fire Protection Standard for
31[1]	2001	Oil-Burning Equipment, Standard for the Installation of
35[1]	1999	Organic Coatings, Standard for the Manufacture of
~~43B~~	~~1993~~	~~Organic Peroxide Formulations, Standard for the Storage of~~
86[1]	1999	Ovens and Furnaces, Standard for
430[1]	2000	Oxidizers, Code for Storage of Liquid and Solid
88A[1]	2002	Parking Structures, Standard for
434[2]	2002	Pesticides, Code for the Storage of
~~43D~~	~~1994~~	~~Pesticides in Portable Containers, Standard for the Storage of~~
~~650~~	~~1990~~	~~Pneumatic Conveying Systems for Handling Combustible Materials, Standard for~~
505[1]	2002	Powered Industrial Trucks Including Type Designations, Areas of Use, Maintenance, and Operations, Standard for
24[1]	2002	Private Fire Service Mains and Their Appurtenances, Standard for the Installation of
1126[1]	2001	Pyrotechnics before a Proximate Audience, Standard for the Use of
~~40E~~	~~1993~~	~~Pyroxylin Plastic, Code for the Storage of~~
42[2]	2002	Pyroxylin Plastic, Code for the Storage of
150[1]	2000	Race Track Stables, Standard on Fire Safety
232[1]	2000	Records, Standard for the Protection of
~~501D[1]~~	~~1996~~	~~Recreational Vehicle Parks and Campgrounds, Standard for~~
~~501C[1]~~	~~1996~~	~~Recreational Vehicles, Standard on~~
88B	1997	Repair Garages, Standard for
502 [1]	2001	Road Tunnels, Bridges, and Other Limited Access Highways, Recommended Practice on Fire Protection for
~~231F[1]~~	~~1996~~	~~Roll Paper, Standard for the Storage of~~
~~231D~~	~~1994~~	~~Rubber Tires, Standard for Storage of~~
101[3]	2000	Safety to Life from Fire in Buildings and Structures
92A [1]	2000	Smoke-Control Systems, Recommended Practice for
92B [1]	2000	Smoke Management Systems in Malls, Atria and Large Areas, Guide for
36[1]	2001	Solvent Extraction Plants, Standard for
33[1]	2000	Spray Application Using Flammable and Combustible Materials, Standard for
13[1,3]	2002	Sprinkler Systems, Standard for the Installation of
13D[1,3]	2002	Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, Standard for the Installation of
13R[3]	2002	Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height, Standard for the Installation of
14[3]	2000	Standpipe, Private Hydrants and Hose Systems, Standard for Installation of
20	1999	Stationary Pumps for Fire Protection, Standard for the Installation of
111[2]	2001	Stored Electrical Energy and Standby Power Systems
655[1]	2001	Sulfur Fires and Explosions, Standard for Prevention of
~~327~~	~~1993~~	~~Tanks and Containers, Small, Standard Procedures for Cleaning or Safeguarding Without Entry~~
326[1]	1999	Tanks and Containers, Standard Procedures for the Safeguarding
~~513~~	~~1994~~	~~Terminals, Motor Freight, Standard for~~
76[2]	2002	Telecommunications Facilities
~~481[1]~~	~~2000~~	~~Titanium, Standard for the Production, Processing, Handling and Storage of~~
68[2]	2002	Venting of Deflagrations, Standard of
312 [1]	2000	Vessels During Construction, Repair and Lay-up, Standard for Fire Protection of
25[1]	2002	Water-Based Fire Protection Systems, Standard for the Inspection, Testing, and Maintenance of
214[1]	2000	Water-Cooling Towers, Standard on
750[1]	2000	Water Mist Fire Protection Systems, Standard on
15[1]	2001	Water Spray Fixed Systems for Fire Protection, Standard for
~~1231~~	~~1993~~	~~Water Supplies for Suburban and Rural Fire Fighting, Standard of~~
1142	2001	Water Supplies for Suburban and Rural Fire Fighting, Standard of
22	1998	Water Tanks for Private Fire Protection, Standard for
51[1]	2002	Welding, Cutting, and Allied Processes, Standard for Design and Installation of Oxygen-Fuel Gas Systems for
51B[1]	1999	Welding, Cutting and Other Hot Work, Standard for Fire Prevention During
17A[1]	2002	Wet Chemical Extinguishing Systems, Standard for
18	1995	Wetting Agents, Standard on

664[1] 2002 Wood Processing and Woodworking Facilities, Standard Prevention of Fires and Explosions in

~~482 1996 Zirconium, Standard for the Production, Processing, Handling, and Storage of~~

(1) Indicates an Updated Document; (2) Indicates a Document New to the SFPR; and (3) Indicates a Document Amended in Annex B

Part I Annex B

MODIFY NFPA 13, ~~1999~~ 2002, Standard for the Installation of Sprinkler Systems.

Chapter 6, System Components.

6.8 Fire Department Connection.

Amend 6.8.1 to read as follows:

6.8.1 The fire department connection(s) shall use hose connections compatible with the local fire company.

Chapter ~~5~~ 8, Installation Requirements.

~~5-15~~ 8.16 System Attachments.

~~5-15.2.3~~ 8.16.2 Arrangement.

~~5-15.2.3~~ 8.16.2.4.6 Fire Department Connection.

Amend §~~5-15.2.3.5~~ 8.16.2.4.6 by deleting the existing §~~5-15.2.3.5~~ 8.16.2.4.6 and inserting a new section to read as follows:

~~5-15.2.3.5~~ 8.16.2.4.6 Fire Department Connections shall be located or arranged as required by the Chief Officer of the fire department having jurisdiction according to the following:

(a) The Office of State Fire Marshal will give notice to the Chief Officer of a building that is proposed for construction that is to be protected with an automatic sprinkler system, and the Chief Officer must respond, in writing, within 5 working days, as to their requirement for the location of the fire department connection.

(b) In the event that the Chief Officer does not respond according to (a) of this Section, the Office of State Fire Marshal will determine the location for the fire department connection. This provision will permit the Office of State Fire Marshal to locate the fire department connection so that hose can be readily and conveniently attached; and the fire department connections will be located in a manner consistent with nationally recognized practices.

(c) Each fire department connection to sprinkler systems shall be designated by a sign having raised letters at least 1 in. (25.4 mm) in height cast on plate or fitting, reading service design, e.g., "AUTOSPRK", "OPEN SPRK AND STANDPIPE." A sign shall also indicate the pressure required at the inlets to deliver the greatest system demand.

Exception to (c): The sign is not required where the system demand pressure is less than 150 psi (10.3 bars).

Chapter ~~8~~ 14, Plans and Calculations.

~~8-4~~ 14.4 Hydraulic Calculation Procedures.

~~8-4.4~~ 14.4.4 Calculation Procedures.

AMEND §~~8-4.4~~ 14.4.4 , Calculation Procedures, by adding a new subsection to read as follows:

~~8-4.4.9~~ 14.4.4.10 A hydraulically designed sprinkler system shall be designed to provide a 10 PSI safety factor over and above the system demand.

MODIFY NFPA 13D, ~~1996~~ 2002, Standard for the Installation of Sprinkler Systems In One- And Two-Family Dwellings And Manufactured Homes.

Chapter ~~3~~ 7, System Components.

~~3-6~~ 7.6 Alarms.

AMEND §~~3-6~~ 7.6 Alarms, by deleting the existing Exception and adding the following to

§~~3-6~~ 7.6: The alarm shall be of sufficient intensity to sound an alarm at 15 dBA above ambient noise level inside the protected property.

MODIFY NFPA 13R, ~~1999~~ 2002, Standard for the Installation of Sprinkler Systems In Residential Occupancies Up To And Including Four Stories.

AMEND §1.1 Scope, by inserting additional text and have section to read as follows

1.1 Scope

This standard covers design and installation of automatic sprinkler systems for protection against fire hazards in residential occupancies up to and including four stories in height and not exceeding 10,000 square feet in aggregate gross floor area.

~~2-4.6~~ 6.6.8 Alarms.

AMEND §~~2-4.6~~ 6.6.8.1 Alarms, by deleting existing §~~2-4.6~~ 6.6.8.1 and inserting a new section to read as follows:

~~2-4.6~~ 6.6.8.1 All residential (13R) sprinkler systems shall have a water flow alarm installed that will provide an audible sound. The alarm shall be of sufficient intensity to sound an alarm at 15 dBA above ambient noise level both inside and outside the residence.

MODIFY NFPA 14, 2000, Standard for the Installation of Standpipe and Hose Systems.

Chapter 5, Design.

5-3 Location of Hose Connections.

5-3.2 Class I Systems

AMEND §5-3.2 (a) by deleting the Exception:

~~Exception: Hose connections shall be permitted to be located at the main floor landings in exit stairways where approved by the authority having jurisdiction.~~

~~**MODIFY NFPA 30A**, 1996, Automotive And Marine Service Station Code.~~

~~Chapter 2, Storage.~~

~~2-1 General Provisions.~~

~~AMEND §2-1, General Provisions, by adding new subsections to read as follows:~~

~~2-1.8 All underground petroleum storage tank fill pipes shall be marked and maintained with colors and symbols consistent with API Recommended Practice 1637.~~

~~2-1.9 The seasonal exchange of product shall be prohibited in underground storage tanks.~~

~~2.1.10 No change of class of product within storage tanks shall be made without prior approval of the State Fire Marshal.~~

~~Chapter 4, Fuel Dispensing System.~~

~~4-2 Fuel Dispensing System.~~

~~AMEND §4-2, Fuel Dispensing System, by adding new subsections to read as follows:~~

~~4-2.10 Dispensing units for kerosene shall not be located on the same island with Class I liquid dispensing units.~~

~~4-2.11 Islands with dispensing units for kerosene shall be located a minimum of 10' from islands with Class I liquid dispensing units.~~

~~4-2.12 Dispensing units for kerosene shall be provided with a legible sign, bearing the word "KEROSENE" in a minimum 4" high letter, with such letters to be in blue with a contrasting background color.~~

~~Chapter 9, Operational Requirements.~~

~~9-2 Dispensing Into Portable Containers.~~

~~RENUMBER Subsection 9-2.2, to 9-2.3 and insert a new Subsection 9-2.2 to read as follows:~~

~~9-2.2 No sale or purchase of kerosene shall be made in containers unless such containers meet the provisions of this standard and are a color other than red with the word "KEROSENE" marked thereon. (The recommended color is blue with white lettering.)~~

~~AMEND Chapter 9, Operational Requirements, by adding new §9-10 to read as follows:~~

~~9-10 Marine Dispensing Areas.~~

~~9-10.1 The dispensing of Class I Liquids into the fuel tanks of self-propelled water craft must be accomplished at a designated marine Service Station, and that service station must be in accordance with the applicable provisions of these Regulations.~~

~~9-10.2* The dispensing of Class I Liquids into the fuel tanks of self-propelled water craft shall be prohibited from a tank truck vehicle.~~

~~A-9-10.2 It is the express intent of this section to prohibit the transfer of Class I liquids from a tank truck vehicle directly into the fuel tanks of a boat or any other self-propelled water craft.~~

~~9-10.3* The dispensing of Class II Liquids into the fuel tanks of self-propelled water craft, is permitted provided the tank truck vehicle is equipped with an automatic shut off nozzle.~~

~~A-9-10.3 This change is based on an appeal filed by the Delaware Captains Association. This appeal was heard by the State Fire Prevention Commission on September 20, 1994 and was subsequently approved by the State Fire Prevention Commission on September 20, 1994.~~

MODIFY NFPA 30A, 2000, Automotive And Marine Service Station Code.

Chapter 5 , Piping for Liquids.

5.2 General Requirements for All Piping

AMEND §5.2, General Requirements for All Piping to read as follows:

5.2.5 Each fill pipe shall be identified by color code or other marking to identify the product for which it is used. The color code or marking shall be maintained in legible condition throughout the life of the installation. All underground petroleum storage tank fill pipes shall be marked and maintained with colors and symbols consistent with API Recommended Practice 1637

Chapter 9 , Operating Requirements.

9.2 Basic Requirements

9.2.1 Inventory Control

AMEND §9.2.1, Inventory Control by adding new subsections to read as follows:

9.2.1.1 The seasonal exchange of product shall be prohibited in underground storage tanks.

9.2.1.2 No change of class of product within storage tanks shall be made without prior approval of the State Fire Marshal.

Chapter 6, Fuel Dispensing System.

6-2 General Requirements.

AMEND §6-2, General Requirements, by adding new

subsections to read as follows:

6.2.3 Dispensing units for kerosene shall not be located within 25' of Class I liquid dispensing units.

6.2.4 Islands with dispensing units for kerosene shall be located a minimum of 10' from islands with Class I liquid dispensing units.

6.2.5 Dispensing units for kerosene shall be provided with a legible sign, bearing the word "KEROSENE" in a minimum 4" high letter, with such letters to be in blue with a contrasting background color.

Chapter 9, Operational Requirements.

9.2 Dispensing Into Portable Containers.

RENUMBER Subsection 9.2.3.3 to 9.2.3.4 and insert a new Subsection 9.2.3.3 to read as follows:

9.2.3.3 No sale or purchase of kerosene shall be made in containers unless such containers meet the provisions of this standard and are a color other than red with the word "KEROSENE" marked thereon. (The recommended color is blue with white lettering.)

AMEND Chapter 11, Marine Fueling, by renumbering §11.10.6 to §11.10.6.1 and adding new §11.10.6.2, §11.10.6.3 and §11.10.6.4 to read as follows:

11.10 Operating Requirements.

11.10.6.2 The dispensing of Class I Liquids into the fuel tanks of self-propelled water craft must be accomplished at a designated marine Service Station, and that service station must be in accordance with the applicable provisions of these Regulations.

11.10.6.3* The dispensing of Class I Liquids into the fuel tanks of self-propelled water craft shall be prohibited from a tank truck vehicle.

A-11.10.6.3 It is the express intent of this section to prohibit the transfer of Class I liquids from a tank truck vehicle directly into the fuel tanks of a boat or any other self-propelled water craft.

11.10.6.4* The dispensing of Class II Liquids into the fuel tanks of self-propelled water craft, is permitted provided the tank truck vehicle is equipped with an automatic shut off nozzle.

A-11.10.6.4 This change is based on an appeal filed by the Delaware Captains Association. This appeal was heard by the State Fire Prevention Commission on September 20, 1994 and was subsequently approved by the State Fire Prevention Commission on September 20, 1994.

MODIFY NFPA 54, ~~1996~~ 2002, National Fuel Gas Code.

Chapter ~~6~~ 9, Installation Of Specific Equipment.

~~6-24~~ 9.23 Room Heaters.

AMEND §~~6-24.1~~ 9.23.1, Prohibited Installations, by deleting the two exceptions, thereby specifically prohibiting the installation of unvented fuel fired room heaters in bathrooms or bedrooms, to read as follows:

~~6-24.1~~ 9.23.1 Prohibited Installations. Unvented room heaters shall not be installed in bathrooms and bedrooms.

MODIFY NFPA 58, ~~1995~~ 2001, Standard for the Storage and Handling of Liquefied Petroleum Gases.

Chapter 1, General Provisions.

1-4 Notification Of Installations.

Amend §1-4.1, ~~Fixed~~ Stationary Installations, by deleting the existing section and inserting two new subsections to read as follows:

~~1-4.1*~~ 1-4.1.1* Plans shall be submitted to the Office of State Fire Marshal for review and approval for the following liquefied petroleum gas (LPG) installations:

(a) At consumer sites having an aggregate water capacity of 1,000 gallons or more tank storage; and

(b) For all portable cylinder exchange at consumer sites or dispensing stations, where not connected for use, and in storage for resale or exchange by dealer or reseller.

~~A-1-4.1~~ A-1-4.1.1 This section still requires the submission of plans for all LP Gas installations with an aggregate capacity of 1,000 gallons or more, and now requires the submission of plans for all portable cylinder exchange installations.

~~1-4.2*~~ 1-4.1.2* Plans shall be submitted to the Office of State Fire Marshal for review and approval regarding liquefied petroleum gas (LPG) installations for all sites and locations where LPG is dispensed by a retail operation to the public, regardless of tank storage capacity.

A-1-4.1.2 Submission of plans for all LP Gas Installations where tanks are filled as a retail operation for the public.

Exception To ~~1-4.1 and 1-4.2~~ 1-4.1.1 and 1-4.1.2: One- and Two-Family Dwellings are not required to comply with these sections.

MODIFY NFPA 70, 2002, The National Electrical Code.

Article 210, Branch Circuits

210.12 Arc-Fault Circuit-Interrupter Protection.

AMEND §210.12(B), by adding a second third and fourth sentences to read:

(B) Dwelling Unit Bedrooms. All branch circuits that supply 125-volt, single-phase, 15- and 20-ampere outlets installed in dwelling unit bedrooms shall be protected by an arc-fault circuit interrupter listed to provide protection of the entire branch circuit. Smoke alarms shall not be placed on branch circuits protected by arc-fault circuit interrupter. All

smoke alarms shall be supplied by branch circuits dedicated to smoke alarm equipment. The connection of the smoke alarm branch circuit to the power service shall be mechanically protected by utilizing lock-on devices.

MODIFY NFPA 70, 2002, The National Electrical Code.

Article 550, Mobile Homes/Manufactured Homes
550.25 Arc-Fault Circuit-Interrupter Protection.

AMEND §550.25(B), by adding a second third and fourth sentences to read:

(B) Dwelling Unit Bedrooms. All branch circuits that supply 125-volt, single-phase, 15- and 20-ampere outlets installed in dwelling unit bedrooms shall be protected by an arc-fault circuit interrupter listed to provide protection of the entire branch circuit. Smoke alarms shall not be placed on branch circuits protected by arc-fault circuit interrupter. All smoke alarms shall be supplied by branch circuits dedicated to smoke alarm equipment. The connection of the smoke alarm branch circuit to the power service shall be mechanically protected.

MODIFY NFPA 99, ~~2000~~ 2002, Health Care Facilities

~~Chapter 3, Electrical Systems.~~
~~3-4 Essential System.~~
~~3-4.2.2 Emergency System.~~

~~AMEND §3-4.2.2.2(b), Life Safety Branch, by adding a new subsection to read as follows:~~
~~3-4.2.2.2(b)(8) Electric Fire Pumps~~

Chapter 4, Electrical Systems.
4.4 Essential System.
4.4.2 Distribution (Type 1 EES)
4.4.2.2 Specific Requirements.

AMEND §4.4.2.2.2.2, Life Safety Branch, by adding a new subsection to read as follows:
4.4.2.2.2.2(9) Electric Fire Pumps

MODIFY NFPA 101, 2000, The Life Safety Code.
Chapter 16, New Day Care Occupancies.
16-2 Means of Egress Requirements.
16-2.2 Means of Egress Components.
16-2.2.2 Doors.

AMEND §16-2.2.2.2, Panic Hardware or Fire Exit Hardware, by deleting the existing §16-2.2.2.2, and inserting a new §16-2.2.2.2 to read as follows:

16-2.2.2.2 Panic Hardware Or Fire Exit Hardware. ~~Any door in a required means of egress may be provided with a latch or lock only if it is panic hardware or fire exit hardware~~. Any door in a required means of egress from an area having an occupant load of 13 or more persons shall be permitted to be provided with a latch or lock only if the latch or lock is panic hardware or fire exit hardware.

Chapter 18, Health Care Occupancies
18.3.2 Protection from Hazards.

AMEND §18.3.2, by adding §18-3.2.8, to read as follows:

18.3.2.8 Dispensers containing Alcohol Based Waterless Hand Sanitizing Liquid shall be prohibited from being located in corridors or any area open to a required exit or corridor. Dispensers containing Alcohol Based Waterless Hand Sanitizing Liquid shall be isolated from possible ignition sources, such as, but limited to, open-flame, electrical equipment, switches or receptacle outlets.

Chapter 26, Lodging Or Rooming Houses.
26-3 Protection.
26-3.3 Detection, Alarm, And Communication Systems.

AMEND §26-3.3, Detection Alarm, And Communication Systems, by adding a new Subsection to read as follows:

26-3.3.4 A corridor smoke detection system in accordance with ~~§7-6~~ §9.6 shall be installed in all lodging or rooming houses.

Chapter 30, New Apartment Buildings.
30-3.4 Detection, Alarm, and Communication Systems.

AMEND §30-3.4.1, General, by deleting §30-3.4.1 and two exceptions, and inserting a new §30-3.4.1 and exception to read as follows:

30-3.4.1 General. All new apartment buildings shall be provided with a fire alarm system in accordance with ~~§7-6~~ §9-6, except as modified by 30-3.4.2 through 30-3.4.4.

Exception: Where each dwelling unit is separated from other contiguous dwelling units by fire barriers having a fire resistance rating of not less than one hour, and where each dwelling unit has either its own independent exit or its own independent stairway or ramp discharging at grade.

AMEND §30-3.4.4, Detection, by adding a new Subsection to read as follows:

30-3.4.4.1 A corridor smoke detection system in accordance with ~~§7-6~~ §9.6, shall be installed in all apartment buildings.

30.3.5 Extinguishment Requirements.

AMEND §30.3.5.1, by revising §30.3.5.1 Exception No. 1, to read as follows:

Exception No. 1: In buildings not exceeding 10,000 sq. ft. of aggregate gross floor area and sprinklered in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems, closets less than 12 ft^2 (1.1 m^2) in area in individual dwelling units shall not be required to be sprinklered. Closets that contain equipment such as washers, dryers, furnaces, or water heaters shall be sprinklered regardless of size.

Chapter 32, New Residential Board And Care Occupancies.

32-2 Small Facilities.

AMEND §32-2, Small Facilities, by adding new Subsections to read as follows:

32-2.2.7 Emergency Lighting. Emergency lighting shall be installed in accordance with ~~§5-9~~ §7.9.

32-2.2.8 Marking Of Means Of Egress. Means of egress shall be marked in accordance with ~~§5-10~~ §7.10.

32-2.2.9 Portable Fire Extinguishers. Portable fire extinguishers shall be provided near hazardous areas in accordance with ~~§7-7~~ §9.7.

32-2.3.4 Detection, Alarm, and Communication Systems.

AMEND §32-2.3.4, Detection, Alarm, and Communication Systems, by adding §32-2.3.4.4, Emergency Forces Notification, to read as follows:

32-2.3.4.4 Emergency Forces Notification. Fire department notification shall be accomplished in accordance with ~~§7-6.4~~ §9.6.4.

32-3 Large Facilities.

32-3.3.4 Detection, Alarm, and Communication Systems.

AMEND §32-3.3.4.6, Fire Department Notification, by deleting the existing §32-3.3.4.6 and inserting a new §32-3.3.4.6 to read as follows:

32-3.3.4.6 Fire Department Notification. Fire department notification shall be accomplished in accordance with ~~§7-6.4~~ §9.6.4.

Part I Chapter 2 - Definitions

2-1 Definitions

Height. For purposes of determining building height, measurements shall be ~~taken at the building's lowest grade level and extend to the highest point of a flat roof or to the mean level of the highest gable or slope of a hip or mansard roof~~ measured from the lowest level of fire department vehicle access to the floor of the highest occupiable story.

Part II; Chapter 6 - Standard For Fire Flow For Fire Protection

6-2.1 Notwithstanding, any other provisions of the Delaware State Fire Prevention Regulations, for all buildings or structures of less than 10,000 square feet of aggregate gross floor area, and where there is not a public water system or a central water system; the State Fire Marshal may utilize the provisions of the *Standard on Water Supplies for Suburban and Rural Fire Fighting*, NFPA ~~1231~~ 1142, as adopted and/or modified by these Regulations, as meeting the requirement for fire flow. (See §6-7, Dry Hydrants, at the end of this Chapter).

6-4.2 The requirements of Fire Flow Table 1, with respect to the provisions of the *Standard on Water Supplies for Suburban and Rural Fire Fighting*, NFPA ~~1231~~ 1142, as adopted and/or modified by these Regulations, may be applied to subdivisions of 25 or less lots of detached one- and two-family dwellings, where central water is provided, but the requirement for water flow for fire protection is as follows:

1) The infrastructure for fire flow capability must be installed to ~~accomodate~~ accommodate the fire flow requirements when additional development occurs.

Chapter 6 – Fire Flow Table 1

Fire Flow Table 1*

The requirements of apply to rural areas where public, private, or central water is not available.

Occupancy	Maximum Aggregate Gross Square Footage	Provide a fire alarm system per 6-3.1.4	Minimum Set Back from all property lines	Maximum Height	Exposure Hazard on the Same Property	Internal Fire Separation	Apply
One & Two – Family Detached Dwellings	10,000	no	15’	3 Stories 35’	10’+	n/a	~~NFPA 1231~~ NFPA 1142
Multi-Family & Other Residential	10,000	no	15’	3 Stories 35’	10’+	n/a	~~NFPA 1231~~ NFPA 1142
Rowhouses & Townhouses	10,000	no	15’	3 Stories 35’	10’+	2-Hr rated wall / Part I Chapter 2	~~NFPA 1231~~ NFPA 1142

Assembly	5,000	no	15'	1 Story 15'	10'+	n/a	~~NFPA 1231~~ NFPA 1142
Assembly[1]	5,001 to 10,000	YES	15'	2 Stories 30'	10'+	n/a	~~NFPA 1231~~ NFPA 1142
Health Care Business Education	10,000	no no no	15'	2 Stories 30'	10'+	n/a	~~NFPA 1231~~ NFPA 1142
Storage Industrial Mercantile	5,000	no no no	15'	To be reviewed on an individual basis	15'+	n/a	~~NFPA 1231~~ NFPA 1142
Storage[1] Industrial[1] Mercantile[1]	5,001 to 10,000	YES YES YES	25'	To be reviewed on an individual basis	15'+	n/a	~~NFPA 1231~~ NFPA 1142
Mini-Storage	5,000	no	15'	2 Stories 30'	15'+	n/a	~~NFPA 1231~~ NFPA 1142
Mini-Storage	5,001 to 10,000	no	25'	2 Stories 30'	15'+	n/a	~~NFPA 1231~~ NFPA 1142

[1] A fire alarm signaling system shall be provided. See §6-3.1.4.

***A-Fire Flow Table 1.**

The requirements of Fire Flow Table 1 apply to rural areas where public, private or central water is not available. Where Exposure Hazard, Same Property (EHSP) or Minimum Set Back from all property lines (MSB) cannot be met, the following table may be utilized.

Occupancy	Maximum Aggregate Gross Square Footage	Fire Separation Distance (or Exposure Hazard, Same Property)	Exterior Wall Fire Resistance Rating
One- and Two-Family Detached Dwellings	10,000	Less then 10 feet	1-Hour
Multi-Family & Other Residential	10,000	Less then 10 feet	2-Hour
Rowhouses & Townhouses	10,000	Less then 10 feet	2-Hour
Assembly	10,000	Less than 5 feet	2-Hour
		5 to 10 feet	1-Hour
Health Care Business Education	10,000	Less than 5 feet	2-Hour
		5 to 10 feet	1-Hour
Storage Industrial Mercantile	10,000	Less than 5 feet	2-Hour
		5 to 15 feet	1-Hour
Mini Storage	10,000	Less than 5 feet	2-Hour
		5 to 15 feet	1-Hour

Fire Flow Table 2

The requirements of Fire Flow Table 2 apply to areas where there is a public, private, or central water system.

Occupancy	Maximum Aggregate Gross Square Footage	Internal Fire Separation	*Flow* Required	Hydrant Spacing
One- and Two-Family Detached Dwellings *	10,000	n/a	500 GPM 20 PSI Residual Pressure 1 Hour Duration	1,000 feet on center
Other Residential*	10,000	n/a	1,000 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center
Rowhouses* & Townhouses*	10,000	2-Hr rated wall Part I Chapter 2	1,000 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center
Assembly Health Care Business Education	10,000	n/a	1,000 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center
Storage Industrial Mercantile	10,000	n/a	1,500 GPM 20 PSI Residual Pressure 2 Hour Duration	800 feet on center
Mini-Storage	10,000	n/a	750 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center

*Sites in New Castle County are subject to the provisions of Ordinance #90-200. See §A-6-1.4.1 and §A-6-1.4.2.

***Fire Flow Table 3**

It is the intent of Fire Flow Table 3 to allow a credit for water flow that is available on site, but does not meet the full water flow requirements of Fire Flow Table 2. However, the

available water flow on site shall be a minimum of 500 GPM, otherwise the requirements of Fire Flow Table 1 shall be applied to the site. This Table does not apply to new public, private, nor central water systems, including municipalities.

Occupancy	Maximum Aggregate Gross Square Footage	Minimum Set Back from all property lines	Exposure Hazard on the Same Property	Internal Fire Separation
One- and Two-Family Dwellings, Multi-family, and Other residential	10,000	*15'	*10'+	n/a
Rowhouses Townhouses	10,000	*15'	10'+	Two Hour Rated Design Wall Part I, Chapter 2
Assembly	10,000	*15'	*10'+	n/a
Health Care Business Education	10,000	*15'	*10'+	n/a
Storage Industrial Mercantile	10,000	*25'	*15'+	n/a
Mini Storage	5,000	*15'	*15'+	n/a
Mini Storage	5,001 to 10,000	*25'	*15'+	n/a

* See Appendix for additional information and an example.

A-Fire Flow Table 3 For example, if 1,000 GPM is required for a 9,000 sq. ft. Business Occupancy, but only 500 GPM is available, or 50%, then the required setbacks shall be reduced by 50% so that the Minimum Setback (MSB) from property lines would be 7.5 feet, instead of 15 feet, and the Exposure Hazard on the Same Property (EHSP) would be five feet, instead of ten feet.

Part II; Chapter 7 - Minimum Requirements For Water Suppliers

7-3.1 All water suppliers covered under the provisions of this Regulation shall provide a water supply capable of the minimum flow of 500 GPM at a residual pressure of at least 20 PSI for at least two (2) hours. Where the water supply serves only one and two family dwellings, it shall be capable of the minimum flow of 500 GPM at a residual pressure of at least 20 PSI for at least one (1) hour.

7-5.1 Fire hydrants and water mains shall be installed in accordance with American Water Works Standards; the *Standard for the Installation of Private Fire Service Mains and Their Appurtenances*, NFPA 24, as adopted and/or modified by these Regulations; and in conformance with accepted engineering principles and practices.

Part III; Chapter 1
Operation, Maintenance And Testing Of Fire Protection Systems

1-2.1 Automatic Fixed Fire Suppression System. An engineered system using carbon dioxide (CO_2), dry chemical, wet chemical, foam, clean agent, a halogenated extinguishing agent, or ~~an automatic sprinkler~~ water spray system to automatically detect and suppress a fire through fixed piping and nozzles.

Clean Agent. Electrically nonconducting, volatile or gaseous fire extinguishant that does not leave a residue upon evaporation.

~~1-3.4.1*~~ 1-3.4.1 The installation of fire protection ~~systems, specifically those~~ systems not required to be installed under the provisions of these Regulations, shall be designed, installed, serviced, tested, or maintained according to the specifications and standards as provided for such Fire Protection Systems as found in these Regulations.

~~(a) Not to be used to denote single, stand alone devices such as, battery powered residential smoke detectors~~.

Exception: This does not apply to single station or multi-station battery powered residential smoke detectors.

~~A-1-3.4.1 It is the intent of this Section to provide for the design and installation of all Fire Protection Systems, even if not required in occupancies, operations, etc., by these Regulations, to be designed, installed, etc., to the standards and/or specifications for such systems as found in these Regulations. Systems in this context is meant to be a configuration of several components that comprise a protection, detection, alarm, or suppression package designed and installed as a fire protection system in a building or structure. Not to be used to denote single, stand alone devices such as, battery powered residential smoke detectors~~.

1-4.1.2 Before testing any suppression system, standpipe, or fire alarm system which is connected to a central station or connected directly to a fire dispatch center, or the fire or police department, notification shall be given to the central station, fire dispatch center, fire department or police department before initiation of the tests.

1-4.1.4 Annual Inspection, Testing, And Maintenance Service. Annual inspection, testing, and maintenance is required for all fire alarm signaling, fire suppression, and

any other fire protection systems, devices, and equipment installed within the State of Delaware. This annual inspection, testing, and maintenance service shall be completed by a company licensed in accordance with Part III, Chapters 2, 4, 5, 6, and/or 7 of this Regulation. Upon completion of this annual inspection, testing, and maintenance service, the licensed company shall submit an Annual Certificate of Inspection ~~shall be submitted,~~ along with the appropriate fees as listed in Appendix E of these Regulations, in accordance with §1-4.1.5 of this Chapter.

~~1-4.1.6 Submission Of Fees For Certification For Fire Protection Systems. At the completion of the Annual Testing, Inspection, or Maintenance for each fire protection system, the licensed Fire Protection Systems Company:~~

~~(1) May submit the appropriate fees as listed in Appendix E of these Regulations to the Office of State Fire Marshal; OR~~

~~(2) May provide the system owner with a fee card and letter of explanation, and it will be the responsibility of the system owner to forward the appropriate fee(s) to the Office of State Fire Marshal.~~

~~(a) All fees required to be submitted under §1-4.1.6 shall be submitted to the Office of State Fire Marshal within 30 calendar days of the date of testing, inspection, or maintenance.~~

~~(b) The Licensed Company shall, within 30 calendar days of performing the annual testing, inspection, or maintenance, submit to the Office of State Fire Marshal:~~

~~(1) A completed Certificate of Inspection(s) with the appropriate fee(s); OR~~

~~(2) A completed Certificate of Inspection(s) and a list of where a (all) fee card(s) and letter(s) were left with the owner(s) of the system(s), wherein the owner(s) is (are) to submit the required fee(s).~~

~~(c) Such fee cards, letters, and reporting forms are to be of a design and specification by the Office of State Fire Marshal.~~

~~(d) If the owner(s) of the fire protection system(s) does not submit the required fee(s) within the 30 day period as stated in these Regulations, the owner(s) shall be in violation of the Delaware State Fire Prevention Regulations and the fire protection system(s) shall be classified as not being in compliance.~~

1-4.1.6 The failure of the licensed company to comply with the provisions of this Section, shall constitute a violation of the Delaware State Fire Prevention Regulations.

1-6.3 Servicing ~~Actuated~~ Discharged Units. ~~Actuated~~ Discharged and partially discharged extinguishers shall be immediately moved away from their designated location and shall be temporarily replaced with a standby or spare unit of ~~the same~~ equal type and capacity as the ~~actuated~~ discharged unit.

1-6.4 Discontinued Fire Appliances. Soda acid, foam, loaded stream, antifreeze, and water portable fire extinguishers of the inverting type shall not be recharged or placed in service for fire protection use. Extinguishers of these types ~~shall not be considered~~ are not approved devices for fire protection use under the provisions of this Regulation.

1-7.1.3 ~~Certificate of Installation~~ Record of Completion A ~~Certificate of Installation~~ Record of Completion shall be forwarded to the State Fire Marshal by the licensed company that installed the fire alarm signaling system within five (5) days of having placed the system in service. ~~Certificate of Installation~~ A Record of Completion shall be submitted in such form as the State Fire Marshal may prescribe. The installing company or person shall certify in writing that the installation has been made in accordance with the approved plans and that all component parts of the system are in service. Approval by the State Fire Marshal shall be withheld until said ~~Certificate of Installation~~ Record of Completion is received and accepted by the State Fire Marshal.

1-8.1 Prior to any Testing, Maintenance, Inspection or any work on the fire protection systems as found in this Chapter, the company performing such services must notify the ~~911~~ fire dispatch center providing service for the location, where the fire protection systems are located, of the following:

(a) Prior to initiating or starting such work as referenced in Section 1-8.1 notify the ~~911~~ fire dispatch center that such work is being performed, identifying the name of the facility, the address of the facility, the name of the company, and the License Number of the company providing the services.

(b) That any alarms received from the facility shall be verified by the ~~911 Center~~ fire dispatch center prior to any emergency services dispatch being made.

(c) That at the conclusion or finish of the work being performed on the systems, the ~~911~~ fire dispatch center will be notified that the company has completed the work and that the alarm system is back in-service and any alarms from the facility shall represent an "alarm" condition, requiring the appropriate emergency services dispatch.

1-8.2 It is the responsibility of the company performing the Testing, Inspection, Maintenance or any work on the fire protection systems to identify the correct ~~911 Center~~ fire dispatch center or the correct emergency services dispatch center which serves the area in which the facility to have work performed is located. It shall be the responsibility of the licensed company to ensure their employee make appropriate notifications to include but not limited to fire dispatch center and fire alarm signaling monitoring company.

1-8.3 The failure of the licensed company ~~performing the services as referenced in this Chapter~~ to comply with the provisions of this Section, shall constitute a

violation of the Delaware State Fire Prevention Regulations~~, and action will be taken pursuant to the provisions of the Delaware Code Title 16, Chapter 66 for such violations~~.

Part III; Chapter 2
Sale And Servicing Of Portable Fire Extinguishers

2-2.3.1 All portable fire extinguishers shall be serviced or maintained on an annual (every 12 months) basis.
Exception: Nonrechargeable dry chemical fire extinguishers with a net weight of 2½ pounds or less where used in dwelling units in apartment buildings.

Part III; Chapter 3
Standard For Fire Hydrant Maintenance, Inspection, Testing, And Marking

3-1.2.2 This Regulation is also an attempt ~~to improve~~ to ensure a working relationship~~s~~ between the water suppliers and fire departments throughout the State.

3-2.4.3 If a hydrant is to be out of service for more than 30 calendar days, it shall be the responsibility of the water supplier to notify the Office of the State Fire Marshal with a corrective plan of action and have the hydrant securely covered with a burlap or black heavy duty plastic bag until the hydrant is placed back into service.

3-3.5 All fire hydrant flow testing…. shall include the following:

(h) ~~Hydrant hydraulic coefficient~~. Size (diameter) of the flow orifice and its coefficient of discharge

Part III; Chapter 4
Licensing Regulations For Fire Alarm Signaling Systems

~~4-2 Fire Alarm Signaling Systems Company, Existing. Shall mean a person, organization, or entity that meets the definition of FIRE ALARM SIGNALING SYSTEMS COMPANY (VENDOR) who can clearly demonstrate performing work of this nature prior to the effective date of this Regulation.~~

Preparing Technical Documents. Shall mean the preparation of detailed fire alarm signaling system drawings, calculations, and specifications for installation in accordance with the applicable codes, statutes and regulations adopted by the ~~State of~~ Delaware State Fire Prevention Commission. It is further defined to mean that the technical documents, specifications, and design drawings referred to in this Section are the documents which shall be submitted to the Office of State Fire Marshal for review and approval.

Responsible Charge. Shall mean the individual, who is responsible to ensure that all of the requirements of the ~~State of~~ Delaware State Fire Prevention Regulations are complied with in the application of those standards and specifications to fire alarm signaling systems. The person, or persons, of responsible charge shall be accountable for each phase of the following activities with respect to fire alarm signaling systems, when such activities constitute an element of their particular Class of Certificate:

4-3.4.3 Insurance Certificates filed with the Office of State Fire Marshal under this Section shall remain current and in force until the insurer has terminated future liability by a ~~30~~ 10 day notice to the Office of State Fire Marshal.

4-4.1.2 The Certificate holder is the individual in RESPONSIBLE CHARGE of ensuring that the functions for which they have been certified have been performed in accordance with the standards and specifications of the ~~State of~~ Delaware State Fire Prevention Regulations.

4-4.2.3 Class III: Limited to fire alarm signaling and related systems in the following categories:

III Central Station Facilities and Systems (~~typical of NFPA 71 facilities and systems~~).

4-4.3.1 To qualify as a Certificate Holder an individual shall:

(d) Have passed an examination prescribed by the Delaware State Fire Prevention Commission or an equivalent examination approved by the Delaware State Fire Prevention Commission. Any examination that has been passed as prescribed by the Delaware State Fire Prevention Commission, must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.

(e) To be utilized in the Certification process, any examination that has been passed as prescribed by the State Fire Prevention Commission in (d) above, must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.

~~(f)~~ (e) For the purposes of this Regulation, a Registered Delaware Professional Engineer shall be recognized as a Certificate Holder without further qualification.

~~4-5 Existing Fire Alarm Signaling Systems Companies.~~

~~4-5.1 Existing companies shall have until December 31, 1991 to comply with the certification requirements herein.~~

~~4-5.2 Any company may apply for a single extension of six months which may be granted at the discretion of the Delaware State Fire Prevention Commission for the purpose of complying with the licensing requirements of this Regulation.~~

~~4-5.3 The individual or individuals who submit an~~

~~application for certification must be able to demonstrate at least three years experience in the preparation of technical documents, installation, inspection, testing or maintenance of fire alarm signaling systems, in order to have a provisional license issued under this Section.~~

~~4-5.4 Notwithstanding the provisions of §4-5.2, those companies that have applied for and have been granted an extension as provided for in §4-5.2 by the Delaware State Fire Prevention Commission, shall have until June 30, 1993 for the purpose of complying with the licensing requirements of this Regulation.~~

~~4-5.5* Notwithstanding the provisions of §4-5.2 and §4-5.4, those individuals, who have attended any training seminars or who have sat for any testing process associated with the licensing requirements of these Regulations, shall have until June 30, 1993, to comply with the certification requirements of this Regulation.~~

~~A-4-5.5 It is the express intent of the Delaware State Fire Prevention Commission that any individual who has attended a training seminar or who has sat for any of the testing requirements associated with the licensing requirements of these Regulations, shall have until June 30, 1993 to comply with the certification requirements of these Regulations, pursuant to the action of the Commission of February 18, 1992.~~

4-5 (Reserved)

4-6.6:

(c) Is guilty of a violation of the codes and regulations adopted by the Delaware State Fire Prevention Commission ~~of the State of Delaware~~;

4-6.7 Any person aggrieved by an order or decision of the State Fire Marshal with respect to the provisions of this Chapter may file an appeal to the Delaware State Fire Prevention Commission pursuant to 16 Del. C. §6608 and in accordance with the provisions of these Regulations.

4-8.1 The licensed company~~'s Certificate Holder~~ is responsible to forward to the Office of State Fire Marshal, on the prescribed form, a separate Annual Certificate of Inspection, along with the appropriate fees for all such fire alarm signaling systems that the licensed company may inspect, test, or maintain. This Certificate of Inspection, which must be submitted annually, shall verify that the ~~State of~~ Delaware State Fire Prevention Regulations standards and specifications regarding the inspection, testing, or maintenance have been met and any deficiencies noted at the time of the annual inspection, testing, or maintenance shall be noted, with corrective action, if any, taken.

Exception: Certificates of Inspection are not required to be submitted for One-and-Two Family Dwellings.

~~a)~~ 4-8.1.1 Certificates of Inspection as called for in §4-8.1 of these Regulations for fire alarm signaling systems, that are located in the jurisdiction of the Jurisdictional ~~Assistant State~~ Fire Marshals, shall be forwarded to the appropriate Jurisdictional ~~Assistant State~~ Fire Marshal's office by the licensed company along with the appropriate fees, if applicable.

~~4-8.3*~~ 4-8.3 The Office of State Fire Marshal shall establish the schedule for each Fire Alarm Signaling Systems Company to forward the required Certificates of Inspection.

~~A-4-8.3~~ 4-8.4 An Annual Certificate of Inspection shall be submitted to the Office of State Fire Marshal within 30 days of the date of the Annual Inspection.

4-9.1 Fees as charged in accordance with Part III, ~~§4-9.1~~ §4-8.1 and Appendix E of these Regulations for the submission of Certificates of Inspections shall be due and payable to the Office of State Fire Marshal according to the provisions of Part III, Chapter 1, §~~1-4.1.6~~ 1-4.1.4 of these Regulations.

4-9.1.1 Fees as called for in Part III §4-8.1 of these Regulations for fire alarm signaling systems, that are located in the jurisdiction of the Jurisdictional Fire Marshals, shall be due and payable to the appropriate Jurisdictional Fire Marshal's office, if applicable.

4-10 Compliance

4-10.1 The failure of the licensed company to comply with the provisions of this Section shall constitute a violation of the Delaware State Fire Prevention Regulations.

Part III; Chapter 5
Licensing Regulations For Fire Suppression Systems

5-2 Fire Suppression System. Consists of an automatic or manual system designed to protect the interior or exterior of a building or structure from fire. Such systems include, but are not limited to, water systems, water spray systems, foam-water systems, foam-water spray systems, CO_2 systems, foam extinguishing systems, dry chemical systems, ~~halon~~ clean agent and other chemical systems used for fire protection use. Such systems also include the overhead and fire mains, standpipes and hose connections to systems, tank heaters, air lines, thermal systems used in connection with sprinklers and tanks and pumps connected thereto. Fire alarm systems, small pre-engineered fire suppression systems, portable fire extinguishers and wheeled fire extinguishers are covered under other Regulations of the Fire Prevention Commission. It is further defined that a separate fire suppression system consists of a series of sprinkler or like nozzles connected to a piping system which are controlled by a main control valve and are designed and installed to function as one system.

~~Fire Suppression Systems Company, Existing. Shall mean a person, organization, or entity that meets the definition of FIRE SUPPRESSION SYSTEMS COMPANY (VENDOR)~~

~~who can clearly demonstrate performing work of this nature prior to the effective date of this Regulation.~~

Preparing Technical Documents. Shall mean the preparation of detailed fire suppression system drawings, calculations, and specifications for installation in accordance with the applicable codes, statutes and regulations adopted by the ~~State of~~ Delaware State Fire Prevention Commission. It is further defined to mean that the technical documents, specifications, and design drawings referred to in this Section are the documents which shall be submitted to the Office of State Fire Marshal for review and approval.

Responsible Charge. Shall mean the individual, who is responsible to ensure that all of the requirements of the ~~State of~~ Delaware State Fire Prevention Regulations are complied with in the application of those standards and specifications to fire suppression systems. The person, or persons, of responsible charge shall be accountable for each phase of the following activities with respect to fire suppression systems, when such activities constitute an element of their particular Class of Certificate:

5-3.4.3 Insurance Certificates filed with the Office of State Fire Marshal under this Section shall remain current and in force until the insurer has terminated future liability by a ~~30~~ 10 day notice to the Office of State Fire Marshal.

5-4.1.2 The Certificate holder is the individual in RESPONSIBLE CHARGE of ensuring that the functions for which they have been certified have been performed in accordance with the standards and specifications of the ~~State of~~ Delaware State Fire Prevention Regulations.

5-4.2.3 Class III: Limited to engineered systems in the following categories:

III(b) Limited to ~~halon~~ clean agent fire suppression systems.

5-4.2.5 Class V: Limited to pre-engineered systems in the following categories:

V(b) Limited to pre-engineered ~~halon~~ clean agent fire suppression systems

5-4.3.1 To qualify as a Certificate Holder an individual shall:

(d) Have passed an examination prescribed by the Delaware State Fire Prevention Commission or an equivalent examination approved by the Delaware State Fire Prevention Commission. Any examination that has been passed as prescribed by the Delaware State Fire Prevention Commission, must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.

~~(e) To be utilized in the Certification process, any examination that has been passed as prescribed by the State Fire Prevention Commission in (d) above, must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.~~

~~(f)~~ (e) For the purposes of this Regulation, a Registered Delaware Professional Engineer shall be recognized as a Certificate Holder without further qualification.

~~5-5 Existing Fire Suppression Systems Companies.~~

~~5-5.1 Existing companies shall have until December 31, 1991 to comply with the certification requirements herein.~~

~~5-5.2 Any company may apply for a single extension of six months which may be granted at the discretion of the Delaware State Fire Prevention Commission for the purpose of complying with the licensing requirements of this Regulation.~~

~~5-5.3 The individual or individuals who submit an application for certification must be able to demonstrate at least three years experience in the preparation of technical documents, installation, inspection, testing or maintenance of fire suppression systems, in order to have a provisional license issued under this Section.~~

~~5-5.4 Notwithstanding the provisions of §5-5.2, those companies that have applied for and have been granted an extension as provided for in §5-5.2 by the Delaware State Fire Prevention Commission, shall have until June 30, 1993 for the purpose of complying with the licensing requirements of this Regulation.~~

~~5-5.5* Notwithstanding the provisions of §4-5.2 and §4-5.4, those individuals, who have attended any training seminars or who have sat for any testing process associated with the licensing requirements of these Regulations, shall have until June 30, 1993, to comply with the certification requirements of this Regulation.~~

~~A-5-5.5 It is the express intent of the Delaware State Fire Prevention Commission that any individual who has attended a training seminar or who has sat for any of the testing requirements associated with the licensing requirements of these Regulations, shall have until June 30, 1993 to comply with the certification requirements of these Regulations, pursuant to the action of the Commission of February 18, 1992.~~

5-5 (Reserved)

5-6.6:

(c) Is guilty of a violation of the codes and regulations adopted by the Delaware State Fire Prevention Commission ~~of the State of Delaware~~;

5-6.7 Any person aggrieved by an order or decision of the State Fire Marshal with respect to the provisions of this Chapter may file an appeal to the Delaware State Fire Prevention Commission pursuant to 16 Del. C. §6608 and in accordance with the provisions of these Regulations.

5-8.1 The licensed company~~'s Certificate Holder~~ is responsible to forward to the Office of State Fire Marshal, on the prescribed form, a separate Annual Certificate of Inspection, along with the appropriate fees for all such fire suppression systems that the licensed company may inspect, test, or maintain. This Certificate of Inspection, which must be submitted annually, shall verify that the ~~State of~~ Delaware State Fire Prevention Regulations standards and specifications regarding the inspection, testing, or maintenance have been met and any deficiencies noted at the time of the annual inspection, testing, or maintenance shall be noted, with corrective action, if any, taken.

Exception: Certificates of Inspection are not required to be submitted for One-and-Two Family Dwellings.

~~a)~~ 5-8.1.1 Certificates of Inspection as called for in §5-8.1 of these Regulations for fire suppression systems, that are located in the jurisdiction of the Jurisdictional ~~Assistant State~~ Fire Marshals, shall be forwarded to the appropriate Jurisdictional ~~Assistant State~~ Fire Marshal's office by the licensed company along with the appropriate fees, if applicable.

~~5-8.3*~~ 5-8.3 The Office of State Fire Marshal shall establish the schedule for each Fire Suppression Systems Company to forward the required Certificates of Inspection.

~~A-5-8.3~~5-8.4 An Annual Certificate of Inspection shall be submitted to the Office of State Fire Marshal within 30 days of the date of the Annual Inspection.

5-9.1 Fees as charged in accordance with Part III, ~~§5-9.1~~ §5-8.1 and Appendix E of these Regulations for the submission of Certificates of Inspections shall be due and payable to the Office of State Fire Marshal according to the provisions of Part III, Chapter 1, ~~§1-4.1.6~~ 1-4.1.4 of these Regulations.

5-9.1.1 Fees as called for in Part III §5-8.1 of these Regulations for fire suppression systems, that are located in the jurisdiction of the Jurisdictional Fire Marshals, shall be due and payable to the appropriate Jurisdictional Fire Marshal's office, if applicable.

5-10 Compliance

5-10.1 The failure of the licensed company to comply with the provisions of this Section shall constitute a violation of the Delaware State Fire Prevention Regulations.

Part III; Chapter 6
Licensing Regulations For Fire Alarm Signaling Systems
In-house Licensee's

~~6-2 Fire Alarm Signaling Systems In-House Licensee/ Existing (In-House Licensee/Existing). Shall mean a person, organization or entity that meets the definition of a FIRE ALARM SIGNALING SYSTEMS COMPANY IN-HOUSE LICENSEE, who can clearly demonstrate performing work of this nature prior to the effective date of this Regulation.~~

Preparing Technical Documents. Shall mean the preparation of detailed fire alarm signaling system drawings, calculations and specifications for installation in accordance with the applicable codes, statutes and regulations adopted by the ~~State of~~ Delaware State Fire Prevention Commission. It is further defined to mean that the technical documents, specifications and design drawings referred to in this Section are the documents which shall be submitted to the Office of State Fire Marshal for review and approval.

Responsible Charge. Shall mean the individual, who is responsible to ensure that all of the requirements of the ~~State of~~ Delaware State Fire Prevention Regulations are complied with in the application of those standards and specifications to fire alarm signaling systems. The person, or persons, of responsible charge shall be accountable for each phase of ~~the following~~ activities with respect to fire alarm signaling systems, when such activities constitute an element of their particular Class of Certificate~~:~~ .

~~(a) Preparation of technical documents, including review and approval by the Office of State Fire Marshal.~~

~~(b) Installation of fire alarm signaling systems.~~

~~(c) Inspection, Testing, and Maintenance including but not limited to installation testing, acceptance testing, and any other inspections, testing, or maintenance as required under these Regulations.~~

~~(d) Submission of all reports, technical documents or Certificates of Inspection and any other materials required to be prepared, recorded or submitted under these Regulations.~~

6-3.3.1. ~~The In-House Licensee shall be limited to performing functions related only to those types of activities for which the Certificate Holder has been certified~~ The In-House Licensee shall be limited to performing testing, inspection, and maintenance functions only to those types of fire alarm signaling systems for which the Certificate Holder has been certified.

6-3.4.3 Insurance Certificates filed with the Office of State Fire Marshal under this Section shall remain current and in force until the insurer has terminated future liability by a ~~30~~ ten (10) day notice to the Office of State Fire Marshal.

6-4.1.2 The Certificate Holder is the person in RESPONSIBLE CHARGE of ensuring that the required Inspection, Testing, and Maintenance Services, for which they have been certified, have been performed in accordance with the standards and specifications of the ~~State of~~ Delaware State Fire Prevention Regulations.

6-4.2.1 Class VIII: Limited to Inspection, Testing, and Maintenance Service of wholly owned or proprietary fire alarm signaling systems in accordance with the PURPOSE, SCOPE AND APPLICATION; AND DEFINITIONS, for the periodic and annual inspection, testing, or maintenance requirements of the ~~State of~~ Delaware State Fire Prevention

Regulations. This class of certificate is reserved for those In-House Licensees as defined in §6-2 of this Chapter.

6-4.3.1 To qualify as a Certificate Holder, an individual shall:

(d) Have passed an examination prescribed by the Delaware State Fire Prevention Commission or an equivalent examination approved by the Delaware State Fire Prevention Commission~~:~~; Any examination that has been passed as prescribed by the Delaware State Fire Prevention Commission must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.

~~(e) To be utilized in the Certification process, any examination that has been passed as prescribed by the State Fire Prevention Commission in (d) above, must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.~~

~~(f)~~(e) For the purposes of this Regulation, a Registered Delaware Professional Engineer shall be recognized as a Certificate Holder without further qualification.

~~6-5 Fire Alarm Signaling Systems In-House/ Existing.~~

~~6-5.1 In-House Licensees/Existing shall have until December 31, 1994, to comply with the licensing requirements of this Regulation.~~

~~6-5.2 The In-House Licensee/Existing shall make application to the Office of State Fire Marshal for such status and will be issued a conditional license to carry out the provisions of these Regulations in their facilities pending the completion of the certification process for a Certificate Holder which must be completed by December 31, 1994. The prescribed license fee shall be paid at the time of application and when all of the requirements for licensing as prescribed by these Regulations for a Conditional License have been met, the State Fire Marshal will issue such Conditional License. The requirements for obtaining this Conditional License shall be in accordance with §6-3 of this Chapter.~~

~~6-5.3 The In-House Licensee/Existing shall submit an application for a least one individual who will be designated the Certificate Holder for the purpose of obtaining a Conditional License. The prescribed fee for the Certificate Holder(s) will be paid to the Office of State Fire Marshal at the time of application.~~

~~6-5.4 The individual or individuals who submit an application must be able to demonstrate at least three years experience in the inspection, testing, or maintenance of fire alarm signaling systems, in order to have the In-House Licensee/Existing be issued a Conditional License under this Section.~~

6-5 (Reserved)

6-6.6

(b) Is guilty of gross negligence, incompetence, or misconduct in ~~the preparation of technical documents, installation,~~ inspection, testing or maintenance of a fire alarm signaling system;

(c) Is guilty of a violation of the codes and regulations adopted by the Delaware State Fire Prevention Commission ~~of the State of Delaware~~;

6-6.7 Any person aggrieved by an order or decision of the State Fire Marshal with respect to the provisions of this Chapter may file an appeal to the Delaware State Fire Prevention Commission pursuant to 16 Del. C. §6608 and in accordance with the provisions of these Regulations.

6-8 Submission Of Certificates Of Inspection.

~~6-8.1*~~ 6-8.1 The In-House ~~Licensee's Certificate Holder~~ licensed company is responsible to forward to the Office of State Fire Marshal, on the prescribed form, a separate Certificate of Inspection, along with the appropriate fees, for each fire alarm signaling system that the In-House ~~Licensee~~ licensed company may inspect, test or maintain. This Certificate of Inspection, which must be submitted annually, shall verify that the ~~State of~~ Delaware State Fire Prevention Regulations standards and specifications regarding the inspection, testing or maintenance have been met and any deficiencies noted at the time of the annual inspection, testing or maintenance shall be noted, with corrective action, if any, taken.

~~(a)~~ 6-8.1.1 Certificates of Inspection as called for in §6-8.1 of these Regulations for fire alarm signaling systems that are located in the jurisdiction of the Jurisdictional ~~Assistant State~~ Fire Marshals, ~~shall have copies of such certificates forwarded to the appropriate Assistant State Fire Marshal by the State Fire Marshal~~ shall be forwarded to the appropriate Jurisdictional Fire Marshal's office by the licensed company along with the appropriate fees, if applicable.

~~A-6-8.1 Certificates of Inspection are a function of the licensing Program and as the licensing authority, the Delaware State Fire Prevention Commission/State Fire Marshal, shall receive all such certificates and associated fees, if any. The State Fire Marshal shall forward a copy of the Certificate of Inspection for all fire alarm signaling systems, fire suppression systems and other fire protection systems that are located within the jurisdiction of the Assistant State Fire Marshals to those jurisdictions. The single collection point for such certificates will greatly enhance the administration and management of the licensing program and will eliminate any confusion to the vendors, contractors or to the public as to where to send such certificates.~~

6-8.4 An Annual Certificate of Inspection shall be

submitted to the Office of State Fire Marshal within 30 days of the date of the Annual Inspection.

~~6-9.1 The State Fire Marshal shall charge such fees in the application of these Regulations as defined in Appendix E of these Regulations.~~

6-9.1 Fees as charged in accordance with Part III, §6-8.1 and Appendix E of these Regulations for the submission of Certificates of Inspections shall be due and payable to the Office of State Fire Marshal according to the provisions of Part III, Chapter 1, 1-4.1.4 of these Regulations.

6-9.1.1 Fees as called for in Part III §6-8.1 of these Regulations for fire alarm signaling systems, that are located in the jurisdiction of the Jurisdictional Fire Marshals, shall be due and payable to the appropriate Jurisdictional Fire Marshal's office, if applicable.

6-10 Compliance

6-10.1 The failure of the licensed company to comply with the provisions of this Section shall constitute a violation of the Delaware State Fire Prevention Regulations.

Part III; Chapter 7
Licensing Regulations For Fire Suppression Systems In-house Licensee's

7-2 Fire Suppression System. Consists of an automatic or manual system designed to protect the interior or exterior of a building or structure from fire. Such systems include, but are not limited to, water systems, water spray systems, foam-water systems, foam-water spray systems, CO_2 systems, foam extinguishing systems, dry chemical systems, ~~halon~~ clean agent and other chemical systems used for fire protection use. Such systems also include the overhead and fire mains, standpipes and hose connections to systems, tank heaters, air lines, thermal systems used in connection with sprinklers and tanks and pumps connected thereto. Fire alarm systems, small pre-engineered fire suppression systems, portable fire extinguishers and wheeled fire extinguishers are covered under other Regulations of the Fire Prevention Commission. It is further defined that a separate fire suppression system consists of a series of sprinkler or like nozzles connected to a piping system which are controlled by a main control valve and are designed and installed to function as one system.

~~Fire Suppression Systems In-House Licensee/ Existing (In-House Licensee/Existing). Where used in this Chapter, shall mean a person, organization or entity that meets the definitions of a FIRE SUPPRESSION SYSTEMS IN-HOUSE LICENSEE, who can clearly demonstrate performing work of this nature prior to the effective date of this Regulation.~~

Preparing Technical Documents. Shall mean the preparation of detailed fire suppression system drawings, calculations, and specifications for installation in accordance with the applicable codes, statutes and regulations adopted by the ~~State of~~ Delaware State Fire Prevention Commission. It is further defined to mean that the technical documents, specifications and design drawings referred to in this Section are the documents which shall be submitted to the Office of State Fire Marshal for review and approval.

Responsible Charge. Shall mean the individual, who is responsible to ensure that all of the requirements of the ~~State of~~ Delaware State Fire Prevention Regulations are complied with in the application of those standards and specifications to fire suppression systems. The person, or persons, of responsible charge shall be accountable for each phase of ~~the following~~ activities with respect to fire suppression systems when such activities constitute an element of their particular Class of Certificate~~:~~.

~~(a) Preparation of technical documents, including review and approval by the Office of State Fire Marshal;~~

~~(b) Installation of fire suppression systems;~~

~~(c) Inspection, Testing, and Maintenance including, but not limited to, installation testing, acceptance testing, any inspection, testing or maintenance as required under these Regulations;~~

~~(d) Submission of all reports, technical documents, Certificates of Inspection and any other materials required to be prepared, recorded or submitted under these Regulations.~~

7-3.3.1 The In-House Licensee shall be limited to performing testing, inspection, and maintenance functions related only to those types of activities for which the Certificate Holder has been certified.

7-3.4.3 Insurance Certificates filed with the Office of State Fire Marshal under this Section shall remain current and in force until the insurer has terminated future liability by a ~~30~~ ten (10) day notice to the Office of State Fire Marshal.

7-4.1.2 The Certificate Holder is the person in RESPONSIBLE CHARGE of ensuring that the required Inspection, Testing, and Maintenance Services, for which they have been certified, have been performed in accordance with the standards and specifications of the ~~State of~~ Delaware State Fire Prevention Regulations.

7-4.2.1 Class VIII: Limited to Inspection, Testing, or Maintenance Service of wholly owned or proprietary fire suppression systems in accordance with the PURPOSE, SCOPE AND APPLICATION; AND DEFINITIONS, for the periodic and annual inspection, testing or maintenance requirements of the ~~State of~~ Delaware State Fire Prevention Regulations. This class of certificate is reserved for those In-House Licensees as defined in §7-2 of this Chapter.

7-4.3.1 To qualify as a Certificate Holder, an individual shall:

(d) Have passed an examination prescribed by the Delaware State Fire Prevention Commission or an

equivalent examination approved by the Delaware State Fire Prevention Commission~~:~~. Any examination that has been passed as prescribed by the Delaware State Fire Prevention Commission must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.

~~(e) To be utilized in the Certification process, any examination that has been passed as prescribed by the State Fire Prevention Commission in (d) above, must have been completed within five (5) years of the application date or, when an individual submits such examination results for the Commission's review and acceptance.~~

~~(f)~~(e) For the purposes of this Regulation, a Registered Delaware Professional Engineer shall be recognized as a Certificate Holder without further qualification.

~~7.5 Fire Suppression Systems In House Licensee/ Existing~~

~~7.5.1 In House Licensees/Existing shall have until December 31, 1994, to comply with the licensing requirements of this Regulation.~~

~~7.5.2 The In House Licensee/Existing shall make application to the Office of State Fire Marshal for such status and will be issued a conditional license to carry out the provisions of these Regulations in their facilities pending the completion of the certification process for a Certificate Holder which must be completed by December 31, 1994. The prescribed license fee shall be paid at the time of application and when all of the requirements for licensing as prescribed by these Regulations for a Conditional License have been met, the State Fire Marshal will issue such Conditional License. The requirements for obtaining this Conditional License shall be in accordance with Section 7.3 of this Chapter.~~

~~7.5.3 The In House Licensee/Existing shall submit an application for at least one individual who will be designated the Certificate Holder for the purpose of obtaining a Conditional License. The prescribed fee for the Certificate Holder(s) will be paid to the Office of State Fire Marshal at the time of application.~~

~~7.5.4 The individual or individuals who submit an application must be able to demonstrate at least three years experience in the inspection, testing or maintenance of fire suppression systems, in order to have the In House Licensee/ Existing be issued a Conditional License under this Section.~~

7-5 (Reserved)

7-6.6

(b) Is guilty of gross negligence, incompetence, or misconduct in ~~the preparation of technical documents, installation,~~ inspection, testing or maintenance of a fire alarm signaling system;

(c) Is guilty of a violation of the codes and regulations adopted by the Delaware State Fire Prevention Commission ~~of the State of Delaware~~;

7-6.7 Any person aggrieved by an order or decision of the State Fire Marshal with respect to the provisions of this Chapter may file an appeal to the Delaware State Fire Prevention Commission pursuant to 16 Del. C. §6608 and in accordance with the provisions of these Regulations.

~~7-8.1*~~ 7-8.1 The In-House ~~Licensee's Certificate Holder~~ licensed company is responsible to forward to the Office of State Fire Marshal, on the prescribed form, a separate Certificate of Inspection, along with the appropriate fees, for each fire suppression system that the In-House ~~Licensee~~ licensed company may inspect, test or maintain. This Certificate of Inspection, which must be submitted annually, shall verify that the ~~State of~~ Delaware State Fire Prevention Regulations standards and specifications regarding the inspection, testing or maintenance have been met and any deficiencies noted at the time of the annual inspection, testing or maintenance shall be noted, with corrective action, if any, taken.

~~a)~~ 7-8.1.1 Certificates of Inspection as called for in §7-8.1 of these Regulations for fire suppression systems that are located in the jurisdiction of the Jurisdictional ~~Assistant State~~ Fire Marshals, ~~shall have copies of such certificates forwarded to the appropriate Assistant State Fire Marshal by the State Fire Marshal~~ shall be forwarded to the appropriate Jurisdictional Fire Marshal's office by the licensed company along with the appropriate fees, if applicable.

~~A-7-8.1 Certificates of Inspection are a function of the licensing Program and as the licensing authority, the Delaware State Fire Prevention Commission/State Fire Marshal, shall receive all such certificates and associated fees, if any. The State Fire Marshal shall forward a copy of the Certificate of Inspection for all fire alarm signaling systems, fire suppression systems and other fire protection systems that are located within the jurisdiction of the Assistant State Fire Marshals to those jurisdictions. The single collection point for such certificates will greatly enhance the administration and management of the licensing program and will eliminate any confusion to the vendors, contractors or to the public as to where to send such certificates.~~

7-8.4 An Annual Certificate of Inspection shall be submitted to the Office of State Fire Marshal within 30 days of the date of the Annual Inspection.

~~7-9.1 The State Fire Marshal shall charge such fees in the application of these Regulations as defined in Appendix E of these Regulations.~~

7-9.1 Fees as charged in accordance with Part III, §7-

8.1 and Appendix E of these Regulations for the submission of Certificates of Inspections shall be due and payable to the Office of State Fire Marshal according to the provisions of Part III, Chapter 1, 1-4.1.4 of these Regulations.

7-9.1.1 Fees as called for in Part III §7-8.1 of these Regulations for fire suppression systems, that are located in the jurisdiction of the Jurisdictional Fire Marshals, shall be due and payable to the appropriate Jurisdictional Fire Marshal's office, if applicable.

7-10 Compliance

7-10.1 The failure of the licensed company to comply with the provisions of this Section shall constitute a violation of the Delaware State Fire Prevention Regulations.

Part III; Chapter 8
Licensing And Reporting Requirements For Central Station And Remote Station Services

8-1.2 Scope. In addition to the nationally recognized codes and standards as adopted and/or modified by these Regulations, this Regulation establishes minimum requirements for the licensing and reporting requirements for central station and remote station services, fire protection monitoring services, and individuals, firms, organizations, or businesses by any other name which monitor any fire alarm signaling system, fire suppression system, or any fire protection system with an objective of receiving alarms from protected properties and then transmitting the alarm to ~~an emergency~~ a fire dispatch center or fire department.

8-3.4.3 Insurance Certificates filed with the Office of State Fire Marshal under this section shall remain current and in force until the insurer has terminated future liability by a ~~30~~ ten (10) day notice to the Office of State Fire Marshal.

8-4.1.1 All licensees must maintain in their alarm receiving location and must provide the appropriate ~~emergency~~ fire dispatch center and jurisdictional fire department the following records:

8-5.6

(c) Is guilty of a violation of the codes and regulations adopted by the Delaware State Fire Prevention Commission ~~of the State of Delaware~~;

8-5.7 Any person aggrieved by an order or decision of the State Fire Marshal with respect to the provisions of this Chapter may file an appeal to the Delaware State Fire Prevention Commission pursuant to 16 Del. C. §6608 and in accordance with the provisions of these Regulations.

~~8-6 Compliance Dates.~~

~~8-6.1 Licensing Requirement.~~

~~8-6.1.1 All central station, remote station, and systems monitoring companies shall file an application for licensing under this Regulation within 30 days of the effective date.~~

~~8-6.2 Reporting And Records Requirements.~~

~~8-6.2.1 All licensees shall be in compliance with the reporting requirements of this Regulation 60 days after the effective date.~~

~~8-6.3 Effective Date.~~

~~8-6.3.1 The effective date of this Regulation will be July 1, 1997.~~

Part IV; Chapter 2 - Fireworks Display

2.1.1.1 Pursuant to 16 Del. C. Chapter 69, no person shall store, sell, offer or expose for sale, or have in possession with intent to sell or to use, discharge or cause to be discharged, ignited, fired or otherwise set in action within this State, any fireworks, firecrackers, rockets, sparklers, torpedoes, Roman candles, fire balloons or other fireworks or substances of any combination whatsoever designed or intended for pyrotechnic display except as otherwise provided for in this Regulation

2-2.3 The application for a permit for a public display of fireworks shall be accompanied by the following:

~~(a) A bond in the principle sum of five thousand dollars ($5,000.00) payable to the State indemnifying any person who receives or sustains injury to his person or property by reason of any discharge of the fireworks by the applicant or anyone acting for or on his behalf. Any such person receiving or sustaining injury may sue on the bond in the name of the State to recover damages for such injury and the Attorney General shall represent such person in the action. [16 Del. C. §6903 (c)]~~

~~(b) A certificate of insurance in the amount of $500,000.00 naming the sponsoring organization and the operator of the display as co-insured.~~

(a) A certificate of insurance issued by a bona fide insurance company licensed by the State Insurance Commissioner showing a minimum of $1,000,000 liability insurance per event pursuant to 16 Del. C. §6903 (c).

~~(c)~~(b) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways, streets, roads, the lines behind which the audience or spectators will be restrained, and the location of all nearby trees, telegraph, or telephone lines or other overhead obstructions.

~~(d)~~(c) A check in the amount prescribed in Appendix E of these Regulations and made payable to THE STATE OF DELAWARE.

2-2.5 No permit shall be issued until the site is inspected by the State Fire Marshal. A site inspection shall cover all regulations in this chapter, 16 Del. C., Chapter 69, the *Code for Fireworks Display*, N.F.P.A. 1123 and the *Standard for the Use of Pyrotechnics before a Proximate Audience*, N.F.P.A. 1126. A permit shall only be issued after a satisfactory site inspection has been completed.

2-3.1.10 The State Fire Marshal shall have the

authority to apply any provision from the ~~Standard for Public Display of Fireworks, NFPA 1123~~ *Code for Fireworks Display*, N.F.P.A. 1123 and the *Standard for the Use of Pyrotechnics before a Proximate Audience*, N.F.P.A. 1126, as adopted and/or modified by these Regulations, as the standards for any provision not specifically covered in this Chapter or in 16 Del. C., Chapter 69.

2-5.1.11 Any person, who has their license suspended or revoked under the provisions of this Chapter or any other Chapter of these regulations, may appeal the action of suspension or revocation to the Delaware State Fire Prevention Commission under the provisions set forth in Part I, Chapter 1 of these Regulations.

Part IV; Chapter 3 - Explosives, Ammunition, Blasting Agents

3-1.4 No permit shall be issued until the site is inspected by the State Fire Marshal. A site inspection shall cover all regulations in this chapter, 16 Del. C., Chapter 70, and the *Explosive Materials Code*, N.F.P.A. 495. A permit shall only be issued after a satisfactory site inspection has been completed.

3-2.2 The above log shall be in a bound type book and shall be kept on each job site and date entered with each shot. The log shall be made immediately available to the State Fire Marshal or authorized designee upon request.

3-6.1 ~~The transportation of explosives shall comply with the provisions of The Hazardous Materials Transportation Act as provided in 29~~ Del. C. ~~§8223 through §8230.~~ A permit is required from the State Fire Marshal for the transportation of explosives within the State of Delaware. No permit shall be issued until the vehicle is inspected by the State Fire Marshal. The vehicle inspection shall cover all regulations in this chapter, 16 Del. C., Chapter 71 and the *Hazardous Materials Transportation Act*, as provided in 29 Del. C. §8223 through §8230.

Part IV; Chapter 4 - Amusement Ride Safety

4-2 Application For Permit For Amusement Rides

4-2.1 Any association or company desiring to operate a public amusement shall apply to the State Fire Marshal for a permit to operate such amusement at least 7 days prior to the first date of operating the amusement.

4-2.2 Such application for a permit for a public amusements shall set forth:

(a) The name and address of the organization sponsoring the amusements.

(b) The name, address and telephone number of an individual from the sponsoring organization who will be the contact person for the Office of State Fire Marshal.

(c) The times of day and dates when the amusements will open to the public.

(d) The exact location planned for the amusements..

(e) The signature of the contact person from the sponsoring organization.

~~4-2~~ 4-3 Electrical Inspection Required.

~~4-2.1~~ 4-3.1 Each time an amusement ride as defined in 16 Del. C., Chapter 64, is set-up, assembled, or otherwise made ready for public use or occupancy or in any way in which a person may come in contact with the amusement ride, an electrical inspection shall be conducted by a recognized electrical inspection agency, as certified by the Delaware State Board of Electrical Examiners.

~~4-2.2~~ 4-3.2 The inspection shall determine that all provisions of the National Electric Code, NFPA 70, as adopted and/or modified by these Regulations, have been complied with.

~~4-2.3~~ 4-3.3 A report shall be issued to the State Fire Marshal from the electrical inspection agency containing the following information:

~~4-3 Handling Of Complaints.~~

~~4-3.1 Whenever the State Fire Marshal has reason to believe that continued operation of an amusement ride constitutes a threat to life safety, the State Fire Marshal shall have the authority to issue a summary abatement in accordance with the provisions of Part I, Chapter 1 of these Regulations.~~

~~4-3.2 Such summary abatement shall remain in effect until the Office of State Fire Marshal is satisfied that the hazard to life has been corrected.~~

4-5.1 No permit shall be issued until the site is inspected by the State Fire Marshal. A site inspection shall cover all regulations in this chapter and 16 Del. C., Chapter 64. A permit shall only be issued after a satisfactory site inspection has been completed.

4-6 Handling Of Complaints.

4-6.1 Whenever the State Fire Marshal has reason to believe that continued operation of an amusement ride constitutes a threat to life safety, the State Fire Marshal shall have the authority to issue a summary abatement in accordance with the provisions of Part I, Chapter 1 of these Regulations.

4-6.2 Such summary abatement shall remain in effect until the Office of State Fire Marshal is satisfied that the hazard to life has been corrected.

Part V; Chapter 5
Standard For The Marking, Identification, And Accessibility Of Fire Lanes, Exits, Fire Hydrants, Sprinkler, And Standpipe Connections

5-1.1.3 The revisions to the Regulation that affect marking of fire lanes shall take effect on January 1, 2004.

5-1.4.1 Fire Lane: A paved roadway surface that provides unobstructed access to a building for Fire Department apparatus and any other emergency vehicles at all times.

5-2.11 Enforcement action regarding stopping, standing or parking a vehicle within 15 feet of a fire hydrant shall be as prescribed in this regulation ~~and 21 Del. C. 417~~ and 21 Del. C. §7001and/or 21 Del C§4179.

5-2.12 ~~Four~~ Three copies of an independent and specific record type plan shall be submitted to the State Fire Marshal's Office providing specific identification and marking details of access roadways, fire lanes, fire department connections, and fire hydrants.

5-3.1 Where emergency services have to utilize access roadways between public streets or roads to reach designated fire lanes, such access roadways shall be a minimum of 24 feet in width and constructed to meet the minimum engineering specifications and/or requirements ~~to support emergency apparatus~~ pursuant to the Delaware Department of Transportation requirements for paved roadways.

5-3.2 Access roadways with no parking on one or both sides shall be marked as follows:

Curbs painted yellow or ~~a~~ yellow demarcation ~~line~~ lines ~~as illustrated in the appropriate section of this regulation~~

~~5-4.4*~~ 5-4.4 The minimum width of primary and/or secondary fire lanes may be reduced when, in the opinion of the State Fire Marshal, the reduced width will not impact on the accessibility of fire department emergency vehicles.

~~A-5.4.4 The intent of this section is to allow the State Fire Marshall to accept a primary and/or secondary fire lane width less than what is required by these Regulations.~~

5-4.5 Fire lanes shall be constructed to meet the minimum engineering specifications and/or requirements ~~to support emergency apparatus~~ pursuant to the Delaware Department of Transportation requirements for paved roadways.

5-5.4 ~~Fire lanes~~ The closest edge of fire lanes, both primary and secondary, shall not be located further than 50 feet from an exterior wall if one or two stories; 40 feet if three or four stories and 30 feet if over four stories in height.

5-6.1.2 Fire lanes with no parking between the fire lane and the building shall be marked as follows:

(a) Curbs painted yellow or 4 inch yellow demarcation lines ~~on both the inner and outer edges of the fire lane(s).~~ as follows:

1. Both the inner and outer edges of the fire lane marked with curbs painted yellow, or

2. The inner edge of the fire lane marked with a curb painted yellow and the outer edge of the fire lane marked with a four inch (4") yellow demarcation line, or

3. The inner edge of the fire lane marked with a four inch (4") yellow demarcation line and the outer edge of the fire lane marked with a curb painted yellow, or

4. Both the inner and outer edges of the fire lane marked with four inch (4") yellow demarcation lines.

(b) Signs, ~~posted along the~~ shall be posted along the inner curb, building line, or edge of the roadway placed at each end of the fire lane and spaced at 150 foot intervals maximum~~;~~. All signs shall be located no less than six feet and no higher than eight feet above the pavement.

(c) Where the four inch yellow demarcation line of the outer edge of a fire lane intersects an access roadway or parking lot aisle, it may be marked as follows.

1. A solid four inch yellow demarcation line may continue to run across the intersection of the access roadway or parking lot aisle, or

2. A broken (intermittent) four inch yellow demarcation line may continue to run across the intersection of the access roadway or parking lot aisle, or

3. The solid four inch yellow demarcation line may be omitted at the intersection of the access roadway or parking lot aisle but shall continue for the remainder of the fire lane where it does not intersect an access roadway or parking lot aisle.

5-6.1.3 ~~Fire lanes with permitted parking between the fire lane and the building shall not require any form of marking.~~

Fire lanes with permitted parking between the fire lane and the building shall be marked as follows:

(a) 4 inch yellow demarcation lines on both the inner edge and outer edge of the fire lane(s).

(b) Roadway markings shall utilize the words "FIRE" and "LANE" and shall conform to the following specifications.

(1) The first word "FIRE" shall be closest to a driver approaching such marking;

(2) Each word shall be at least ten feet in height and 20 feet or 12 feet in width, on center, conforming to the width of the fire lane so as to define the location of the fire lane;

(3) This distance between the word "FIRE" and the word "LANE" shall be no greater than 30 feet; and

(4) The distance from the word "LANE" to the beginning of the second set of roadway markings where the word "FIRE" begins shall be no greater than 100 feet.

~~5-6.1.4 When fire lanes are indicated by a curb being painted or marked yellow or a yellow line is placed at the edge of a roadway or shoulder, the minimum width of the yellow line shall be four inches (4").~~

5-9.2 All exits shall have demarcation lines of at least four inch (4") minimum width to define specific areas.

~~5-9.3 All demarcation lines shall be a minimum of~~

~~four inches (4") in width.~~

~~5-9.4~~ 5-9.3 Demarcation lines shall be yellow in color and only a vivid and durable paint shall be used which is suitable for road surfaces.

~~5-9.5~~ 5-9.4 Demarcation lines on secondary exits shall be measured from the center line of the exit way and shall extend for a distance of six feet (6') on either side to the public way (fire lane).

~~5-9.6~~ 5-9.5 Demarcation lines need not be located on sidewalk surfaces or other pedestrian surfaces not subject to vehicular traffic but shall extend from the end of the sidewalk surface to the fire lane.

~~5-9.7~~ 5-9.6 No objects, stands, displays, or other impediments shall be located within the demarcation area.

5-9.7 When required by the State Fire Marshal, minimum four inch (4") diameter steel bollards filled with concrete and painted yellow shall be installed at the corners of the exit's demarcation area. The minimum height of the bollard shall be thirty six inches (36") above the finished grade of the adjacent surface.

~~5-9.8 Four inch steel bollards filled with concrete and painted yellow shall be installed at the corners of the exit demarcation area~~

5-10.2 When fire hydrants are located along the curb line, the area between the fire hydrant and the fire lane shall be stenciled with 4 inch (4") demarcation lines and the words "NO PARKING", which shall extend to a distance of 15 feet on either side to be measured from the center line of the fire hydrant.

NOTE: See Figure Five – Marking of Fire Hydrant Along a Curb Line

5-10.3 Where fire hydrants are located on a curb island extension in such a manner that the hydrant is directly accessible to the access or fire lane, it will only be necessary to paint the curb island extension for the distance it traverses the access lane.

NOTE: See Figure Seven – Marking of Fire Hydrant on a Curb Island Extension

5-10.6 Where fire hydrants are located in parking lots or other areas susceptible to blockage by parked vehicles they shall be treated as follows:

(a) Fire hydrants shall be protected in all directions for a distance of seven feet (7') with barriers or curbing

(b) ~~A fire lane~~ An access roadway with a minimum of 16 feet shall run through the parking area and adjacent to the demarcation area of the fire hydrant.

(c) The ~~fire lane~~ access roadway in (b) above shall extend "from" and "to" a traffic lane.

(d) All fire hydrants shall have demarcation lines to define specific areas. All demarcation lines shall be yellow in color and only a vivid and durable paint shall be used which is suitable for road surfaces.

(e) Minimum four inch (4") diameter steel bollards filled with concrete and painted yellow shall be installed at the corners of the fire hydrant demarcation area. The minimum height of the bollard shall be thirty six inches (36") above the finished grade of the adjacent surface.

5-10.6.1 Where fire hydrants are located in parking lots on a curb island extension in such a manner that the hydrant is directly accessible to the access or fire lane, it will only be necessary to paint the curb island extension for the distance it traverses the access lane.

NOTE: See Figure Seven – Marking of Fire Hydrant on a Curb Island Extension

5-11.5 All fire department connections ~~standpipe and sprinkle connections~~ (standpipe and sprinkler) and other such like items shall have demarcation lines and shall include the words "NO PARKING" to define specific areas.

5-11.8 When required by the State Fire Marshal, minimum four inch (4") diameter steel bollards filled with concrete and painted yellow shall be installed at the corners of the demarcation area for the fire department connections. The minimum height of the bollard shall be thirty six inches (36") above the finished grade of the adjacent surface.

5-11.9 All fire department connections (standpipe and sprinkler) shall have a minimum 12" x 18" sign that reads:

FIRE DEPT.
CONNECTION

Sign lettering shall be a minimum of 3 inches (3") in height with red scotch lite letters on white scotch lite background. The sign shall be clearly visible from the fire lane or roadway.'

Figure One
Marking of Primary Fire Lane with No Parking

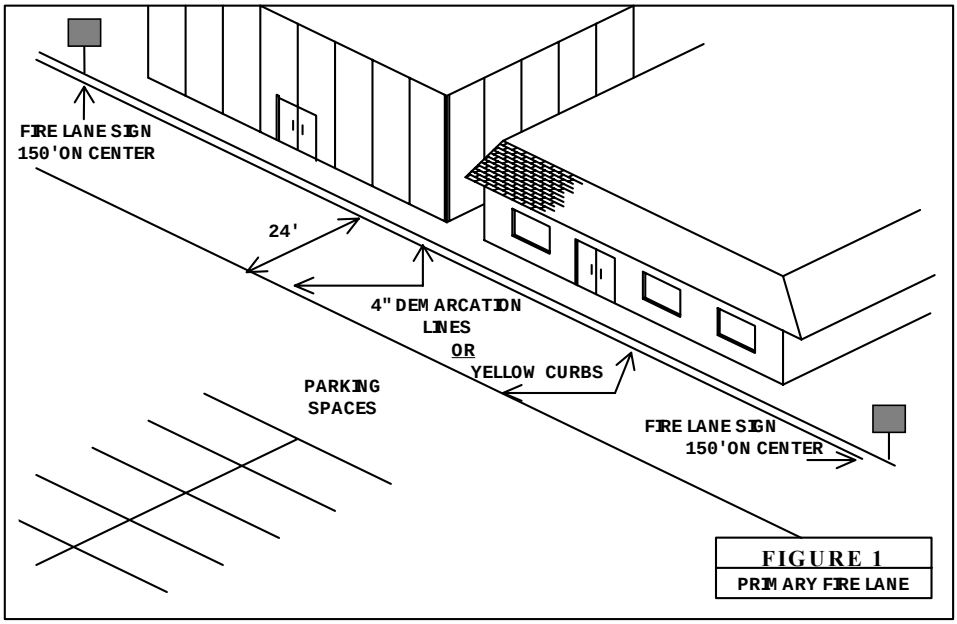


Figure Two
Marking of Primary Fire Lanes on Existing Buildings with Permitted Parking

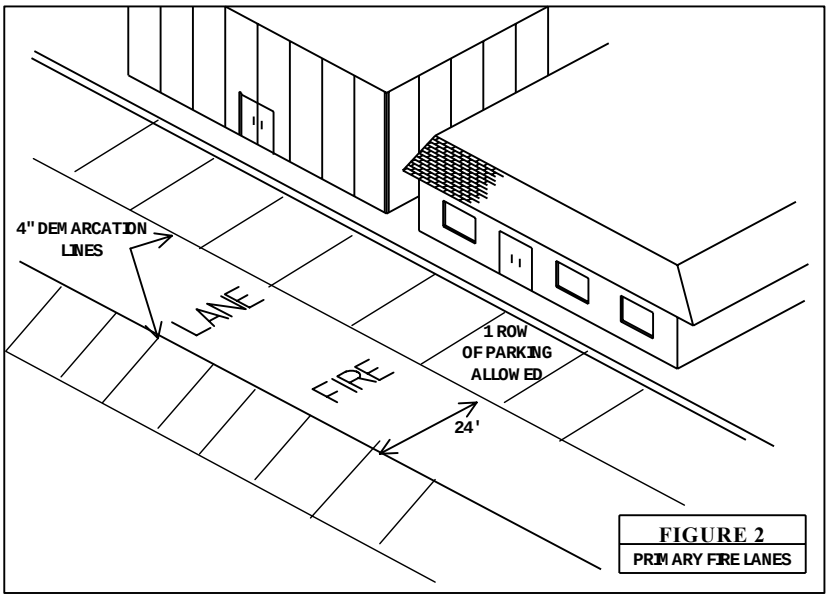


Figure Three
Marking of Secondary Fire LaneWith a Sidewalk

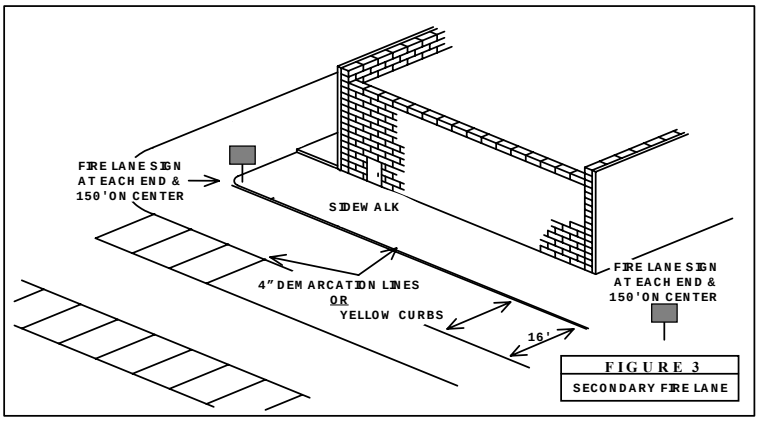


Figure Four
Marking of Secondary Fire LaneWithout a Sidewalk

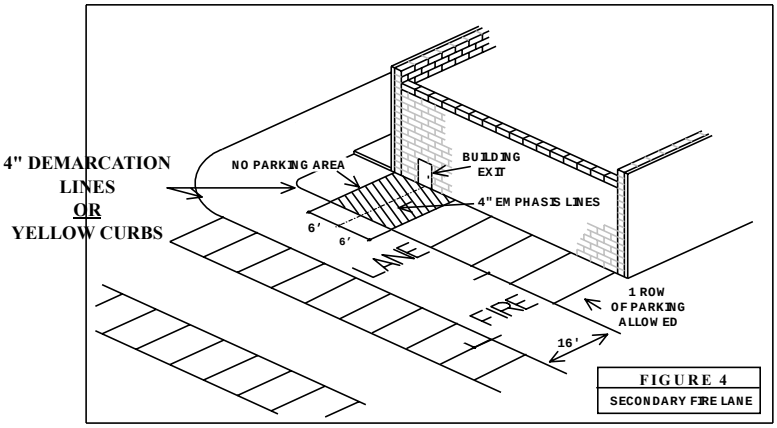


Figure Five
Marking of Fire Hydrant Along A Curb Line

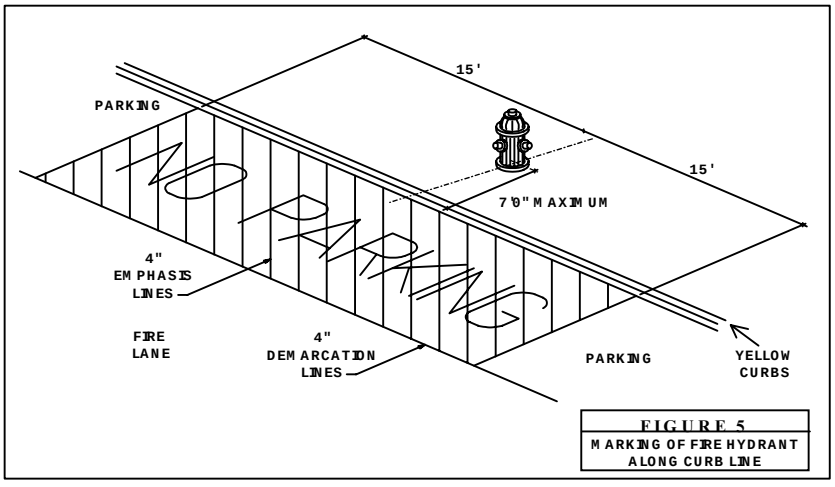


Figure Six
Marking and Protection of Fire Hydrant in Vehicle Parking Area

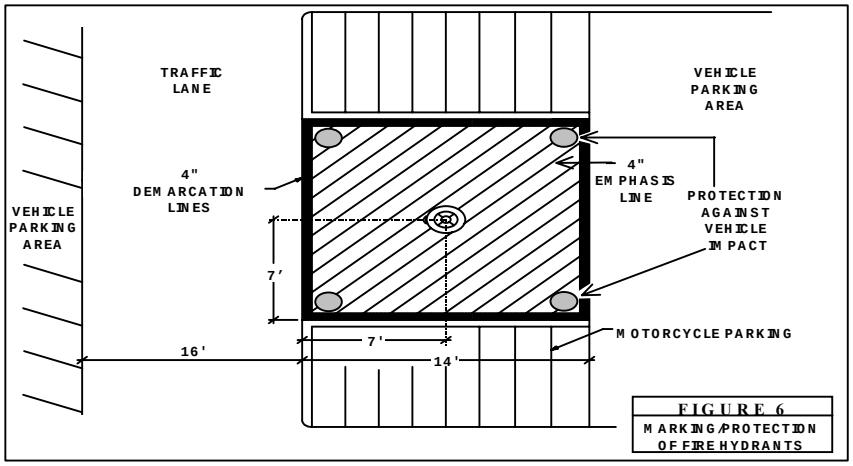


Figure Seven
Marking of Fire Hydrant on a Curb Island Extension

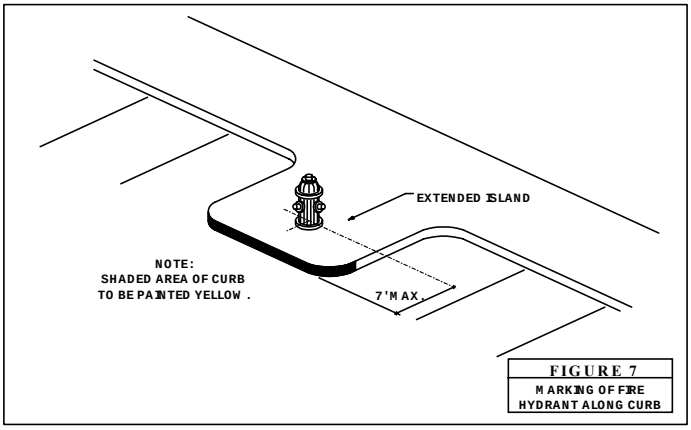


Figure Eight
Marking of Standpipe and Sprinkler Connections

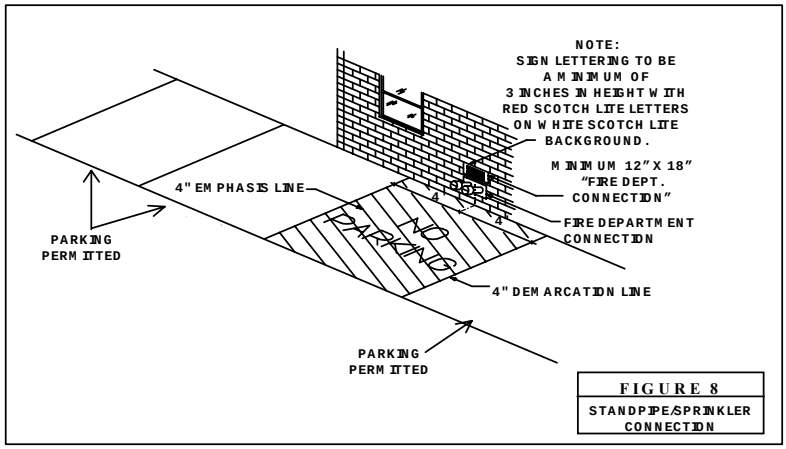
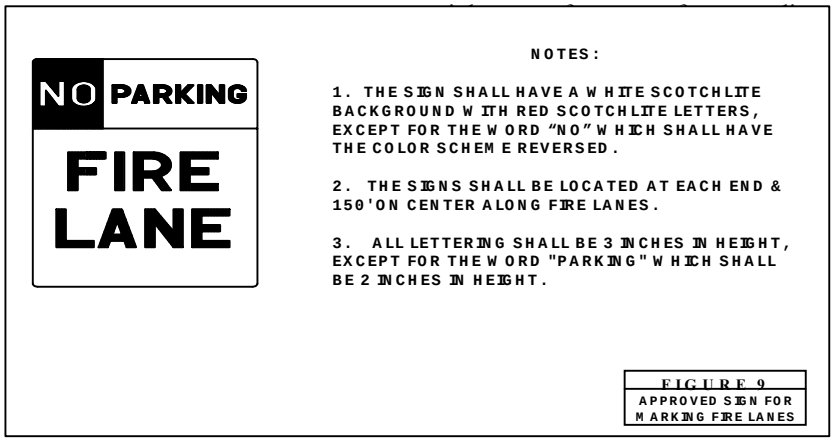
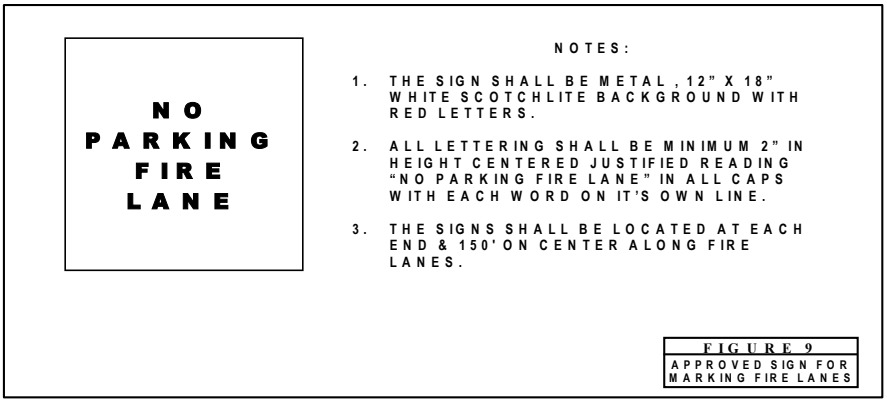


Figure Nine
Approved Sign For Marking Fire Lanes





DEPARTMENT OF ADMINISTRATIVE SERVICES

DIVISION OF PROFESSIONAL REGULATION

BOARD OF MASSAGE & BODYWORK

24 DE Admin. Code 5300

Statutory Authority: 24 Del.Code, Section 5306(1) (24 **Del.C.** §5306(1))

PLEASE TAKE NOTICE, pursuant to 29 **Del. C.** Chapter 101 and 24 **Del. C.** Sections 5306(1) and 5306(7), the Delaware Board of Massage and Bodywork proposes to revise its Rules and Regulations. The proposed revisions seek to clarify the Board's continuing education requirements. The Board proposes to revise Rule 6.3 of the current Rules as follows: 1) amend Rule 6.3.1 to clarify that for each biennial licensing period, the Board requires that uired of massage ass, hands-on study of the "practice of massage and bodywork," and that nine of the required twelve credits required of massage technicians must be received in supervised in-class, hands-on study of the "practice of massage and bodywork;" 2) amend Rule 6.3.2 to clarify that, for each biennial licensing period, massage therapists may complete up to six of the required twenty-four hours in course areas listed in Rules 6.3.2.1-6.3.2.6 and that massage technicians may complete up to three of the required twelve hours in course areas listed in Rules 6.3.2.1-6.3.2.6; and 3) amend Rules 6.3.2.1 and 6.3.2.6 to clarify the courses that are acceptable for continuing education credit requirements of Rule 6.3.2.

A public hearing will be held on the proposed Rules and Regulations on Thursday, May 1, 2003 at 1:30 p.m., in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, 19904. The

Board will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Board in care of Susan Miccio at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should notify Susan Miccio at the above address by calling (302) 744-4506.

This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

6.0 Continuing Education

6.1 *Hours required*. For license or certification periods beginning September 1, 2000 and thereafter, each massage/ bodywork therapist shall complete twenty-four (24) hours of acceptable continuing education during each biennial licensing period, except as otherwise provided in these Rules and Regulations. Each massage technician shall complete twelve (12) hours of acceptable continuing education during each biennial licensing period, except as otherwise provided in these Rules and Regulations. Completion of the required continuing education is a condition of renewing a license or certificate. Hours earned in a biennial licensing period in excess of those required for renewal may not be credited towards the hours required for renewal in any other licensing period.

6.1.1 Calculation of Hours. For academic course work, correspondence courses or seminar/workshop instruction, one (1) hour of acceptable continuing education shall mean 50 minutes of actual instruction. One (1) academic semester hour shall be equivalent to fifteen (15) continuing education hours; one (1) academic quarter hour shall be equivalent to ten (10) continuing education hours.

6.1.2 If during a licensing period an individual certified by the Board as a massage technician is issued a license as a massage and bodywork therapist, the continuing education requirement for that licensing period is as follows:

6.1.2.1 If the license is issued more than twelve (12) months prior to the next renewal date, the licensee shall complete twenty-four (24) hours of acceptable continuing education during the licensing period.

6.1.2.2 If the license is issued less than twelve (12) months prior to the next renewal date, the licensee shall complete twelve (12) hours of acceptable continuing education during the licensing period.

6.2 *Proration.* Candidates for renewal who were first licensed or certified twelve (12) months or less before the date of renewal are exempt from the continuing education requirement for the period in which they were first licensed or certified.

6.3 *Content*

6.3.1 Except as provided in Rule 6.3.2, continuing education hours must contribute to the professional competency of the massage/bodywork therapist or massage technician within modalities constituting the practice of massage and bodywork. Continuing education hours must maintain, improve or expand skills and knowledge obtained prior to licensure or certification, or develop new and relevant skills and knowledge. For each biennial licensing period, massage therapists must complete at least eighteen of the required twenty-four hours of continuing education hours in supervised in-class hands-on study of the "practice of massage and bodywork" as defined in Rule 1.3. For each biennial licensing period, massage technicians must complete at least nine of the required twelve hours of continuing education hours in supervised in-class hands-on study of the "practice of massage and bodywork" as defined in Rule 1.3.

6.3.2 For each biennial licensing period, massage therapists may complete (but are not required to complete) up to six hours of the required twenty-four hours of continuing education hours in any combination of the areas and methods listed in Rules 6.3.2.1 through 6.3.2.5. In each biennial licensing period, massage technicians may complete (but are not required to complete) up to three hours of the required twelve hours of continuing education hours in any combination of the areas and methods listed in Rules 6.3.2.1 through 6.3.2.5. ~~No more than twenty-five percent (25%) of the continuing education hours required in any licensing period may be earned in any combination of the areas and methods described or listed in Rules 6.3.2.1 through 6.3.2.5. For example, a licensed massage therapist licensed for the entire licensing period may obtain no more than six (6) hours of the required twenty-four (24) hours in any combination of the following areas and methods:~~

6.3.2.1 Courses in modalities such as are listed in Rule 1.4, which are modalities other than in the practice of massage and bodywork ~~massage/bodywork therapy~~

6.3.2.2 Personal growth and self-improvement courses

6.3.2.3 Business and management courses

6.3.2.4 Courses taught by correspondence or mail

6.3.2.5 Courses taught by video, teleconferencing, video conferencing or computer.

6.3.2.6 Courses in anatomy or physiology

DEPARTMENT OF EDUCATION

14 DE Admin. Code 401

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))

Education Impact Analysis Pursuant To 14 *DEL. C.* Section 122(d)

401 Major Capital Improvement Programs

A. Type Of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary seeks to amend regulation 401 Major Capital Improvement Programs in order to update procedures and clarify issues concerning the school construction process. Some of the clarifications are in response to recommendations from the School Construction Committee.

Item 1.2 has been added in Section 1.0 in order to allow for the consolidation of Major Capitol Improvement projects in one location. In section 3.0 Approval of Educational Specifications, Schematic Design Plans, Design Development Plans and Construction Drawings, 3.6 has been added to identify some exceptions to the process. In 4.0 Certificates of Necessity, sections 4.3 through 4.6 have been added to clarify the process involved in acquiring a Certificate of Necessity.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses school construction issues not achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses school construction issues not equal education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses health and safety issues through the school construction process.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses school construction issues not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation will not place any unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation will be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? The regulation is important to clarify procedures associated with the school construction process.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no additional cost to the state and to the local school boards for compliance with the amended regulation.

401 Major Capital Improvement Programs

1.0 Major Capital Improvement Programs are projects having a cost of ~~$250,000~~ $500,000, or more.

1.1 The Secretary of Education shall annually review the current cost per square foot for construction and make needed adjustments as required.

1.2 Projects may be considered together to form a single major capital improvement project. However, the consolidated major capital project should be a consolidation of projects at one location.

2.0 Procedures for Approval of a Site for School Construction

2.1 Local school districts shall ~~contact~~ notify the Department of Education by letter to schedule ~~for~~ a site review when they propose to purchase a site for school purposes. All prospective sites shall be reviewed at one time. It is preferable that at least four (4) sites be considered.

2.2 The Department of Education will forward all prospective sites to ~~the following agencies~~ the Office of State Planning for the pre-application review process. ~~for there review and comment~~. The Department of Education will ~~consolidate~~ review the responses of the other agencies in order to ~~review and~~ rank the prospective sites and list all reasons for approval or rejection. The Department shall then notify the school district concerning their final decision.

~~2.2.1 State Planning Coordination Office~~

~~2.2.2 The Budget Office~~

~~2.2.3 The Department of Natural Resources and Environmental Control~~

~~2.2.4 The Department of Agriculture~~

~~2.2.5 The Department of Transportation~~

~~2.2.6 The Local Planning Agency having jurisdiction~~

3.0 Approval of Educational Specifications, Schematic Design Plans, ~~Preliminary~~ Design Development Plans, and ~~Final~~ Construction Drawings ~~Plan Approvals~~.

3.1 Educational Specifications are defined as a document which presents to an architect what is required of an educational facility to house and implement the educational philosophy and institutional program in an effective way.

3.1.1Educational Specifications shall be approved by the local school board and the Department of Education. The Department will require a minimum of ten (10) working days for completion of the review and approval process.

3.2 All Schematic Design Plans shall be approved by the local school board and the Department of Education. ~~and these approved plans~~ Schematic Design Plans should be sent to the county or city planning office for information purposes only. The Department of Education requires one set of Schematic Design Plans.

3.3 All ~~Preliminary~~ Design Development Plans shall be approved by the local school board and the Department of Education. The Department of Education requires one set of Design Development Plans.

3.4 All ~~final plans~~ Final Construction Drawings shall be approved by the local school board and the Department of Education. The Department of Education requires one set of Final Construction Drawings.

3.5 The local school district must involve the following groups in reviewing ~~these plans~~ Final Construction Drawings prior to the final approval. Copies of all local and state agency approvals shall be submitted to the Department of Education for final approval.

3.5.1 Fire Marshal to review the plans for fire safety.

3.5.2 Division of Public Health, Bureau of Environmental Health, Sanitary Engineering for Swimming Pools, and the County Health Unit for information on Kitchens and Cafeterias.

3.5.3 Division of Facilities Management, Chief of Engineering & Operations for compliance with building codes.

3.5.4 Division of Highways for review of the Site Plan showing entrances and exits.

3.5.5 Architectural Accessibility Board for access for persons with disabilities.

3.5.6 Department of Natural Resources and Environmental Control for wastewater and erosion control.

3.6 Exemptions: Major capital projects that do not include structural changes or wall modifications such as, but not limited to, window replacement, HVAC, electrical or plumbing infrastructure upgrades do not require submission to the Department of Education.

4.0 Certificates of Necessity

4.1 The Certificate of Necessity is a document issued by the Department of Education which certifies that a construction project is necessary and sets the scope and cost limits for that project.

~~4.2 Certificates of Necessity shall be obtained sufficiently in advance to meet all prerequisites for the holding of a local referendum as it must be quoted in the advertisement for the referendum and shall be issued only at the written request of the local school district.~~

4.2 Certificates of Necessity shall be obtained sufficiently in advance to meet all prerequisites for the holding of a local referendum and shall be issued only at the written request of the local school district. The Certificate of Necessity shall be quoted in the advertisement for the referendum.

4.3 Projects proposing the construction of a new building or for an addition to an existing building shall be issued a separate Certificate of Necessity. Funds issued for the construction of a new building or for an addition to an existing building shall not be transferred between projects or to projects in a separate Certificate of Necessity.

4.4 Additions to existing buildings that are done in connection with other renovations may be issued a single Certificate of Necessity. However, when the Certificate is issued, it shall identify each building in the program and describe the work to be done in that building including the dollar amount for that work. Funds may be transferred between projects issued under this Certificate of Necessity.

4.5 The Office of School Plant Planning will complete the final Certificates of Necessity and forward the Certificate of Necessity to the district superintendent for his/her signature.

4.6 A copy of the final Certificate of Necessity will be returned to the district within ten working days following final approval by the Department of Education.

5.0 Notification, Start of Construction, Completion of Construction and Certificate of Occupancy

5.1 The school district shall submit to the Department of Education and the State Budget Director a construction schedule, showing start dates, intermediate stages and final completion dates.

5.2 The school district shall notify the Department of Education, the State Budget Director and the Insurance Coverage Office at the completion of the construction, which is defined as when the school district, with the concurrence of the architect, accepts the building as complete.

5.3 The school district shall notify the Department of Education, the State Auditor, and the State Budget Director upon approval of the Certificate of Occupancy.

5.4 Local school districts shall submit to the Department of Education a copy of the electronic autocad

files. Electronic autocad files shall be submitted no later than 30 calendar days after the completion of ~~any major renovation or addition to an existing facility.~~ any major renovation, addition to an existing facility, new school or replacement school.

6.0 Purchase Orders: All purchase orders for any major capital improvement project shall be approved by both the Department of Education and the Director of Capital Budget and Special Projects prior to submission to the Division of Accounting.

7.0 Change Orders

7.1 Change Orders are changes in the construction contract negotiated with the contractor. The main purpose is to correct design omissions, faults of unforeseen circumstances which arise during the construction process.

7.2 All Change Orders must be agreed upon by the architect, the school district and the contractor and shall be forwarded to the Department of Education along with the purchase order.

7.2.1 Submission of a Change Order must include the following documents: ~~Completed purchase order as applicable; Local Board of Education minutes identifying and approving the changes; Completed AIA document G701; Correspondence which gives a breakdown in materials, mark-up and other expenses, ; and, if not contained in any of the preceeding, an explanation of need plus any drawings needed to explain the requested change.~~ Completed purchase order as applicable; local board of education minutes identifying and approving the changes; completed AIA document G701, and correspondence which gives a breakdown in materials mark-up and other expenses.

8.0 ~~Transfer of Funds between Projects~~ Percentage of Funds Transferrable Between Projects within a Certificate of Necessity

8.1 The transfer of funds between projects during the bidding and construction process shall have the written approval of the Department of Education. Acceptability of the transfer of funds will meet the following criteria:

8.1.1 No project may have more than 10% of its funding moved to another project. ~~For example, no more than $10,000 could be transferred from a $100,000 project to any other project.~~

8.1.2 No project may have more than 10% added to its initial funding. ~~For example, no more than $10,000 would be transferred from all other projects to a project originally budgeted at $100,000.~~

9.0 Educational Technology: All school buildings being constructed or renovated under the Major Capital Improvement Program shall include, ~~in the project,~~ wiring for technology that meets the ~~Delaware Center for Educational Technology (DCET)~~ state standards appropriate to the building type, such as high school, administration, etc. The cost of such wiring shall be borne by project funds.

10.0 Air Conditioning: All school buildings with Certificates of Necessity ~~issued after July 1, 2000~~ for new school construction and/or major renovation/rehabilitation shall require the inclusion of air conditioning unless otherwise waived by the Secretary of Education.

11.0 Administration of the New School: The principal~~,~~ or administrator of a new school may be hired for up to one (1) year prior to student occupancy to organize and hire staff. The State portion of salary/benefits may be paid from Major Capital Improvement Programs.

12.0 Voluntary School Assessment

12.1 The funds generated as a result of the Voluntary School Assessment, as authorized by the provisions of 14 Del.C §103(c) relating to land use planning and education, shall be applied exclusively to offsetting the required local share of major capital construction costs.

12.1.1 Districts receiving Voluntary School Assessment funds shall have full discretion in the use of those funds for any construction activities that increase school capacity.

Education Impact Analysis Pursuant To 14 *DEL. C.* Section 122(d)

405 Minor Capital Improvement Programs

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary seeks to amend regulation 405 Minor Capital Improvement Programs in order to update procedures and clarify issues related to the programed maintenance and repair of the school plant. In addition, the reference to vocational equipment has been changed to Career-Technical Program equipment to reflect the name change in regulation 535 Requirements for Career Technical Education Programs.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses the maintenance and repair of the school plant not achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended

regulation addresses the maintenance and repair of the school plant not equal education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses health and safety issues through the maintenance and repair of the school plant.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses the maintenance and repair of the school plant not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation will not place any unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation will be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? The regulation is important to clarify procedures associated with the maintenance and repair of the school plant.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no additional cost to the state and to the local school boards for compliance with the amended regulation.

405 Minor Capital Improvement Programs

1.0 The Minor Capital Improvement Program is a program to provide for the planned and programmed maintenance and repair of the school plant. The program's primary purpose is to keep real property assets in their original condition of completeness and efficiency on a scheduled basis. It is not for increasing the plant inventory~~,~~ or changing its composition. ~~or more frequent maintenance activities~~. Minor capital improvement projects are projects that cost less than ~~$250,000~~ $500,000 unless the project is for roof repair. The ~~three year~~ program is ~~submitted~~ reviewed annually and should be comprised of work necessary for good maintenance practice.

1.1 Minor capital improvement ~~projects~~ project purchase orders shall be submitted to the State Division of Accounting prior to any work being done. A separate purchase order must be submitted for each project. (One copy of the approved purchase order will be returned to the district for their information and record.)

1.2 The local school district shall send a copy of the purchase order to the Department of Education.

1.3 Use of Funds: The following areas are authorized for Minor Capital Improvement ~~Project~~ Program funds: roofs, heating systems, ventilation & air conditioning systems, plumbing & water systems, electrical systems, windows~~, (sashes, frames),~~ doors, floors, ceilings, masonry, structural built-in equipment~~, painting (fire suppression, and life safety)~~ painting, fire suppression systems, life safety systems, maintenance of site, ~~typewriters and office machines~~ office~~-~~equipment used for instructional purposes only~~,~~ and renovations/alterations/ modernizations that ~~does~~ do not require major structural changes.

1.4 ~~Use of Funds~~ Exclusions: Funds allocated for a specific project shall be used only for that project. Funds may not be used for~~ routine janitorial supplies, upkeep of grounds nor any movable equipment. Recurring items such as broken glass and torn window screens, may not be repaired or replaced with these funds~~ the following: movable equipment other than office equipment used for instructional purposes that is transported from one location to another, routine janitorial supplies, new construction that increases the area of a building or extends any of its component systems, site improvements that add to or extend the existing roadways or side walks, surfacing a non-surfaced area for parking, completing major construction projects or specific items omitted/deleted from major construction projects or floor space allocated according to formula and used otherwise.

1.5 Invoices: Invoices may be sent directly to the Division of Accounting for processing after work has been completed and accepted, except for invoices with an adjustment which must be approved by the Department of Education before transmittal to the Division of Accounting.

2.0 ~~Vocational~~ Career-Technical Program Equipment Replacement Requests

2.1 Requests for the replacement of~~ vocational~~ Career-Technical Program equipment may be made under the Minor Capital Improvement Program. Requests shall be made when the equipment is within three years of its estimated life so districts can accumulate the necessary dollars to purchase

the item. Districts desiring to participate in the Career Technical Program equipment replacement program shall submit a request in writing to the Office of School Plant Planning at the time of the Minor Capital Improvement Program submission. Districts should not include Career-Vocational Program replacements with regular major capital improvement projects.

~~2.2 Equipment shall be defined as a movable or fixed unit, not built-in, that:~~

~~2.2.1 retains its original shape and appearance with use.~~

~~2.2.2 is non-expendable, i.e., is not consumed in use.~~

~~2.2.3 represents an investment in money which makes it feasible and advisable to capitalize.~~

~~2.2.4 does not lose its identity through incorporation into a different or more complex unit.~~

2.2 Career-Vocational Program Equipment is defined as either a movable or fixed unit but not a built-in unit. In addition, the equipment shall retain its original shape and appearance with use, be non-expendable, represent an investment which makes it feasible and advisable to capitalize and not lose its identity through incorporation into a different or more complex unit.

~~2.3 The equipment shall meet the following criteria to be replaced:~~

~~2.3.1 Item is non-expendable.~~

~~2.3.2 Item has a minimum 10-year life expectancy.~~

~~2.3.3 Item has a unit cost of $500 or more.~~

~~2.3.4 Item is worn-out or not repairable.~~

~~2.3.5 Item is obsolete and five or more years old.~~

~~2.3.6 Item was originally purchased with State, State and local, or local funds only.~~

2.2.1 In order to replace Career-Vocational Program equipment, the equipment must have a minimum 10 year life expectancy, have a unit cost of $500 or more, be obsolete or more then five (5) years old, and be purchased with state, state and local or local funds.

2.3 Funds: Funds shall be allocated based on the percentage of a district's Vocational Division II Units to the total of such units of all participating districts. This percentage is applied to the total funds available in a given year for capital equipment. ~~Vocational~~ Career-Technical Schools are 100% State funded.

3.0 Purchase Orders: Funds may be expended anytime during the life of the Act which appropriated the funds, usually, a three-year period. Appropriations may be accumulated over those three years and expended for a major replacement when a sufficient balance is attained. However, should funds prove insufficient after three years of appropriations, the district must supplement the program from their own or other resources. Funds unexpended when the appropriating Act expires ~~will~~ shall revert to the State. Purchase orders shall include the reference ID system, sub system, component and deficiency code from the correction on the facility assessment website database.

4.0 Cost Limitations: The maximum cost of a Minor Capital Improvement project is ~~$250,000~~ $500,000 except roof repairs/replacements which are not cost limited. Non-roof projects exceeding the ceiling shall be requested in the Major Capital Improvement Program.

5.0 Temporary Employees: Workers may be hired under the Minor Capital Improvement Program provided they are temporary hires and directly involved in the planning, constructing, or record maintenance of the construction project.

6.0 Reporting: At the end of each fiscal year, school districts shall submit a list of completed projects accomplished under the Minor Capital Improvement Program.

Education Impact Analysis Pursuant To 14 *DEL. C.* Section 122(d)

831 Extended Illness

The Secretary of Education seeks to repeal regulation 831 Extended Illness because the regulation is not necessary to clarify pregnancy as a temporary illness for the sake of school attendance. The issue is addressed in regulation 930 Supportive Instruction (Homebound).

~~**831 Extended Illness**~~

~~1.0 Absences due to illness and temporary disability associated with pregnancy shall be treated as any other absence due to illness or temporary disability and shall be subject to the provisions of 14 DelC. §2706.~~

See 1 DE Reg. 1976 (6/1/98)

Education Impact Analysis Pursuant To 14 *DEL. C.* Section 122(d)

1051 DIAA Senior High School Interscholastic Athletics
1052 DIAA Junior High/Middle School Interscholastic Athletics

PLEASE NOTE: DUE TO SPACE CONSTRAINTS ONLY THE AFFECTED PORTIONS OF REGULATIONS 1051 NAD 1052 ARE BEING PUBLISHED. THE FULL TEXT OF THE REGULATION IS AVAILABLE FROM EITHER THE

REGISTRAR OR THE DEPARTMENT OF EDUCATION.

A. Type of Regulatory Action Required
Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend regulation 1051 DIAA Senior High School Interscholastic Athletics and regulation 1052 DIAA Junior High/Middle School Interscholastic Athletics. The amendments are found in sections 12.0, 14.0, 23.0, 29.0, 30.0 and 31.0 of regulation 1051 and sections 12.0, 14.0, 22.0, 28.0, 29.0 and 30.0 of regulation 1052. The changes to the Senior High School and JuniorHigh/Middle School regulations are the same in most cases but the numbering system is not always the same.

The changes include removal of the word "rugby" from the Spring Football section 12.0, a change in the scoring procedure when an ineligible athlete is used in a game in Use of Ineligible Athlete section 14.0 and a change in the coaching out of season requirements in Sports Seasons and Practices sections 23.0 and 31.0 in 1051 and sections 22.0 and 30.0 in 1052. This change allows for coaching out of season with some constraints.

Changes also include new language on wrestling weight management in Wrestling Weight Control Code section 29 in 1051 and section 28.0 in1052, and changes concerning over site of athletic officials in Use of Officials section 30.0 in 1052 and section 29.0 in 1052. This change puts the officiating of interscholastic contests in the state of Delaware which involve one or more member schools under the control of DIAA.

C. Impact Criteria

1. Will the amended regulations help improve student achievement as measured against state achievement standards? The amended regulations address interscholastic athletics not state achievement standards.

2. Will the amended regulations help ensure that all students receive an equitable education? The amended regulations address interscholastic athletics and include concern for equitable opportunities for students.

3. Will the amended regulations help to ensure that all students' health and safety are adequately protected? The amended regulations address interscholastic athletics which includes attention to health and safety issues.

4. Will the amended regulations help to ensure that all students' legal rights are respected? The amended regulation includes elements designed to protect students' legal rights.

5. Will the amended regulations preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the amended regulations place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulations be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation will be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies.

9. Is there a less burdensome method for addressing the purpose of the amended regulations? There is not a less burdensome method for addressing the purpose of the amended regulations.

10. What is the cost to the State and to the local school boards of compliance with the amended regulations? There is no additional cost to the State and to the local school boards of compliance with the amended regulations.

1051 DIAA Senior High School Interscholastic Athletics

12.0 Spring Football

12.1 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament.

12.2 "Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. ~~Rugby and touch football~~ Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule.

14.0 Use of Ineligible Athlete

14.1 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.

14.1.1 If the infraction occurs during a tournament, including a state championship, the offending

school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

14.1.2 Team and/or individual awards shall be returned to the event sponsor.

14.1.3 Team and/or individual records and performances shall be nullified.

14.1.4 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty if the ineligible athlete had no tangible effect on the outcome of the contest(s). If the forfeiture penalty is waived, the offending school shall be reprimanded and fined $200.00 unless the athlete or his/her parent(s) or court appointed legal guardian(s) knowingly withheld information or provided false information that caused him/her to be eligible for interscholastic competition. The burden of proof, in both instances, rests entirely with the offending school.

14.1.5 A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings and playoff eligibility.

14.1.6 A forfeit shall be automatic and not subject to refusal by the offending school's opponent.

14.2 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and/or points earned by the ineligible athlete or by a relay team of which he/she was a member. The points contributed by an ineligible athlete to his/her team score shall be deleted. ~~.~~ and the contest score as well as any affected placements will be adjusted according to the rules of that sport.

14.2.1 If the infraction occurs during a tournament, including a state championship, the ineligible athlete shall be replaced by his/her most recently defeated opponent or the next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

14.2.2 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor.

14.2.3 Individual records and performances by the ineligible athlete shall be nullified.

14.3 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties stipulated in 14.1 and 14.2 shall be imposed.

14.4 The intentional use of an ineligible athlete by a member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for up to 180 school days from the date the charge is substantiated.

14.5 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for up to 180 school days from the date the charge is substantiated.

14.6 If an athlete or his/her parent(s) or court appointed legal guardian(s) knowingly withholds information or provides false information that causes him/her to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to 180 school days from the date the charge is substantiated.

See 3 DE Reg. 438 (9/1/99)

23.0 Sports Seasons and Practices

23.1 The regular fall sports season shall begin with the first approved day for practice and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport.

23.2 The regular winter sports season shall begin with the first approved day for practice and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport.

23.3 The regular spring sports season shall begin on March 1 and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport.

23.4 Practice for any fall sport shall not begin earlier than 21 days before the first Friday after Labor Day. Practice for any winter sport shall not begin earlier than 21 days before the first Friday in December and practice for any spring sport shall not begin earlier than March 1.

23.4.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non-contact activities. Coaches may introduce offensive formations and defensive alignments, run plays "on air," practice non-contact phases of the kicking game, and teach non-contact positional skills. Protective equipment shall be restricted to helmets, mouthguards, and shoes. The use of dummies, hand shields, and sleds in contact drills is prohibited, Blocking, tackling,

and block protection drills which involve any contact between players are also prohibited.

23.5 A school which participates in a game prior to the first allowable date or after the start of the state championship shall be required to forfeit the contest and be assessed a $100.00 fine.

23.6 A school which conducts practice prior to the first allowable date shall be assessed a fine of $100.00 per illegal practice day.

23.7 From August 2nd through June 14th a ~~A~~ certified, emergency, or volunteer coach shall not be allowed to provide instruction out of the designated season in his/her assigned sport to returning members of the varsity or subvarsity teams of the school at which he/she coaches. He/she shall also be prohibited from coaching rising ninth graders (rising eighth graders if eighth grade is part of the same administrative unit as grades 9 through 12) who participated in his/her assigned sport at a feeder school.

23.7.1 A coach shall not be allowed to participate on a team in his/her assigned sport with the aforementioned players.

23.7.2 A coach shall also be prohibited from officiating contests in his/her assigned sport if the aforementioned players are participating except in organized league competition.

23.7.2.1 The league shall not be organized and conducted by the employing school, the employing school's booster club, or the employing school's coaching staff.

23.7.2.2 The league shall have written rules and regulations that govern the conduct of contests and establish the duties of contest officials.

23.7.2.3 The league shall have registration/entry procedures, forms, and fees; eligibility requirements; and fixed team rosters, team standings, and a master schedule of contests.

23.8 A certified, emergency, or volunteer coach shall not be allowed to provide instruction during the designated season in his/her assigned sport to current members of the varsity or subvarsity teams of the school at which he/she coaches outside of school sponsored practices, scrimmages, and contests.

23.9 A coach who is determined to be in violation of 23.7 or 23.8 shall be suspended from coaching in the specified sport at any DIAA member school for up to 180 school days from the date the charge is substantiated.

23.10 From June 15th through August 1st, a certified, emergency or volunteer coach shall be allowed to provide instruction in his/her assigned sport to returning members of the varsity or sub-varsity teams of the school at which he/she coaches. Instructional contact with the aforementioned returning school team members shall be subject to the following conditions:

23.10.1 A coach may provide instruction to an unlimited number of his/her returning school team members in formal league/tournament competition or in formal instructional camps/clinics provided the league/tournament or instructional camp/clinic is organized and conducted by a non-school affiliated organization.

23.10.2A coaching staff may provide instruction to a maximum of two returning school team members in an informal setting. A coaching staff may have multiple two-hour sessions in any given day. Returning school team members shall not receive more than 2 hours of sports instruction per day.\

23.10.3 A coach shall not receive any compensation, from any source, for the instruction of his/her returning school team members. Reimbursement for out-of-pocket expenses (e.g. gas, food, lodging) incurred by returning school team members and coaches to attend leagues/tournaments or instructional camps/clinics are not prohibited provided that no local school or state educational funds are used.

23.10.4 Participation in the formal league/tournament or instructional camp/clinic, or the informal instruction under 23.10.2, shall be open, voluntary and equally available to all returning school team members.

See 3 DE Reg. 439 (9/1/99)
See 6 DE Reg. 284 (9/1/02)

29.0 Wrestling Weight Control Code

29.1 Each year, ~~prior to January 15,~~ beginning November 1st and prior to January 15th a wrestler must establish his/her minimum weight class at a weigh-in witnessed by and attested to in writing by the athletic director or a designated staff member (excluding coaches) of the school the wrestler attends. ~~Thereafter, a wrestler may not compete in a weight class below his/her duly established weight class. In addition, a wrestler may not compete in the individual state championship or a qualifying tournament in his/her duly established weight class unless the wrestler makes weight in at least fifty (50) percent of his/her conference and non-conference weigh-ins during the regular season.~~ The official weigh-in for a regularly scheduled dual meet or tournament would establish certification. In addition, each year beginning November 1 and prior to January 15, each wrestler is required to determine his/her lowest allowable competitive weight according to the DIAA Weight Monitoring Program (see appendix). A wrestler may re-certify at a lower weight class during November 1 and prior to January 15 if his individual weight loss plan allows for it. However, once certified at a weight a wrestler may not weigh-in more than one weight class above the weight of certification without automatically re-certifying at a higher weight. Once re-certified to a higher weight class the wrestler can no longer re-certify lower. After January 14 no wrestler is allowed to re-certify at a lower weight. In

addition, a wrestler may not compete in the individual state championship or a qualifying tournament in his/her duly established weight class unless the wrestler makes weight in at least fifty (50 percent) of his/her conference and non conference dual meet and tournament weigh-ins during the regular season.

29.1.1 A wrestler who weighs in at least once but fails to establish his/her minimum weight class prior to January 15 shall automatically be certified at the weight he/she last weighed in before that date.

29.1.2 A wrestler who does not weigh in at least once and fails to establish his/her minimum weight class prior to January 15 shall automatically be certified at the weight he/she first weighs in after that date.

29.1.3 A wrestler who is unable, prior to January 15, to get down to the maximum allowable weight of 275 pounds in order to compete in the heavyweight class shall be permitted to certify his/her minimum weight class at a later date in the season and thereafter be eligible to participate.

29.2 By January 15, a certified team roster listing the established minimum weight class of each wrestler shall be sent to the secretary of the conference to which the school belongs or to the secretary of the independent tournament. Further, duly attested notices of additions to the certified roster shall be sent to the conference secretary without delay.

29.2.1 The conference secretary shall in turn send to each school in his/her conference copies of the certified rosters of each school. Further, he/she shall note and send copies of the notices of additions to the rosters as these additions occur.

See 4 DE Reg. 1951 (6/1/01)

30.0 Use of Officials and Officiating

~~30.1 Member schools and tournament sponsors shall be required to use officials approved by DIAA for interscholastic contests.~~

30.1 The officiating of interscholastic contests in the state of Delaware which involve one (1) or more member schools shall be under the control of the DIAA and such control may include, but not be restricted to, giving examinations, evaluating officials, setting game fees, determining the number of officials per game, and assigning officials.

30.2 Member schools and tournament sponsors shall be required to use officials approved by DIAA for interscholastic contests.

~~30.1.1~~ 30.2.1 In the case of emergencies such as an act of God, refusal by an association to work games, or a shortage of qualified officials, schools which desire to use other than approved officials must obtain permission from the Executive Director.

~~30.2~~ 30.3 Officials shall be required each year to attend the DIAA rules interpretation clinic and pass the rules examination provided by the DIAA office for the sport(s) they officiate.

~~30.2.1~~ 30.3.1 Failure on the part of an official to attend the DIAA rules interpretation clinic and pass the rules examination in the same season shall cause the official to be placed on probation and to lose his/her eligibility to officiate a state tournament contest during that season.

~~30.2.2~~ 30.3.2 Failure to satisfy both requirements in the same season for two (2) consecutive years shall cause the official to lose varsity officiating status during the second season. Failure to fulfill this obligation in subsequent years shall cause the official to continue to be restricted to subvarsity contests until both requirements have been satisfied in the same season.

~~30.2.3~~ 30.3.3 Attending the fall soccer rules interpretation clinic shall satisfy the clinic attendance requirement for both the boys' and girls' soccer seasons. Attending the spring soccer rules interpretation clinic shall satisfy the clinic attendance requirement for only the girls' soccer season.

~~30.2.4~~ 30.3.4 If, for a legitimate reason which is documented by the president of his/her association, an official is unable to attend the DIAA rules interpretation clinic, he/she may view a videotape of the DIAA clinic or, in the absence of a videotape, attend a clinic conducted by another NFHS member state association provided the following procedures are observed:

~~30.2.4.1~~ 30.3.4.1 No later than the day of the DIAA rules interpretation clinic, the president of the association notifies the Executive Director, in writing, of the official's inability to attend the clinic.

~~30.2.4.2~~ 30.3.4.2 The out-of-state clinic is conducted by an individual either trained by the NFHS or designated as a clinician by the state's athletic association.

~~30.2.4.3~~ 30.3.4.3 The official arranges for a letter to be sent to the Executive Director from the state's athletic association office verifying his/her attendance at the clinic.

~~30.3~~ 30.4 Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a $50.00 fine per game per non-approved official.

See 4 DE Reg. 1951 (6/1/01)
See 6 DE Reg. 284 (9/1/02)

31.0 Out of Season Athletic Camp and Clinic Sponsorship

31.1 DIAA does not restrict a student's decision to attend an out of season athletic camp/clinic. However, schools, school organizations, coaches, or school related groups, such as booster clubs, may not sponsor an athletic camp/clinic which limits membership to their own district, locale, or teams. Coaches employed by an out of season athletic camp may ~~not~~ only instruct their returning athletes ~~as per 23.7~~ in accordance with 23.10.

31.2 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's

enrolled students at an out of season athletic camp/clinic, may do so with the approval of the local school board or governing body. The disbursement of funds to pay for camp/clinic related expenses (fees, travel costs, etc.) shall be administered by the principal or his/her designee and the funds shall be allocated according to the following guidelines:

31.2.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.

31.2.2 All applicants shall share equally in the funds provided.

31.2.3 All applicants shall be academically eligible to participate in interscholastic athletics.

31.2.4 All applicants shall have one year of prior participation in the sport for which the camp/clinic is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp/clinic.

See 4 DE Reg. 1951 (6/1/01)

See 6 DE Reg. 284 (9/1/02)

1052 DIAA Junior High/Middle School Interscholastic Athletics

12.0 Spring Football

12.1 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season.

12.2 Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. ~~Rugby and touch football~~ Touch football featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule.

14.0 Use of Ineligible Athlete

14.1 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.

14.1.1 If the infraction occurs during a tournament, the offending school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

14.1.2 Team and/or individual awards shall be returned to the event sponsor.

14.1.3 Team and/or individual records and performances shall be nullified.

14.1.4 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty if the ineligible athlete had no tangible affect on the outcome of the contest(s). If the forfeiture penalty is waived, the offending school shall be reprimanded and fined $200.00 unless the athlete or his/her parent(s) or court appointed legal guardian(s) knowingly withheld information or provided false information that caused him/her to be eligible for interscholastic competition. The burden of proof, in both cases, rests entirely with the offending school.

14.1.5 A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings.

14.1.6 A forfeit shall be automatic and not subject to refusal by the offending school's opponent.

14.2 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and/or points earned by the ineligible athlete or by a relay team of which he/she was a member. The points contributed by an ineligible athlete to his/her team score shall be deleted~~.~~ and the contest score as well as any affected placements will be adjusted according to the rules of that sport.

14.2.1 If the infraction occurs during a tournament, the ineligible athlete shall be replaced by his/her most recently defeated opponent or next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

14.2.2 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor.

14.2.3 Individual records and performances by the ineligible athlete shall be nullified.

14.3 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties stipulated in 14.1 and 14.2 above shall be imposed.

14.4 The intentional use of an ineligible athlete by a member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for up to 180 school days from the date the charge is substantiated.

14.5 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for up to 180 school days from the date the charge is substantiated.

14.6 If an athlete or his/her parent(s) or court

appointed legal guardian(s) knowingly withholds information or provides false information that causes him/her to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to 180 school days from the date the charge is substantiated.

See 6 DE Reg. 284 (9/1/02)

22.0 Sports Seasons and Practices

22.1 The fall sports season shall begin on August 25 and end not later than December 1.

22.2 The winter sports season shall begin 21 days before the first Friday in December and end not later than March 1.

22.3 The spring sports season shall begin on March 1 and end not later than the last school day.

22.4 Practice for any fall sport shall not begin earlier than August 25. Practice for any winter sport shall not begin earlier than 21 days before the first Friday in December and practice for any spring sport shall not begin earlier than March 1.

22.4.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non-contact activities. Coaches may introduce offensive formations and defensive alignments, run plays "on air," practice non-contact phases of the kicking game, and teach non-contact positional skills. Protective equipment shall be restricted to helmets, mouthguards, and shoes. The use of dummies, hand shields, and sleds in contact drills is prohibited. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited.

22.5 A school which participates in a game prior to the first allowable date shall be required to forfeit the contest and be assessed a $100.00 fine.

22.6 A school which conducts practice prior to the first allowable date shall be assessed a fine of $100.00 per illegal practice day.

22.7 From August 2nd through June 14th, a ~~A~~ certified, emergency, or volunteer coach shall not be allowed to provide instruction out of the designated season in his/her assigned sport to returning members of the teams of the school at which he/she coaches.

22.7.1 A coach shall not be allowed to participate on a team in his/her assigned sport with the aforementioned players.

22.7.2 A coach shall also be prohibited from officiating contests in his/her assigned sport if the aforementioned players are participating except in organized league competition.

22.7.2.1 The league shall not be organized and conducted by the employing school, the employing school's booster club, or the employing school's coaching staff.

22.7.2.2 The league shall have written rules and regulations that govern the conduct of contests and establish the duties of contest officials.

22.7.2.3 The league shall have registration/entry procedures, forms, and fees; eligibility requirements; and fixed team rosters, team standings, and a master schedule of contests.

22.8 A certified, emergency, or volunteer coach shall not be allowed to provide instruction during the designated season in his/her assigned sport to current members of the teams of the school at which he/she coaches outside of school sponsored practices, scrimmages, and contests.

22.9 A coach who is determined to be in violation of 22.7 and 22.8 shall be suspended from coaching in the specified sport at any DIAA member school for up to 180 school days from the date the charge is substantiated.

22.10 From June 15th through August 1st, a certified, emergency or volunteer coach shall be allowed to provide instruction in his/her assigned sport to returning members of the varsity or sub-varsity teams of the school at which he/she coaches. Instructional contact with the aforementioned returning school team members shall be subject to the following conditions:

22.10.1 A coach may provide instruction to an unlimited number of his/her returning school team members in formal league/tournament competition or in formal instructional camps/clinics provided the league/tournament or instructional camp/clinic is organized and conducted by a non-school affiliated organization.

22.10.2 A coaching staff may provide instruction to a maximum of two returning school team members in an informal setting. A coaching staff may have multiple two-hour sessions on any given day. Returning school team members shall not receive more than two hours of sports instruction per day.

22.10.3 A coach shall not receive any compensation, from any source, for the instruction of his/her returning school team members. Reimbursement for out-of-pocket expenses (e.g. gas, food, lodging) incurred by returning school team members and coaches to attend leagues/tournaments or instructional camps/clinics are not prohibited provided that no local school or state educational funds are used.

22.10.4 Participation in the formal league/tournament or instructional camp/clinic, or the informal instruction under 22.10.2, shall be open, voluntary and equally available to all returning school team members.

See 4 DE Reg. 1951 (6/1/01)
See 6 DE Reg. 284 (9/1/02)

28.0 Wrestling Weight Control Code

28.1 Each year, four (4) weeks from the first day he/

she appears at practice, a wrestler must establish his/ her minimum weight class at a weigh-in witnessed by and attested to in writing by the athletic director or a designated staff member (excluding coaches) of the school the wrestler attends. ~~Thereafter, a wrestler may not compete in a weight class below his duly established weight class~~. A wrestler may re-certify at a lower weight during the 4 weeks from the first day he/she appears at practice. However, once certified at a weight, a wrestler may not weigh-in more than one class above the weight of the certification without automatically re-certifying at a higher weight. Once re-certified to a higher weight class the wrestler can no longer re-certify lower. After 4 weeks from the first practice day a wrestler may not compete in a weight class below his duly established weight class.

28.2 The weight classifications shall be as follows:

76 lbs.	100 lbs.	124 lbs.	148 lbs.
82 lbs.	106 lbs.	130 lbs.	155 lbs.
88 lbs.	112 lbs.	136 lbs.	165 lbs.
94 lbs.	118 lbs.	142 lbs.	250 lbs.

(minimum weight 164 lbs.)

28.3 With the exception of the above weight classifications, the current edition of the NFHS Wrestling Rules Book shall apply.

28.4 By the end of four (4) weeks of practice, a certified team roster listing the established minimum weight class of each wrestler shall be sent to the Executive Director of DIAA. Further, duly attested notices of additions to the certified roster shall be sent to the Executive Director without delay.

28.5 Schools which desire to conduct their wrestling program at a time other than the season specified in 23.1 must request permission from the Executive Director.

28.5.1 A team which begins its season in October shall receive a one-pound growth allowance in November and an additional pound in December. A team which begins its season in November shall receive a one-pound growth allowance in December, an additional pound in January, and a third pound in February.

See 4 DE Reg. 1951 (6/1/01)

29.0 Use of Officials and Officiating

~~29.1 Member schools and tournament sponsors shall be required to use officials approved by DIAA for interscholastic contests.~~

29.1 The officiating of interscholastic contests in the state of Delaware which involve one (1) or more member schools shall be under the control of the DIAA and such control may include, but not be restricted to, giving examinations, evaluating officials, setting game fees, determining the number of officials per game, and assigning officials.

29.2 Member schools and tournament sponsors shall be required to use officials approved by DIAA for interscholastic contests.

~~29.1.1~~ 29.2.1 In the case of emergencies such as an act of God, refusal by an association to work games, or a shortage of qualified officials, schools which desire to use other than approved officials must obtain permission from the Executive Director.

~~29.2~~ 29.3Officials shall be required each year to attend the DIAA rules interpretation clinic and pass the rules examination provided by the DIAA office for the sport(s) they officiate.

~~29.2.1~~ 29.3.1 Failure on the part of an official to attend the DIAA rules interpretation clinic and pass the rules examination in the same season shall cause the official to be placed on probation and to lose his/her eligibility to officiate in a state tournament contest during that season.

~~29.2.2~~ 29.3.2 Failure to satisfy both requirements in the same season for two (2) consecutive years shall cause the official to lose varsity officiating status during the second season. Failure to fulfill this obligation in subsequent years shall cause the official to continue to be restricted to subvarsity contests until both requirements have been satisfied in the same season.

~~29.2.3~~ 29.3.3 Attending the fall soccer rules interpretation clinic shall satisfy the clinic attendance requirement for both the boys' and girls' soccer seasons. Attending the spring soccer rules interpretation clinic shall satisfy the clinic attendance requirement for only the girls' soccer season.

~~29.2.4~~ 29.3.4 If, for a legitimate reason which is documented by the president of his/her association, an official is unable to attend the DIAA rules interpretation clinic, he/she may view a videotape of the DIAA clinic or, in the absence of a videotape, attend a clinic conducted by another NFHS member state association provided the following procedures are observed:

~~29.2.4.1~~ 29.3.4.1 No later than the day of the DIAA rules interpretation clinic, the president of the association notifies the Executive Director, in writing, of the official's inability to attend the clinic.

~~29.2.4.2~~ 29.3.4.2 The out-of-state clinic is conducted by an individual either trained by the NFHS or designated as a clinician by the state's athletic association.

~~29.2.4.3~~ 29.3.4.3 The official arranges for a letter to be sent to the Executive Director from the state's athletic association office verifying his/her attendance at the clinic.

~~29.3~~ 29.4 Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a $50.00 fine per game per non-approved official.

See 4 DE Reg. 1951 (6/1/01)
See 6 DE Reg. 284 (9/1/02)

30.0 Out of Season Athletic Camp and Clinic

Sponsorship

30.1 DIAA does not restrict a student's decision to attend an out of season athletic camp/clinic. However, schools, school organizations, coaches, or school related groups, such as booster clubs, may not sponsor an athletic camp/clinic which limits membership to their own district, locale, or teams. Coaches employed by an out of season athletic camp/clinic may ~~not~~ only instruct their own athletes ~~as per 22.7~~ in accordance with 22.10.

30.2 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's enrolled students at out of season athletic camp/clinic, may do so with the approval of the local school board or governing body. The disbursement of funds to pay for camp/clinic related expenses (fees, travel costs, etc.) shall be administered by the principal or his/her designee and the funds shall be allocated according to the following guidelines:

30.2.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.

30.2.2 All applicants shall share equally in the funds provided.

30.2.3 All applicants shall be academically eligible to participate in interscholastic athletics.

30.2.4 All applicants shall have one year of prior participation in the sport for which the camp is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp/clinic.

~~See 4 DE Reg. 1951 (6/1/01)~~
See 6 DE Reg. 284 (9/1/02)

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 311, 2501, 2304(15)(c), and 2312 (18 **Del. C.** §§ 311, 2501, 2304(15)(c), and 2312)

Notice Of Public Hearing

INSURANCE COMMISSIONER DONNA LEE H. WILLIAMS hereby gives notice that a **PUBLIC HEARING** will be held on Tuesdsay, April 22, 2003, at 10:00 a.m. in the Hearing Room of the Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, Delaware. The hearing is to consider amendments to **Proposed Regulation 906 (formerly Proposed Regulation 87)** relating to the USE OF CREDIT INFORMATION by insurance companies issuing automobile and homeowners policies in the State of Delaware.

The purposes for promulgating Regulation 906 are:

- To prohibit insurers from engaging in unfair discrimination in the offering
- or granting of insurance due to the grouping of risks based on criteria which are not actuarially supported and shown to be relevant to risk.
- To prohibit insurers from engaging in unfair discrimination in the
- cancellation or non-renewal of insurance coverage based on criteria which are not actuarially supported and shown to be relevant to risk or experience.
- To assure that consumers, whether on initial application or renewal, are
- given notice when credit reports will be requested and reviewed in connection with a consumer's eligibility for and/or the continuance of insurance coverage and/or a consumer's tier or level of premium payment.
- To prohibit the practice of assigning a consumer to a premium level based
- solely on the consumer's credit rating or credit score.
- To assure that, if used, credit information obtained by the insurer shall be
- utilized consistently within the insurer's book of business even though one or more affiliated companies may decline to use credit information or to utilize credit scoring as a factor in its rate making.
- To assure that the consumer has adequate relief from any adverse action taken by
- an insurer through the use of credit scoring.

The hearing will be conducted in accordance with the Delaware Administrative Procedures Act, 29 *Del. C.* Chapter 101. Comments are being solicited from any interested party. Comments may be in writing or may be presented orally at the Hearing. Written comments must be received by the Department of Insurance no later than Tuesday April 22, 2003, at 10:00 a.m. and should be addressed to Deputy Attorney General Michael J. Rich, Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904. Those wishing to testify or give an oral statement must appear in person at the public hearing.

Regulation No. ~~87~~ 906
Use Of Credit Information

1.0 Authority

1.1 This regulation is adopted by the Commissioner pursuant to the authority granted by 18 *Del. C.* §§ 311, 2501, 2304(15)(c), and 2312, and promulgated in accordance with

the Delaware Administrative Procedures Act, Title 29 *Del. C.* Chapter 101.

2.0 Scope

2.1 This regulation shall apply to all insurers offering automobile, ~~property, surety and/or casualty insurance~~motorcycle, boat and personal watercraft, snowmobiles and other recreational vehicles, homeowners, mobile-homeowners and non-commercial dwelling fire insurance policies for personal or family protection. This regulation shall not apply to any line of commercial insurance.

3.0 Purpose

The purposes of this regulation are:

3.1 To prohibit insurers from engaging in unfair discrimination in the offering or granting of insurance due to the grouping of risks based on criteria which are not actuarially supported and shown to be relevant to risk.

3.2 To prohibit insurers from engaging in unfair discrimination in the cancellation or non-renewal of insurance coverage based on criteria which are not actuarially supported and shown to be relevant to risk or experience.

3.3 To assure that consumers, whether on initial application or renewal, are given notice when ~~credit~~ consumer reports will be requested and reviewed in connection with a consumer's eligibility for and/or the continuance of insurance coverage and/or a consumer's tier or level of premium payment.

3.4 To prohibit the practice of assigning a consumer to a premium level based solely on the consumer's credit rating or credit score.

3.5 ~~To assure that, if used, credit information obtained by the insurer shall be utilized consistently within the insurer's book of business even though one or more affiliated companies may decline to use credit information or to utilize credit scoring as a factor in its rate making.~~

~~3.6~~ To assure that the consumer has adequate relief from any adverse action taken by an insurer through the use of credit scoring.

4.0 Definitions

4.1 "Adverse action" has the meaning given that term in the Fair Credit Reporting Act, 15 U.S.C. sec. 1681 et seq. (referred to in this regulation as "the FCRA"). An adverse action includes but is not limited to the following:

4.1.1 Cancellation, denial or nonrenewal of insurance coverage;

4.1.2 Charging a higher insurance premium than would have been offered if the credit history or insurance score had been more favorable in the absence of a rate change occasioned by other applicable underwriting factors independent of credit related information, whether the charge is by:

4.1.2.1 application of a rating rule;

4.1.2.2 assignment to a rating category within a single insurer, into which insureds with substantially like insuring, risk or exposure factors and expense elements are placed for purposes of determining rate or premium, that does not have the lowest available rates; or

~~4.1.2.3 placement with an affiliate insurer that does not offer the lowest rates available to the consumer within the affiliate group of insurers; or~~

4.1.3 A reduction or an adverse or unfavorable change in the terms of coverage or amount of insurance owing to a consumer's credit history or insurance score. A reduction or an adverse or unfavorable change in the terms of coverage occurs when:

4.1.3.1 coverage provided to the consumer is not as broad in scope as coverage requested by the consumer but available to other insureds of the insurer or any affiliate; or

4.1.3.2 the consumer is not eligible for benefits such as dividends that are available through affiliate insurers.

4.14 The placement of the consumer with an affiliated company shall not be considered an adverse action under this regulation.

4.1.~~4~~5 Notwithstanding the foregoing, a decision to reject an insurance application, to deny renewal or to condition renewal, to assign an applicantion or renewal to a tier, class or group, or to issue the policy based on or with restrictions that would not apply but for the consideration of the ~~credit~~consumer report.

4.2 "Commissioner" shall mean the Insurance Commissioner of the State of Delaware, or any person designated by the Commissioner to enforce the provisions of this regulation or any related statute or regulation.

4.3 "~~Credit~~ Consumer report" means any written, oral, or other communication of any information by a consumer reporting agency (as defined in the ~~Federal Fair Credit Reporting Act~~) bearing on a consumer's credit worthiness, credit standing, or credit capacity, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for personal lines automobile or homeowner insurance to be used primarily for person, family, or household purposes. Consumer report shall not include motor vehicle reports or claims history reports or any other report that is not credit related.

4.4 "Credit score" means any alpha, numeric and/or alpha-numeric rating or classification of any person based on information contained in said person's ~~credit~~ consumer report created by an insurer or any person, firm or entity for use by an insurer.

4.5 "Document" or "public record" shall have the same meaning as described in 29 *Del. C.* § 10002(d) and 18 *Del.*

C. §§ 320, 321.

4.6 "Insurance score" shall have the same meaning as "credit score."

4.7 "Insured," "policyholder" or "consumer" shall mean the applicant(s) for coverage or ~~named policyholder who shall have an insurable interest in the property to be covered as defined by 18 *Del. C.*§ 2706.~~

~~Drafting Note: A spouse of an insured who has no title interest and/or who has not co-signed a note and/or mortgage for the real property to be insured does not have an insurable interest in the real property to be~~ insured.person or persons insured under a policy of insurance but shall not include persons receiving a quote for premium that would be due under a policy of insurance, provided however, that such insurance is not ultimately applied for and that the process for making and delivering such quotes is not used as a means for denying coverage on the basis of a credit score in violation of this regulation.

5.0 Prohibited Practices

5.1 No individual ~~credit~~ consumer report or credit score shall be valid ~~or~~ if the age of the report is greater than two years from the date of its first use for an individual application or renewal of coverage ~~utilized if it is based~~ or utilizes in any manner, factors which include any or all of race, color, creed, sex, religion, national origin, place of residency, marital status, nature of employment, physical handicap, or any similar category prohibited by federal or state law.

5.2 Each insurer proposing to use an insurance score as part of its rating or underwriting criteria shall file with the Commissioner, as part of its rate filings required pursuant to 18 *Del. C.* Chapter 25, ~~No insurer shall utilize a credit report or score as part of its rating or underwriting criteria unless it shall have first obtained authority to do so as part of its rate filing and shall have filed~~ such supporting models, algorithms, actuarial and statistical data and reports sufficient, in the discretion of the Commissioner, to permit the Commissioner to determine that the use of such credit report or score shall not:

5.2.1 ~~a~~ Unfairly discriminate or assign a consumer to a class or tier based on criteria which are not actuarially supported and shown to be relevant to risk or experience, or

5.2.2 ~~b~~ Be the sole basis upon which the insurer denies coverage, ~~assigns the consumer to a more expensive premium class or tier and/or refuses to renew consumer's insurance coverage~~ or upon which the insurer cancels, refuses to renew or sets a premium or rate for insurance coverage without consideration of other underwriting or rating factors.

5.3 No insurer shall be permitted to use the services of a third party to develop a ~~credit~~ consumer report or credit score unless the third party shall, without qualification, consent to provide any information, documents, reports (except for consumer reports which may not be disclosed), actuarial and/or statistical bases or models, or other such information required by the Commissioner as part of the insurer's rate approval process.

5.4 In rating a policy or assigning a consumer to a premium level or tier, no insurer shall be permitted to consider the ~~credit~~ consumer report or score of any person other than the named policyholder or person(s) who have an insurable interest to be covered under the policy. In the case of homeowner's coverage, no insurer shall be permitted to deny, penalize, impose a higher rate or take any action adverse or detrimental to a current or prospective policyholder based solely on the credit score of a spouse who has no title or ownership interest in the property to be insured and is not a named policyholder or applicant.

5.5 No insurer, or entity from which the insurer may obtain credit scoring information, shall use credit or consumer reports in any manner prohibited by law ~~be permitted to obtain credit information about any current or prospective policyholder except as may be expressly permitted by the laws of the United States or the State of Delaware~~.

5.6 No insurer shall be permitted to use obsolete information which shall be defined as follows:

5.6.1 Bankruptcies which, from date of the adjudication of the most recent bankruptcy, antedate the report by more than 1~~4~~0 years;

5.6.2 Suits and judgments which, from date of entry, antedate the report by more than 7 years or until the governing statute of limitations has expired, whichever is the longer period;

5.6.3 Paid tax liens which, from date of payment, antedate the report by more than 7 years;

5.6.4 Accounts placed for collection or charged to profit and loss which antedate the report by more than 7 years;

5.6.5 Records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than 7 years; and

5.6.6 Any other adverse item of information which antedates the report by more than 7 years.

~~5.7 No insurer shall be permitted to penalize, impose a higher rate or take any action adverse or detrimental to a current or prospective policyholder because such person shall or may have refused to authorize the release of credit information or may have an unacceptable number of credit inquiries.~~

5.7 The following factors shall not be used by an insurer or by any entity retained by the insurer for the purposes of generating a credit score for underwriting, tier placement or rating purposes:

5.7.1 Information that is disputed by the consumer and has been identified by the consumer reporting

agency and coded as such, if the use of such disputed information would result in an adverse action;

5.7.2 Information that has been identified by the consumer reporting agency as related to insurance inquiries and/or non-consumer initiated inquiries and coded as such;

5.7.3 Information that has been identified by the consumer reporting agency as related to collection accounts with a medical industry code;

5.7.4 Information that includes multiple lender inquiries, if coded by the consumer reporting agency as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered.

5.7.5 Information that includes multiple lender inquires, if coded by the consumer reporting agency as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered.

5.7.6 The total available line of credit, however, an insurer may consider the total amount of outstanding debt in relation to the total available line of credit.

5.8 If a consumer has no available credit history or has insufficient credit history to develop a credit score, the consumer must be underwritten and rated in accordance with the remaining actuarial principles and standards of practice set forth in the appropriate rate filing that are exclusive of the credit score. However, an insurer may consider insufficient credit history or no available credit history in setting a premium or rate, or underwriting an insurance policy, to the extent such use is actuarially justified and consistent with the rate filing in the office of the Commissioner. ~~No insurer shall be permitted to penalize, impose a higher rate or take any action adverse or detrimental to a current or prospective policyholder because such person shall have no credit history or a credit history that has insufficient activity upon which to calculate a credit score.~~

5.9 No insurer shall, by underwriting standards or practices, use a consumer's credit score inconsistent with or in violation of this regulation.

6.0 Written Notice to Consumers

6.1 ~~No denial of an application or refusal to issue insurance based on credit scoring or information contained in a consumer's credit report shall be valid unless, in addition to any other requirements that may apply, the insurer includes on the face of the application the following statement or a statement substantially similar to it in boldface type in a font no smaller than the regular text of the notice: "This application may be denied based on information contained in a credit report relating to you and/or someone else who resides in your household."~~

~~6.2 No refusal to renew or cancellation of insurance based on credit scoring or information contained in an insured's credit report shall be valid unless, in addition to any other requirements that may apply, the insurer includes in the notice of intent not to renew the following statement or a statement substantially similar to it in boldface type in a font no smaller than the regular text of the notice: "This (nonrenewal)(cancellation) is based on information contained in a credit report relating to you and/or someone else who resides in your household."~~ If an insurer uses credit information in underwriting or rating a consumer, the insurer or its agent shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information on the consumer, other persons residing in the consumer's home, or other persons whose credit information may affect the underwriting or rating of the policy in connection with such application. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure statement required under this section to any insured on a renewal policy if such consumer has previously been provided a disclosure statement. The use of the following example disclosure statement constitutes compliance with this section: "In connection with this application for insurance, we may review your credit report or obtain or use a credit based (credit)(insurance) score based on the information contained in that credit report. We may use a third party in connection with the development of your (credit)(insurance) score.

6.2 A notice denying an application for insurance or a notice refusing to renew or cancel insurance shall, to the extent that the insurer's action is based on information contained in a consumer report relating to the applicant, insured and/or other named person, contain the following:

6.2.1 The name, address and toll free number of the institutional source from whom the insurer obtained the credit information;

6.2.2 A summary of the most significant reasons for the adverse action that relate to the consumer's credit history or to the credit factors of the credit score. The reasons need not exceed four, ~~shall be in the order of decreasing importance,~~ shall be specific and shall identify the information associated with each reason. The notice shall be sufficiently clear and specific that a consumer of reasonable intelligence can identify the basis for the insurer's decision without making further inquiry. For the purpose of the summary, the use of a generalized term such as "poor credit history," "poor credit rating," or "poor credit score" does not meet the requirement of a sufficiently clear and specific summary, however standardized credit explanations provided by consumer reporting agencies or other third party vendors that satisfy the requirements of this section are deemed to comply with this section.

6.2.3 A statement advising the applicant or insured that, if the insured wishes to inquire further about the credit information on which the refusal, denial or nonrenewal is based and obtain a free copy of the "consumer report," the insured may do so by mailing a written request to the insurer, or such other party as the insurer shall identify in

the notice, no more than ~~ten~~ thirty days after the date on which the notice of refusal, denial or nonrenewal was mailed to the insured.

6.2.4 A statement that the consumer reporting agency that provided the information upon which the credit score was based did not make the decision to take the adverse action and is unable to provide the applicant or insured the specific reasons why the adverse action was taken.

6.3 If the applicant or insured submits ~~such~~ the written notification required under section 6.2.3, the refusal, denial or nonrenewal shall not become effective until thirty days after the accuracy of the credit information, which the applicant or insured has questioned and on which the refusal, denial or nonrenewal was based, has been verified and communicated to the applicant or insured. Such verification shall be deemed to have been made upon completion of the investigation of the credit information which the applicant or insured has questioned and on which the refusal, denial or nonrenewal was based. The applicant or insured must cooperate in the investigation of the credit information, including responding to any communication submitted by, or on behalf of, the insurer or credit reporting agency no more than ten days after the date on which such communication subsequent to the notice required under section 6.2.3 was mailed to the applicant or insured. If the applicant or insured fails to cooperate in the investigation of the credit information, the insurer may, after providing a minimum of fifteen days' written notice to the applicant or insured, terminate such investigation and may refuse~~,~~ to insure the applicant or cancel ~~deny~~ or nonrenew the policy.

~~6.5~~ 6.4 If the applicant or insured, after receipt of a notice under this section, and pursuant to procedures established under the FCRA, obtains changes, modifications or corrections to his/her credit information maintained by one or more credit reporting agencies, the insured shall notify the insurer who shall recalculate or obtain an new credit score. In that case, the provisions of section 7.2 shall apply to any adjustments to be made to the insured's premium.

7.0 Corrections or Changes to a Consumer's Credit Score

7.1 When an insurer uses credit histories or credit scores for the purpose of rating, if the insurer receives notice of corrected information affecting the credit history or the credit factors of the credit score of a consumer from the consumer reporting agency of the insurer, the insurer shall correct the consumer's credit score or obtain a corrected credit score or credit history, as appropriate, based on the corrected information.

7.2 When an insurer has taken an adverse action against a consumer on the basis of the consumer's credit history or the credit factors of the consumer's credit score, if the insurer subsequently makes or obtains a correction or change under section 6.4 or 7.1, the insurer shall determine the difference between the premium paid by the consumer based on the ~~mistaken~~ prior credit history or credit score and the premium based on the current history or score. If the policy period is 12 months or more, the difference shall be determined for the most recent 12 months. If the policy period is less than 12 months, the difference shall be determined for the current period of the policy. If the difference is in favor of the consumer, the insurer shall credit or refund the difference to the consumer. If the difference is in favor of the insurer, the insurer may charge the difference to the consumer or collect the difference from the consumer.

7.3 An insured or an applicant for insurance shall have a right to seek review by the insurer of its use of a credit score in the event an insured's or applicant's consumer report is adversely affected by extraordinary personal circumstances. Such extraordinary personal circumstances may include by way of example and not of limitation, serious illness, involuntary unemployment, divorce, identity theft, and involuntary interruption of alimony or support payments. An insurer may require that an insured or applicant provide sufficient documentation to establish the existence and duration of such extraordinary personal circumstance. An insurer may elect to eliminate the credit score from consideration in such instance and rely its other underwriting and rating guidelines or may elect to establish such procedural guidelines as will allow the insurer to consider such requests in a consistent manner.

8.0 General Business Practices

8.1 Any insurer that elects to use credit scoring to determine, in whole or in part, the premium to be paid by the insured or the tier or class of risk to which the insured shall be assigned, shall be deemed to have done so under the provisions of 18 *Del. C.* Chapter 25.

8.2 No insurer shall implement credit scoring for rate making or underwriting purposes without first having obtained the approval of the Commissioner as part of a rate filing under 18 *Del. C.* Chapter 25. Policies and renewal notices issued on or before the effective date of this regulation in which credit information was used in the underwriting or rating of the policy shall be deemed valid for the term thereof but not for any renewal thereunder in the absence of compliance with this regulation.

8.3 No insurer shall alter or modify the approved tier or classification structure or change the premiums applicable to any such tier or classification system without having first obtained the Commissioner's approval to do so under 18 *Del. C.* Chapter 25.

~~8.4 Affiliated companies may make independent decisions with respect to the use of credit information or credit scores, but any insurer or insurance company, or affiliate thereof, having elected to use such information shall~~

~~apply the information uniformly and consistently within the company's book of business.~~

~~8.5 Any insurer that requests or utilizes credit reports in consideration of an application for personal lines automobile or homeowners insurance shall maintain evidence of its compliance in its regular business files at its principal place of business. Such evidence need not be in any particular form, so long as it is sufficient to reasonably demonstrate compliance. Such evidence shall be made available for review and examination by the Commissioner. When an insurer denies or fails to renew a policy, evidence of the notice of denial or nonrenewal shall be retained by the insurer, and a record of the contents of the credit report shall be maintained by the insurer or pursuant to the insurer's agreement with the consumer reporting agency for a sufficient time to be available during the next market conduct examination by the Commissioner.~~

8.4 When an insurer denies or fails to renew a policy, evidence of the notice of denial or nonrenewal shall be retained by the insurer and a record of the insurance score, related notice and correspondence with the insured shall be maintained by the insurer and/or by the appropriate vendor (source of the credit score) pursuant to the insurer's agreement with such vendor for a minimum of three years from the date of notice to the insured.

8.5 An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an insurer who obtains or uses credit information and/or credit scores from an independent source, provided that the agent follows the instructions of or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

9.0 Confidentiality

9.1 Any document, report, model or other supporting information filed with the Commissioner, irrespective of the format or media in which it is contained, shall be considered proprietary or trade secret ~~a public document~~ and subject to the confidentiality provisions of 18 *Del. C.* § 321(g) and/or, upon the request of the insurer or owner of the document, 29 *Del. C.* § 10002(d)(2). Where an insurer is required to file proprietary or trade secret insurance scoring algorithms, models, documents or supporting information as part of its filed rates, the insurer may elect to segregate such materials from the remainder of its rate filing by filing such materials separately in a sealed envelope or container. Materials filed in this manner shall remain segregated from the publicly accessible portions of the rate filing for so long as these materials are on file with the Department, or until the insurer notifies the Department that such materials are no longer proprietary or trade secret. In the event there is a dispute with respect to the confidentiality of a document, the Commissioner shall make the final determination of whether any part or the whole of a disputed document shall be given confidential treatment.

10.0 Severability

10.1 If any provision of this Regulation or the application of any such provision to and person or circumstance shall be held invalid the remainder of such provisions, and the application of such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected.

11.0 Causes of Action and Defenses

11.1 This regulation shall not create a cause of action for any person or entity, other than the Delaware Insurance Commissioner, against an insurer or its representative based upon a violation of 18 *Del. C.* § 2304(15)(c). In the same manner, nothing in this regulation shall establish a defense for any party to any cause of action based upon a violation of 18 *Del. C.* § 2304(15)(c).

12.0 Effective Date

12.1 This regulation shall become effective on September 1, 2003~~30 days after publication in the *Delaware Register of Regulations*~~.

AD~~OPTED AND SIGNED BY THE COMMISSIONER~~ __, 2003

DEPARTMENT OF JUSTICE
DIVISION OF SECURITIES
DELAWARE SECURITIES ACT

Statutory Authority: 6 Delaware Code, Sections 7325(b) (6 **Del. C.** §7325(b))

NOTICE OF PROPOSED REVISIONS TO THE RULES AND REGULATIONS PURSUANT TO THE DELAWARE SECURITIES ACT

In compliance with the State's Administrative Procedures Act (APA-Title 29, Chapter 101 of the Delaware Code) and section 7325(b) of Title 6 of the Delaware Code, the Division of Securities of the Delaware Department of Justice hereby publishes notice of proposed revisions to the Rules and Regulations Pursuant to the Delaware Securities Act. The Division proposes hereby to amend sections 600, 601, 608, and 700 of the Rules and Regulations Pursuant to the Delaware Securities Act and to add a new section 610.

Persons wishing to comment on the proposed regulations may submit their comments in writing to:

James B. Ropp Securities Commissioner Department of Justice State Office Building, 5th Floor 820 N. French Street Wilmington, DE 19801 The comment period on the proposed regulations will be held open for a period of thirty days from the date of the publication of this notice in the Delaware Register of Regulations.

SUMMARY OF THE PROPOSED REVISIONS

1. Canadian Broker-Dealer Exemption: The Securities Division proposes to revise the Canadian broker-dealer registration exemption set forth at section 608 of the Rules and Regulations Pursuant to the Delaware Securities Act to extend to Canadian broker-dealer agents the benefit of the exemption. The proposed revision is consistent with the model regulation as drafted by the North American Securities Administrators Association ("NASAA"). These revisions are being proposed to correct what appears to have been an inadvertent oversight when the exemption was originally promulgated.

2. Registration Requirements for Sole Proprietorships: The Securities Division proposes to revise the registration requirements for broker-dealers and investment advisers to clarify that a person conducting a brokerage or investment advisory business as a sole proprietor need not register an agent or representative with the Securities Commissioner.

PROPOSED REVISIONS

Part F. Broker-Dealers, Broker-Dealer Agents, and Issuer Agents

§600 Registration of Broker-Dealers

(a) A person applying for a license as a broker-dealer in Delaware shall make application for such license on Form BD (Uniform Application for Broker-Dealer Registration). Amendments to such applications shall also be made on Form BD.

(b) An applicant who is registered or registering under the Securities Exchange Act of 1934 shall file its application, together with the fee required by Section 7314 of the Act, with the NASD Central Registration Depository ("CRD") and shall file with the Commissioner such other information as the Commissioner may reasonably require.

(c) An applicant who is not registered or registering under the Securities Exchange Act of 1934 shall file its application; the fee required by Section 7314 of the Act; and an audited financial statement prepared in accordance with 17 C.F.R. §240.17a-5(d) with the Commissioner, together with such other information as the Commissioner may reasonably require.

(d) ~~A broker-dealer registered with the Commissioner shall register at least one agent]~~ with the Commissioner. Except for a broker-dealer that is a sole proprietorship or the substantial equivalent, a broker-dealer registered with the Commissioner shall register with the Commissioner at least on broker-dealer agent.

(e) Registration expires at the end of the calendar year. Any broker-dealer may renew its registration by filing with the NASD CRD, or with the Commissioner in the case of a broker-dealer not registered under the Securities Exchange Act of 1934, such information as is required by the NASD, together with the fee required by Section 7314 of the Act.

See 1 DE Reg 1978 (6/1/98)

§601 Registration of Broker-Dealer Agents

(a) A person applying for a license as a broker-dealer agent in Delaware shall make application for such license on Form U-4 (Uniform Application for Securities Industry Registration or Transfer). Amendments to such application shall also be made on Form U-4.

(b) An applicant for registration as an agent for a broker-dealer that is a member of the NASD shall file his or her application, together with the fee required by Section 7314 of the Act, with the NASD CRD and shall file with the Commissioner such other information as the Commissioner may reasonably require.

(c) Any applicant for registration as an agent for a broker-dealer that is not an NASD member shall file his or her application, together with the fee required by Section 7314 of the Act, with the Commissioner, together with such other information as the Commissioner may reasonably require.

~~(d) Any applicant for a broker-dealer agent license must also successfully complete the Uniform Securities Agent State Law Examination (Series 63 or 66) administered by the NASD. The Commissioner may waive the exam requirement upon good cause shown.~~

~~(e)~~ (d) Registration expires at the end of the calendar year. Any broker-dealer agent may renew its registration by filing with the NASD CRD, or with the Commissioner in the case of a broker-dealer agent employed by a broker-dealer not registered under the Securities Exchange Act of 1934, such information as is required by the NASD, together with the fee required by Section 7314 of the Act.

See 1 DE Reg 1978 (6/1/98)

§602 Registration of Issuer Agents

(a) A person applying for a license as an issuer agent in Delaware shall make application for such license on Form U-4 (Uniform Application for Securities Industry Registration or Transfer). Amendments to such application shall also be made on Form U-4.

(b) An applicant for registration as an issuer agent shall file his or her application and the fee required by Section 7314 of the Act with the Commissioner, together with such further information as the Commissioner may reasonably require.

(c) Any applicant for an issuer agent license must also successfully complete the Uniform Securities Agent State Law Examination (Series 63 or 66) administered by the NASD. The Commissioner may waive the exam requirement upon good cause shown.

See 1 DE Reg 1978 (6/1/98)

§603 Continuing Obligation of Registrants to Keep Information Current

(a) Persons registering or registered as broker-dealers, broker-dealer agents or issuer agents are required to keep reasonably current the information set forth in their applications for registration and to notify the Commissioner of any material change to any information reported in their application for registration. An applicant or registrant who is registered with the NASD may notify the Commissioner of such material change by filing an amendment through the NASD CRD. All other persons shall notify the Commissioner directly.

(b) Failure to keep current the information set forth in an application or to notify the Commissioner of any material change to any information reported in the application shall constitute a waiver of any objection to or claim regarding any action taken by the Commissioner in reliance on information currently on file with the Commissioner.

See 1 DE Reg 1978 (6/1/98)

§604 Minimum Financial Requirements and Financial Reporting Requirements of Broker-Dealers

(a) Each broker-dealer registered or required to be registered under the Act shall comply with SEC Rules 15c3-1 (17 C.F.R. §240.15c3-1), 15c3-2 (17 C.F.R. §240.15c3-2), and 15c3-3 (17 C.F.R. §240.15c3-3).

(b) Each broker-dealer registered or to be registered under the Delaware Securities Act shall comply with SEC Rule 17a-11 (17 C.F.R. §240.17a-11) and shall file with the Commissioner, upon request, copies of notices and reports required under SEC Rules 17a-5(17 C.F.R. §240.17a-5), 17a-10 (17 C.F.R. §240.17a-10), and 17a-11 (17 C.F.R. §240.17a-11).

(c) To the extent that the SEC promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the Securities Division for violation of this section to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

§605 Bonding Requirements of Intrastate Broker-Dealers

Every broker-dealer registered or required to be registered under the Act whose business is exclusively intrastate, who does not make use of any facility of a national securities exchange, and who is not registered under Section 15 of the Securities Exchange Act of 1934 shall be bonded in an amount of not less than $100,000 by a bonding company qualified to do business in this state.

§606 Record keeping Requirements of Broker-Dealers

(a) Unless otherwise provided by order of the SEC, each broker-dealer registered or required to be registered under the Act shall make, maintain, and preserve books and records in compliance with SEC Rules 17a-3 (17 C.F.R. §240.17a-3), 17a-4 (17 C.F.R. §240.17a-4), 15c2-6 (17 C.F.R. §240.15c2-6) and 15c2-11 (17 C.F.R. §240.15c2-11).

(b) To the extent that the SEC promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the Securities Division for violation of this section to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

§607 Use of the Internet for General Dissemination of Information on Products and Services

(a) Broker-dealers and broker-dealer agents who use the Internet to distribute information on securities, products or services through communications made on the Internet directed generally to anyone having access to the Internet, and transmitted through postings on Bulletin Boards, displays on "Home Pages" or otherwise (an "Internet Communication") shall not be deemed to be "transacting business" in Delaware for purposes of Section 7313 of the Act based solely on the Internet Communication if the following conditions are met:

(1) The Internet Communication contains a legend in which it is clearly stated that:

(i) the broker-dealer or agent in question may only transact business in a state requiring registration if first registered, excluded or exempted from state broker-dealer or agent registration requirements, as the case may be; and

(ii) follow-up, individual responses to persons in Delaware by such broker-dealer, or agent that involve either the effecting or attempting to effect transactions in securities, will not be made absent compliance with state broker-dealer or agent registration requirements, or an applicable exemption or exclusion;

(2) The Internet Communication contains a mechanism, including and without limitations, technical "firewalls" or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in Delaware, said broker-dealer or agent is first registered in Delaware or qualifies for an exemption or exclusion from such requirement. Nothing in this paragraph shall be construed to relieve a state registered broker-dealer or agent from any applicable securities registration requirement in Delaware;

(3) The Internet Communication does not involve

either effecting or attempting to effect transactions in securities in Delaware over the Internet, but is limited to the dissemination of general information on securities, products or services; and

(4) In the case of an agent:

(i) the affiliation with the broker-dealer is prominently disclosed within the Internet Communication;

(ii) the broker-dealer with whom the agent is associated retains responsibility for reviewing and approving the content of any Internet Communication by the agent;

(iii) the broker-dealer or investment adviser with whom the agent is associated first authorizes the distribution of information on the securities, products or services through the Internet Communication; and

(iv) in disseminating information through the Internet Communication, the agent acts within the scope of the authority granted by the broker-dealer;

(b) The position expressed in this rule extends to state broker-dealer and agent registration requirements only, and does not excuse compliance with applicable securities registration, antifraud or related provisions;

(c) Nothing in this rule shall be construed to affect the activities of any broker-dealer and agent engaged in business in this state that is not subject to the jurisdiction of the Commissioner as a result of the National Securities Markets Improvement Act of 1996, as amended.

See 1 DE Reg 1978 (6/1/98)

§608 Registration Exemption for Certain Canadian Broker-Dealers

(a) A Canadian broker-dealer which meets the conditions of this rule as set forth below shall be exempt from the registration requirement of Section 7313 of the Act.

(b) To be eligible for this exemption, the broker-dealer must be resident in Canada, have no office or other physical presence in Delaware, and comply with the following conditions:

(1) Only effects or attempts to effect transactions in securities with, or for, one or more of the following;

(i) A person from Canada who is temporarily present in Delaware, with whom the Canadian broker-dealer had a bona fide business-client relationship before the person entered Delaware;

(ii) A person from Canada who is present in Delaware, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor; or

(iii) ~~A "U.S. institutional investor" or a "major U.S. institutional investor" to the extent permitted by SEC Reg. §240.15a-6 (17 CFR §240.15a-6)~~As otherwise permitted by the act; and

(2) Is registered in its home province or territory, and a member in good standing of a self-regulatory organization or stock exchange in Canada;

(3) Files with the Securities Commissioner a notice in the form of the current application required by the jurisdiction in which its head office is located;

(4) Files with the Securities Commissioner a consent to service of process in a form which complies with the requirements of Section 7327 of the Act.

(5) Discloses to its clients in Delaware that it is not subject to the full regulatory requirements of the Act; and

(6) Is not in violation of Sections 7303 ~~or 7316~~ of the Act or any rules promulgated thereunder.

(c) Exempt transactions. Offers or sales of any security effected by a broker-dealer who is exempt from registration under this Regulation are exempt from the registration requirements of Section 7304 of the Act and the filing requirements of Section 7312 of the Act.

(d) Agent exemption: An agent who represents a Canadian broker-dealer who is exempt from registration under this Regulation is also exempt from the registration requirement of Section 7313 of the Act, provided such agent maintains his or her provincial or territorial registration in good standing.

(e) Denial, Suspension or Revocation. The Commissioner may by order deny, suspend, or revoke the exemption of a particular Canadian broker-dealer provided pursuant to Rule 608 if he finds that the order is in the public interest and that the Canadian broker-dealer (or any partner, officer, director, or any person occupying a similar status or performing similar functions, or any person directly or indirectly, controlling the broker-dealer) has done anything prohibited by Section 7316(a)(1) to (8),(12) or (13).

§609 Dishonest or Unethical Practices

(a) Each broker-dealer and broker-dealer agent registered in Delaware is required to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. The acts and practices described below in this rule, among others, are considered contrary to such standards and may constitute grounds for denial, suspension or revocation of registration or such other action authorized by the Act.

(b) Broker-Dealers. For the purposes of 6 Del.C. §7316(a)(7), dishonest or unethical practices by a broker-dealer shall include, but not be limited to, the following conduct:

(1) Engaging in an unreasonable and unjustifiable delay in the delivery of securities purchased by any of its customers or in the payment, upon request, of free credit balances reflecting completed transactions of any of its customers, or failing to notify customers of their right to receive possession of any certificate of ownership to which they are entitled;

(2) Inducing trading in a customer's account that is excessive in size or frequency in view of the customer's

investment objective, level of sophistication in investments, and financial situation and needs;

(3) Recommending a transaction without reasonable grounds to believe that such transaction is suitable for the customer in light of the customer's investment objective, level of sophistication in investments, financial situation and needs, and any other information material to the investment;

(4) Executing a transaction on behalf of a customer without prior authorization to do so;

(5) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(6) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

(7) Failing to segregate and identify customer's free securities or securities held in safekeeping;

(8) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by SEC regulations;

(9) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit (commissions or profits equal to 10% or more of the price of a security are presumed to be unreasonable);

(10) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which, together with the preliminary prospectus, includes all information set forth in the final prospectus;

(11) Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

(12) Charging any fee for which no notice is given to the customer, and consent obtained, prior to the event incurring the fee;

(13) Offering to buy from or sell to any person any security at a stated price, unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

(14) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price, unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;

(15) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative or deceptive device, practice, plan, program, design or contrivance, that may include but not be limited to:

(i) Effecting any transaction in a security that involves no change in the beneficial ownership thereof;

(ii) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or false or misleading appearance with respect to the market for the security; provided, however, nothing in this subparagraph shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers; or

(iii) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security for the purpose of inducing the purchase or sale of such security by others;

(16) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(17) Publishing or circulating or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind that purports to report any transaction as a purchase or sale of any security, unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or that purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona-fide bid for, or offer of, such security;

(18) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material, or presentation based on conjecture, unfounded or unrealistic claims or assertions in a brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

(19) Failing to disclose that the broker-dealer is

controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, and, if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

(20) Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter or a selling group member, or from a member participating in the distribution as an underwriter or selling group member;

(21) Failing or refusing to furnish a customer, upon reasonable request, information to which he is entitled, including:

(i) with respect to a security recommended by the broker-dealer, material information that is reasonably available; and

(ii) a written response to any written request or complaint;

(22) Making a recommendation that one customer buy a particular security and that another customer sell that security, where the broker-dealer acts as a principal and such recommendations are made within a reasonably contemporaneous time period, unless individual suitability considerations or preferences justify the different recommendations;

(23) Where the broker-dealer holds itself out as a market maker in a particular security, or publicly quotes bid prices in a particular security, failing to buy that security from a customer promptly upon the customer's request to sell;

(24) Recommending a security to its customers without conducting a reasonable inquiry into the risks of that investment or communicating those risks to its agents and its customers in a reasonably detailed manner and with such emphasis as is necessary to make the disclosure meaningful;

(25) Representing itself as a financial or investment planner, consultant, or adviser, when the representation does not fairly describe the nature of the services offered, the qualifications of the person offering the services, and the method of compensation for the services;

(26) Falsifying any record or document or failing to create or maintain any required record or documents;

(27) Violating any ethical standard in the conduct rules promulgated by the National Association of Securities Dealers; or

(28) Aiding or abetting any of the conduct listed above.

(c) Broker-Dealer Agents and Issuer Agents. For the purposes of 6 Del. C. §7316(a)(7), dishonest or unethical practices by a broker-dealer agent or an issuer agent shall include, but not be limited to, the following conduct:

(1) Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

(2) Effecting securities transactions not recorded on the regular books or records of the broker-dealer that the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions that would otherwise be prohibited;

(4) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer that the agent represents;

(5) Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities with any person not also registered as an agent for the same broker-dealer or for a broker-dealer under direct or indirect common control;

(6) Where a recommendation is made that an unsophisticated customer purchase an over-the-counter security that (A) trades sporadically or in small volume, and (B) is not traded on any United States securities exchange (excluding the Spokane Exchange) or on the NASDAQ National Market System, failing to inform the customer that he may not be able to find a buyer if the customer would subsequently want to sell the security;

(7) Where a recommendation is made to purchase an over-the-counter security in which the asked price is greater than the bid by 25 percent or more, failing to inform the customer of the bid and the asked prices and of the significance of the spread between them should the customer wish to resell the security;

(8) Using excessively aggressive or high pressure sales tactics, such as repeatedly telephoning and offering securities to individuals who have expressed disinterest and have requested that the calls cease, or using profane or abusive language, or calling prospective customers at home at an unreasonable hour at night or in the morning;

(9) Conducting or facilitating securities transactions outside the scope of the agent's relationship with his broker-dealer employer unless he has provided prompt written notice to his employer;

(10) Acting or registering as an agent of more than one broker-dealer without giving written notification to and receiving written permission from all such broker-dealers; or

(11) Holding himself out as an objective investment adviser or financial consultant without fully disclosing his financial interest in a recommended securities transaction at the time the recommendation is made;

(12) Engaging in any of the conduct specified in subparagraph (b) above; or

(13) Aiding or abetting any of the conduct listed above.

(d) Prohibited practices in connection with investment company shares. For purposes of 6 Del. C. §7316(a)(7), unethical practices by a broker-dealer, broker-dealer agent or issuer agent shall include, but not be limited to, the following conduct:

(1) In connection with the offer or sale of investment company shares, failing to adequately disclose to a customer all sales charges, including asset based and contingent deferred sales charges, which may be imposed with respect to the purchase, retention or redemption of such shares;

(2) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, that the shares are sold without a commission, are "no load" or have "no sales charge" if there is associated with the purchase of the shares a front-end loan, a contingent deferred sales load, a SEC Rule 12 b-1 fee or a service fee which exceeds.25 percent of average net fund assets per year, or in the case of closed-end investment company shares, underwriting fees, commissions or other offering expenses;

(3) In connection with the offer or sale of investment company shares, failing to disclose to a customer any relevant sales charge discount on the purchase of shares in dollar amounts at or above a breakpoint or the availability of a letter of intent feature which will reduce the sales charges to the customer;

(4) In connection with the offer or sale of investment company shares, recommending to a customer the purchase of a specific class of investment company shares in connection with a multi-class sales charge or fee arrangement without reasonable grounds to believe that the sales charge or fee arrangement associated with such class of shares is suitable and appropriate based on the customer's investment objectives, financial situation and other securities holdings, and the associated transaction or other fees;

(5) In connection with the offer or sale of investment company shares, recommending to a customer the purchase of investment company shares which results in the customer simultaneously holding shares in different investment company portfolios having similar investment objectives and policies without reasonable grounds to believe that such recommendation is suitable and appropriate based on the customer's investment objectives, financial situation and other securities holdings, and any associated transaction charges or other fees;

(6) In connection with the offer or sale of investment company shares, recommending to a customer the liquidation or redemption of investment company shares for the purpose of purchasing shares in a different investment company portfolio having similar investment objectives and policies without reasonable grounds to believe that such recommendation is suitable and appropriate based on the customer's investment objectives, financial situation and other securities holdings and any associated transaction charges or other fees;

(7) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, the fund's current yield or income without disclosing the fund's most recent average annual total return, calculated in a manner prescribed in SEC Form N-1A, for one, five and ten year periods and fully explaining the difference between current yield and total return; provided, however, that if the fund's registration statement under the Securities Act of 1933 has been in effect for less than one, five, or ten years, the time during which the registration statement was in effect shall be substituted for the periods otherwise prescribed;

(8) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, that the investment performance of an investment company portfolio is comparable to that of a savings account, certificate of deposit or other bank deposit account without disclosing to the customer that the shares are not insured or otherwise guaranteed by the FDIC or any other government agency and the relevant differences regarding risk, guarantees, fluctuation of principal and/or return, and any other factors which are necessary to ensure that such comparisons are fair, complete and not misleading;

(9) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, the existence of insurance, credit quality, guarantees or similar features regarding securities held, or proposed to be held, in the investment company's portfolio without disclosing to the customer other kinds of relevant investment risks, including but not limited to, interest rate, market, political, liquidity, or currency exchange risks, which may adversely affect investment performance and result in loss and/or fluctuation of principal notwithstanding the creditworthiness of such portfolio securities;

(10) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing,

(i) that the purchase of such shares shortly before an ex-dividend date is advantageous to such customer unless there are specific, clearly described tax or other advantages to the customer, or

(ii) that a distribution of long-term capital gains by an investment company is part of the income yield from an investment in such shares;

(11) In connection with the offer or sale of investment company shares, making representations to a

customer, either orally or in writing, that the broker-dealer or agent knows or has reason to know are based in whole or in part on information contained in dealer-use-only material which has not been approved for public distribution; or

(12) Aiding or abetting any of the conduct listed above.

(13) In connection with the offer or sale of investment company shares, the delivery of a prospectus shall not be dispositive that the broker-dealer or agent has fulfilled the duties set forth in the subparagraphs of this rule.

(e) The conduct set forth above is not exclusive. Engaging in other conduct such as forgery, embezzlement, theft, exploitation, nondisclosure, incomplete disclosure or misstatement of material facts, manipulative or deceptive practices, or aiding or abetting any unethical practice, shall be deemed an unethical business practice and shall also be grounds for denial, suspension or revocation of registration.

See 1 DE Reg 1978 (6/1/98)

§610 Examination Requirement

An individual applying to be registered as a broker-dealer or a broker-dealer agent under the Act must successfully complete the Uniform Securities Agent State Law Examination (Series 63 or 66) administered by the NASD. The Commissioner may waive the exam requirement upon good cause shown.

Part G. Investment Advisers and Investment Adviser Representatives

§700 Registration of Investment Advisors

(a) A person applying for a license as an investment adviser in Delaware shall make application for such license on Form ADV (Uniform Application for Investment Adviser Registration under the Investment Advisers Act of 1940). Amendments to such application shall also be made on Form ADV.

(b) The applicant shall file the following items with the Commissioner: (i) the application on Form ADV; (ii) the fee required by Section 7314 of the Act; (iii) a balance sheet prepared in accordance with Schedule G of Form ADV; (iv) a list of all investment adviser representatives employed by the investment adviser; and (v)proof of compliance with Rule 710 by filing an Investment Adviser Affidavit available at http://www.state.de.us/securities or by contacting the Division of Securities; and (vi) such other information as the Commissioner may reasonably require.

(c) Registration expires at the end of the calendar year. Any investment adviser may renew its registration by filing with the Commissioner an updated Form ADV, together with the fee required by Section 7314 of the Act and a list of all investment adviser representatives employed by the investment adviser.

(d) ~~Every investment adviser must have at least one investment adviser representative registered with the Commissioner to obtain or to maintain its license as an investment adviser.~~ Except for an investment advisor that is a sole proprietorship or the substantial equivalent, an investment adviser registered with the Commissioner shall register with the Commissioner at least one investment ~~adviser representative.~~

See 4 DE Reg 510 (9/1/00)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

AIR QUALITY SECTION

Statutory Authority: 7 Delaware Code, Chapter 60 (7 **Del.C.** Ch. 60)

NOTICE

1. Title Of The Regulations:

AMENDMENTS TO DELAWARE 2005 RATE-OF-PROGRESS PLAN, And AMENDMENTS TO DELAWARE PHASE II ATTAINMENT DEMONSTRATION, Toward Attainment Of The 1-hour National Ambient Air Quality Standard (Naaqs) For The Ground-level Ozone In Kent And New Castle Counties.

2. Brief Synopsis Of The Subject, Substance And Issues:

The Clean Air Act Amendments of 1990 (CAAA) requires Delaware to submit to the U.S. Environmental Protection Agency (EPA) a State Implementation Plan (SIP) revision for every three years after 1996 to demonstrate how Delaware will achieve adequate rate-of-progress in reducing emissions of volatile organic compounds (VOC) and oxides of nitrogen (NOx), which are major precursors that form ground-level ozone. Delaware's 2005 Rate-of-Progress Plan, which covers the three-year period from 2003 to 2005, was submitted to EPA in December 2000. Under the CAAA, Delaware is also required to develop a SIP revision to demonstrate its capability of attaining the 1-hour ozone standard in 2005. This SIP revision, termed as the Phase II Attainment Demonstration, was amended and submitted to EPA in January 2000. The purpose of this action is (1) to amend the 2005 RPP, and (2) to amend the Phase II Attainment Demonstration, to reflect mobile emission budgets using the Mobile 6 emission model. No other changes to the plans are proposed.

3. Possible Terms Of The Agency Action: None.

4. Statutory Basis Or Legal Authority To Act:

7 Del. C., Chapter 60, Environmental Control
Clean Air Act Amendments of 1990

5. Other Regulations That May Be Affected By The Proposal:

None

6. Notice Of Public Comment:

A public hearing will be held on April 30, 2003 beginning at 6:00 PM in the Richardson and Robbins Auditorium, 89 Kings Highway, Dover, Delaware.

Prepared By:

Frank F. Gao, Project Leader, (302) 323-4542, March 11, 2000

Amendments To
Delaware 2005 Rate-of-progress Plan
FOR KENT AND NEW CASTLE COUNTIES
For Demonstrating
Progress Toward Attainment Of The National Ambient Air Quality Standard For Ground-level Ozone
Submitted To
U.S. Environmental Protection Agency
By Delaware Department of Natural Resources and Environmental Control
Dover, Delaware
November 2002

List of References

1. *Federal Clean Air Act*, 42 U.S.C.A. '7401 et seq., as amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

2. *The Delaware 2005 Rate-of-Progress Plan for Kent and New Castle Counties*, Department of Natural Resources and Environmental Control, Dover, Delaware, December 2000.

3. *Measures to Meet the EPA-Identified Shortfalls in Delaware Phase II Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area,* Department of Natural Resources and Environmental Control, Dover, Delaware, July 2001.

4. *Delaware Regulations Governing the Control of Air Pollution, Regulation 24 Section 26*, Division of Air and Waste Management, Delaware Department of Natural Resources and Environmental Control, Dover, Delaware, Updated to March 8, 1995.

5. *Memorandum: Correction Errata to the 15 Percent Rate of Progress Guidance Document,* from J. T. Helms, Group Leader, Ozone Policy and Standard Group, Office of Air Quality Planning and Standards, US EPA, Research Triangle Park, North Carolina, March 17, 1999.

6. *64 FR 70444, December 16, 1999;* Approval and Promulgation of Air Quality Implementation Plans; Delaware; One-hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area; proposed rule.

7. *66 FR 54598, October 29, 2001;* Approval and Promulgation of Air Quality Implementation Plans; Delaware; Post-1996 Rate-of-Progress Plans and One-hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area; final rule.

8. *Amendments to Delaware Phase II Attainment Demonstration SIP: Revision of 2005 On-Road Mobile Source Emission Budgets Using MOBILE 6*, Department of Natural Resources and Environmental Control, Dover, Delaware, proposed in November 2002.

1. Introduction

Under the Clean Air Act Amendments of 1990 (CAAA, Reference 1), Kent and New Castle Counties in Delaware are classified as severe nonattainment areas with respect to the 1-hour National Ambient Air Quality Standard (NAAQS) of the ground-level ozone. The CAAA requires Delaware to submit to the US Environmental Protection Agency (EPA) a State Implementation Plan (SIP) for the period between 1990 and 1996, and a revision of such SIP for every three years after 1996 to demonstrate how to achieve adequate rate-of-progress in reducing emissions of volatile organic compounds (VOC) and oxides of nitrogen (NOx), which are major precursors that form ground-level ozone. Thus, these SIP revisions are termed as Rate-of-Progress Plans (RPPs). Delaware's 2005 Rate-of-Progress Plan, which covers the three-year period from 2003 to 2005, was submitted to EPA in December 2000 (Reference 2). The plan will be referred to hereafter as the 2005 Rate-of-Progress Plan or simply the 2005 RPP.

This document amends Delaware's 2005 RPP according to EPA's requirements on use of the agency's newly released MOBILE6 model to reevaluate VOC and NOx emissions from on-road mobile sources (Reference 7). The amendments include using MOBILE6 for (1) reevaluating VOC and NOx emissions for the 2005 attainment year, and (2) reevaluating VOC and NOx emissions for the 1990 base year, the 1996, 1999 and 2002 milestone years, to revise the emission targets for all milestone years. In addition, the amendments include a section that revises VOC emission estimates for the Stage I Vapor Recovery Program in Kent and New Castle Counties. The document concludes that, with the replacement of MOBILE5b estimates with MOBILE6 estimates for on-road mobile sources, the revised VOC emission estimates for the Stage I Program, plus additional control measure identified in Delaware Shortfall SIP Revision (Reference 3), Delaware meets the VOC and/or NOx emission reduction requirements set forth for 2005 by the CAAA.

The agency with direct responsibility for preparing and submitting this document is the Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Air and Waste Management, Air Quality Management Section (AQM), under the direction of Ali Mirzakhalili, Program Administrator. The working responsibility for this document falls within the Planning and Community Protection (PCP) Branch of AQM, under the management of Raymond H. Malenfant, Program Manager II, and Ron Amirikian, Program Manager I. The following staff members of PCP are responsible for fulfilling this document:

Frank Gao, Ph.D., P.E., Environmental Engineer
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Lead person for MOBILE6 modeling

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2. Revising 1990 Baseline Emission Inventory

Delaware's 1990 baseline VOC and NOx emissions was revised in the original 2005 Rate-of-Progress Plan to accommodate differences in on-road mobile source emissions estimated by MOBILE5a and MOBILE5b (Section 1.3, Reference 2). The baseline emissions thereof need to be revised again to reflect new emission estimates from MOBILE6. The following formula is used for this revision:

$EMIS_{90BL\text{-}M6} = EMIS_{90BL\text{-}M5b}$ - *M5b* Emission + *M6* Emission (1)

where,

$EMIS_{90BL\text{-}M6}$ = 1990 baseline all-source emission revised by MOBILE6 for this document;
$EMIS_{90BL\text{-}M5b}$ = 1990 baseline all source emission revised by MOBILE5b in the original 2005 RPP (Table 1-7, Reference 2);
M5b Emission= mobile source emission estimated by MOBILE5b;
M6 Emission = mobile source emission estimated by MOBILE6.

Emission data for MOBILE5b are obtained from the original 2005 RPP (Appendix F, Reference 2). Emission data for MOBILE6 are listed in Appendix A of this document. The revised 1990 baseline VOC and NOx emissions are summarized in Table 1 below.

Table 1. Delaware 1990 Baseline VOC and NOx Emissions as Revised for MOBILE6.

	Kent		New Castle		Total	NAA
Source Sector	**VOC**	**NOx**	**VOC**	**NOx**	**VOC**	**NOx**
Point Sources	3.24	6.13	26.94	85.77	30.18	91.90
Stationary Area Sources	12.78	1.20	34.37	5.40	47.15	6.60
Off-Road Mobile Sources	3.49	7.89	16.67	18.78	20.17	26.67
On-Road Mobile Sources	18.42	12.52	47.48	34.07	65.90	46.59
TOTAL EMISSIONS	**37.93**	**27.75**	**125.46**	**144.01**	**163.39**	**171.76**

To reassess emission targets in each milestone year, the above baseline emissions must be adjusted to remove VOC and NOx emission reductions from two pre-1990 control programs, i.e., the Federal Motor Vehicle Control Program (FMVCP) and the Reid Vapor Program (RVP). Details of how to conduct this adjustment are given in the original 2005 RPP (Reference 2). On-road mobile source emission data required for this adjustment, as estimated using MOBILE6 model, are provided in Appendix A of this document. Emission reductions from FMVCP and RVP as estimated by MOBILE6 model are summarized in Table 2. The 1990 baseline emissions adjusted to individual milestone years are summarized in Table 3. The adjusted baseline emissions will be used in a later section (Section 5) to reevaluate emission targets in individual milestone years.

Table 2. Emission Reductions from FMVCP and RVP in On-Road Mobile Sources.

Description	**VOC**	**NOx**	
1990 Baseline On-Road Mobile Source Emissions	65.90	46.59	(a)
1990 Adjusted Base Year On-Road Mobile Source Emissions			
Adjusted for 1996	40.51	34.00	$(b)_{1996}$
Adjusted for 1999	35.98	31.14	$(b)_{1999}$
Adjusted for 2002	33.36	30.19	$(b)_{2002}$
Adjusted for 2005	31.00	29.07	$(b)_{2005}$
FMVCP/RVP Emission Reductions			
For 1990-1996	25.38	12.59	$(a)-(b)_{1996}$

For 1990-1999	29.92	15.45	(a)-(b)$_{1999}$
For 1990-2002	32.54	16.41	(a)-(b)$_{2002}$
For 1990-2005	34.90	17.52	(a)-(b)$_{2005}$

Table 3. The 1990 Baseline Emissions Adjusted to Individual Milestone Years.

Description	VOC	NOx	
1990 Baseline Inventory (All Sources)	163.39	171.76	(a)
FMVCP/RVP Emission Reductions			
For 1990-1996	25.38	12.59	(b)$_{1996}$
For 1990-1999	29.92	15.45	(b)$_{1999}$
For 1990-2002	32.54	16.41	(b)$_{2002}$
For 1990-2005	34.90	17.52	(b)$_{2005}$
1990 Adjusted Baseline Emissions			
Relative to 1996	138.01	159.17	(a)-(b)$_{1996}$
Relative to 1999	133.47	156.31	(a)-(b)$_{1999}$
Relative to 2002	130.85	155.35	(a)-(b)$_{2002}$
Relative to 2005	128.49	154.24	(a)-(b)$_{2005}$

3. Revising VOC Emission Estimates for Stage I Vapor Recovery Program

Stage I Vapor Recovery is a control measure for gasoline vapor emissions at gasoline dispensing facilities that result from unloading gasoline from a delivery vessel (tank truck) into a stationary storage vessel (storage tank). The vapors displaced in the storage tank by the liquid gasoline are retrieved into the tank truck and transported back to the refinery. Delaware Stage I Vapor Recovery Regulation was revised in January 1993 (Sec. 26 of Delaware Air Regulation 24, Reference 4). The regulation requires gasoline storage tanks at gasoline dispensing facilities to be loaded by submerged filling with vapor balance system. In the original 2005 RPP, however, VOC emissions from facilities covered by this regulation were estimated with an emission factor for the splash filling.

In March 1999, EPA revised one major projection equation for area sources, including gasoline-dispensing facilities (Reference 5). This revised equation, as shown below, allows Delaware to use an emission factor for balanced and submerged filling to better estimate VOC emissions from the covered facilities.

$$EMIS_{PY} = ORATE_{BY} \times GF \times EF_{PY} \left[2 - \left(\frac{CE_{PY}}{100}\right)\left(\frac{RE_{PY}}{100}\right)\left(\frac{RP_{PY}}{100}\right)\right] \times \frac{1}{2000} \quad (2)$$

where $EMIS_{PY}$ = Projection year (2005) emission;

$ORATE_{BY}$ = Base year activity level
= 190 thousand gallons per day for Kent County
= 608 thousand gallons per day for New Castle County;

GF = growth factor
= 0.91 for both counties.

EF_{PY} = emission factor for balanced submerged filling
= 0.3 lb. per thousand gallons;

CE_{PY} = control efficiency in projection year
= 100 along with the submerged EF_{PY} for both counties;

RE_{PY} = rule effectiveness in projection year
= 80% for both counties;

RP_{PY} = rule penetration
= 100 for both counties.

$$Kent\ EMIS_{PY} = 190 \times 0.91 \times 0.3 \left[2 - \left(\frac{100}{100}\right)\left(\frac{80}{100}\right)\left(\frac{100}{100}\right)\right] \times \frac{1}{2000} = 0.03\ TPD$$

Using Eq. (2) and the above parameters, VOC emissions from Stage I facilities can be re-estimated as:

$$New\ Castle\ EMIS_{PY} = 608 \times 0.91 \times 0.3 \left[2 - \left(\frac{100}{100}\right)\left(\frac{80}{100}\right)\left(\frac{100}{100}\right)\right] \times \frac{1}{2000} = 0.10\ TPD$$

In the original 2005 RPP, VOC emissions from Stage I facilities are 0.20 TPD and 0.64 TPD for Kent County and New Castle County, respectively.

4. Revising Control Strategy Projections for Individual Milestone Years

To re-evaluate 2005 VOC and NOx emission targets with mobile source emissions generated by MOBILE6, the control strategy projections in all previous milestone years must be also re-evaluated for MOBILE6. An equation similar to Eq. (1) is used for this purpose:

$$EMIS_{\text{PY-M6}} = EMIS_{\text{PY-M5b}} - M5b\text{-}C\text{-Emis} + M6\text{-}C\text{-Emis} \quad (2)$$

where, $EMIS_{\text{PY-M6}}$ = projection year all-source emission revised by MOBILE6;

$EMIS_{\text{PY-M5b}}$ = projection year all-source emission revised by MOBOILE5b in the original 2005 RPP (Table 1-7, Reference 2);

$M5b\text{-}C$-Emis= control strategy mobile source

emissions estimated by MOBILE5b (Appendixes F and L, Reference 2);

M6-C-Emis = control strategy mobile source emissions estimated by MOBILE6 (Appendix A of this document).

For 2005, in addition to the above adjustment regarding MOBILE6, the VOC emission differences for the Stage I facilities must be also adjusted in the same manner. The revised control strategy emissions for individual milestone years are summarized in Table 4.

Table 4. Revised Control Strategy Projections for Individual Milestone Years.

Milestone Year	Kent		New Castle		Total NAA	
	VOC	NOx	VOC	NOx	VOC	NOx
1996	26.79	27.38	97.34	150.19	124.13	177.58
1999	24.66	23.45	91.94	114.91	116.61	138.36
2002	21.77	22.64	83.23	112.96	104.99	135.60
2005	19.98	20.35	77.32	110.40	97.29	130.75

5. Reevaluating Emission Targets for Individual Milestone Years

Details of how to estimate emission targets for 1996, 1999, 2002 and 2005 have been described in Sections 1.3 and 1.4 of the original 2005 RPP (Reference 2). Therefore, only outlines for the necessary calculations and brief explanations are given herein.

(1). Calculating Fleet Turnover Corrections for On-Road Mobile Sources

Fleet turnover corrections are differences in FMVCP/RVP emission reductions between two adjacent milestone years, as indicated in Table 5.

Table 5. Fleet Turnover Corrections for On-Road Mobile Sources.

Fleet Turnover Correction	VOC	NOx	*
For 1996-1999	4.53	2.86**	$(b)_{1996}$-$(b)_{1999}$
For 1999-2002	2.62	0.96	$(b)_{1999}$-$(b)_{2002}$
For 2002-2005	2.37	1.11	$(b)_{2002}$-$(b)_{2005}$

* Data from Table 2.

** Not needed for 1999 NOx target calculation.

(2). Calculating VOC Emission Targets in 2005 without NOx Substitution

The CAAA requires that Delaware obtain 15% VOC emission reduction between 1990 and 1996, and a 9% VOC and/or NOx reduction every three years thereafter. The VOC targets levels for all milestone years are calculated first, as indicated in Table 6. It should be noted that the fleet turnover correction must be incorporated in the calculation because they are actually emission reductions from FMVCP and RVP that are creditable reductions.

Table 6. Emission Targets of VOC for Individual Milestone Years.

1996 Milestone Year			
1990 Baseline	**1996**		
	Req. 15% Reduction	**FMVCP/ RVP**	**Target Level**
(a)	(b)	(c)	(d)=(a)-(b)-(c)
163.39	20.70	25.38	**117.31**
1999 Milestone Year			
1996 Target Level	**1999**		
	Req. 9% Reduction	**Fleet Turnover**	**Target Level**
(a)	(b)	(c)	(d)=(a)-(b)-(c)
117.31	12.01	4.53	**100.76**
2002 Milestone Year			
1999 Target Level	**2002**		
	Req. 9% Reduction	**Fleet Turnover**	**Target Level**
(a)	(b)	(c)	(d)=(a)-(b)-(c)
100.76	11.78	2.62	**86.36**
2005 Milestone Year			
2002 Target Level	**2005**		
	Req. 9% Reduction	**Fleet Turnover**	**Target Level**
(a)	(b)	(c)	(d)=(a)-(b)-(c)
86.36	11.56	2.37	**72.43**

(3). Calculating Creditable VOC Emission Reductions

Comparing Table 4 and Table 6 indicates that the VOC control strategy projection for all milestone years are higher than the target levels. Thus, NOx emission reductions must be considered to meet the required rate-of-progress emission reductions. First, the creditable VOC emissions and

percentages must be determined, as shown in Table 7.

Table 7. Creditable VOC Emission Reductions and Percentages.

Description	Emissions	
1999 Milestone Year		
1990 Baseline VOC Emission Adjusted for 1999	133.47	(a)
1996 VOC Target Level	117.31	(b)
VOC Fleet Turnover Correction for 1996-1999	4.53	(c)
1999 VOC Control Strategy Projection*	116.61	(d)
Creditable VOC Emission Reductions for 1999	-3.83	(e)=(b)-(c)-(d)
% of VOC Reductions for 1999 Rate-of-Progress	-2.87%	(f)=(e)/(a)x100
2002 Milestone Year		
1990 Baseline VOC Emission Adjusted for 2002	130.85	(a)
1999 VOC Target Level	116.61	(b)
VOC Fleet Turnover Correction for 1999-2002	2.62	(c)
2002 VOC Control Strategy Projection*	104.99	(d)
Creditable VOC Emission Reductions for 2002	8.99	(e)=(b)-(c)-(d)
% of VOC Reductions for 2002 Rate-of-Progress	6.87%	(f)=(e)/(a)x100
2005 Milestone Year		
1990 Baseline VOC Emission Adjusted for 2005	128.49	(a)
2002 VOC Target Level	104.99	(b)
VOC Fleet Turnover Correction for 2002-2005	2.37	(c)
2005 VOC Control Strategy Projections*	97.29	(d)
Creditable VOC Emission Reductions for 2005	5.33	(e)=(b)-(c)-(d)
% of VOC Reductions for 2005 Rate-of-Progress	4.15%	(f)=(e)/(a)x100

(4). Calculating Required NOx Emission Reductions.

The guidance of this calculation is that the percentages of NOx emission reductions plus the creditable VOC reduction percentages in Table 7 must equal to 15% for 1996 and to 9% for each milestone year thereafter. The calculations and results are summarized in Table 8.

Table 8. Required NOx Emission Reductions for Individual Milestone Years.

Description	NOx Emissions	
1999 Milestone Year		
1990 Baseline NOx Emission Adjusted for 1999	156.31	(a)
% VOC Reductions for 1999 Rate-of-Progress	-2.87%	(b)
% NOx Reductions for 1999 Rate-of-Progress	11.87%	(c)
Total % of VOC/NOx Reduction	9.00%	(d)=(b)+(c)
NOx Emission Reductions Required for 1996-1999	18.56	(e)=(a)x(c)
2002 Milestone Year		
1990 Baseline NOx Emission Adjusted for 2002	155.35	(a)
% VOC Reductions for 2002 Rate-of-Progress	6.87%	(b)
% NOx Reductions for 2002 Rate-of-Progress	2.13%	(c)
Total % of VOC/NOx Reduction	9.00%	(d)=(b)+(c)
NOx Emission Reductions Required for 1999-2002	3.30	(e)=(a)x(c)
2005 Milestone Year		
1990 Baseline NOx Emission Adjusted for 2005	154.24	(a)
% VOC Reductions for 2005 Rate-of-Progress	4.15%	(b)
% NOx Reductions for 2005 Rate-of-Progress	4.85%	(c)
Total % VOC/NOx Reduction	9.00%	(d)=(b)+(c)
NOx Emission Reductions Required for 2002-2005	7.48	(e)=(a)x(c)

(5) Calculating Emission Targets for Both VOC and NOx.

By setting the VOC control strategy projections in Table 4 as VOC target levels for 1999, 2002 and 2005, and using required NOx emission reductions as determined in Table 8, the target levels of NOx emissions in individual milestone years, including 2005, can be calculated. Both VOC and NOx emission targets are summarized in Table 9.

Table 9. Target Levels for Both VOC and NOx Emissions.

Description	Emissions (TPD) VOC	NOx	
1996 Target Level-VOC	**117.31**		(a)
1990 Baseline Adjusted for 1999-NOx		**156.31**	
1999 Milestone Year			
Emission Reduction for Rate-of-Progress	-3.83	18.56	(b)
Fleet Turnover Correction for 1996-1999	4.53	0.00	(c)
Target Level for 1999	**116.61**	**137.75**	(d)=(a)-(b)-(c)
2002 Milestone Year			
Emission Reduction for Rate-of-Progress	8.99	3.30	(e)
Fleet Turnover Correction for 1999-2002	2.62	0.96	(f)
Target Level for 2002	**104.99**	**133.49**	(g)=(d)-(e)-(f)
2005 Milestone Year			
Emission Reduction for Rate-of-Progress	5.33	7.48	(h)
Fleet Turnover Correction for 2002-2005	2.37	1.11	(i)
Target Level for 2005	**97.29**	**124.90**	(j)=(g)-(h)-(i)

6. Additional Controls and Adequacy of 2005 Rate-of-Progress Plan

As shown in Table 9, the target levels of VOC emission and NOx emission in 2005 are 97.29 TPD and 124.90 TPD, respectively. Comparison of these two targets with the 2005 control strategy projections, as revised in Table 4, indicates that, with all control measures proposed in the original 2005 RPP, Delaware will still have a 5.85 TPD shortfall in NOx emission reduction (Shortfall = Target Level – Control Strategy Projection = 124.90 – 130.75 = -5.85 TPD). Thus, additional controls on either VOC or NOx emissions are needed for 2005.

In July 2001, Delaware submitted to EPA a SIP revision entitled "*Measures to Meet the EPA-Identified Shortfalls in Delaware Phase II Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area*" (Reference 3, hereafter referred to as the Shortfall SIP). The EPA has proposed approval for the 6 new/amended regulations specified in the Shortfall SIP in September 2002. In the Shortfall SIP, Delaware adopted into the Delaware SIP 6 new or amended regulations with compliance dates before the ozone season of 2005. These new regulations are expected to lead to an additional 4.96 TPD VOC emission reduction and an additional 0.36 TPD NOx emission reduction in 2005 (Section 3.1 and Table 3, Reference 3).

Delaware hereby further amends the original 2005 RPP by adding the above 6 regulations to its control measure list. These 6 new/amended regulations make the 2005 RPP adequate by clearing the 5.85 TPD NOx reduction shortfall caused by switching MOBILE5b to MOBILE6. This judgement of adequacy can be reached by the following steps.

(1) The 1990 baseline VOC and NOx emissions adjusted to 2005 are 128.49 TPD and 154.24 TPD, respectively (Table 3, this document). The ratio of VOC and NOx baseline emissions is

VOC : NOx = 128.49 : 154.24 = 1 : 1.20

(2) According to the above ratio, the additional 4.96 TPD VOC emission reduction in the Shortfall SIP is equivalent to 5.95 TPD NOx reduction (4.96x1.20=5.95 TPD). Thus, the total additional NOx emission reduction from the 6 new/amended regulations is 6.31 TPD (5.95+0.36=6.31 TPD), which is greater than the NOx shortfall of 5.85 TPD caused by MOBILE6.

(3) Therefore, adding the 6 new/amended regulations to the original 2005 RPP will enable Delaware to successfully meet the 2005 emission targets set forth under the rate-of-progress requirements.

[Note: The above adequacy could be also determined by revising the 2005 control strategy projections first (Section 4), and then following the steps used in Section 5. The calculation results would be the same.]

It should be pointed out that the MOBILE6-based emissions in 2005 (Appendix A of this document) are also

the revised on-road mobile source emission budgets for Kent and New Castle Counties for the purposes of meeting the transportation conformity requirements set forth in Section 182 of the CAAA. It should be noted that the revised budgets are calculated using MOBILE6 emission factors and the related planning assumptions (i.e., VMT, speed data, fleet mix) currently available and used in the original 2005 RPP. After January 29, 2003 the mobile budgets established by this SIP revision shall be used to determine the conformity of transportation plans and programs to the SIP (Reference 6 and 7).

Appendixes

Appendix A: Summary of MOBILE6-Based Emission Estimates.

Table A1. MOBILE6-Based Estimates for On-Road Mobile Sources.

Inventory Title	Kent County		New Castle County		Total NAA	
	VOC	NOx	VOC	NOx	VOC	NOx
1990 Base Year	18.42	12.52	47.48	34.07	65.90	46.59
1990 Baseline						
Adjusted to 1996	11.16	9.23	29.35	24.77	40.51	34.00
Adjusted to 1999	9.72	8.41	26.26	22.73	35.98	31.14
Adjusted to 2002	8.80	8.07	24.56	22.11	33.36	30.19
Adjusted to 2005	7.93	7.66	23.07	21.41	31.00	29.07
Emissions with Controls						
1996	11.03	10.15	29.36	25.93	40.39	36.08
1999	9.70	9.20	26.75	23.96	36.46	33.16
2002	7.53	8.44	20.66	22.18	28.20	30.63
2005	6.06	7.39	16.13	19.94	22.19	27.33

Note: The emissions in the table are calculated with emission factors generated by MOBILE6, and VMTs and speeds currently used in the original 2005 RPP (Appendix F, Reference 2). The VMT and speeds represent the latest planning assumptions available to DNREC, and registration data used is for the corresponding year.

Appendix B: MOBILE6 Input/Output Files and Emission Calculations

Available upon request.

AMENDMENTS TO
Delaware Phase II Attainment Demonstration For The Philadelphia-Wilmington-Trenton Ozone Non-attainment Area
Submitted To
U.S. Environmental Protection Agency
By

Delaware Department of Natural Resources and Environmental Control
Dover, Delaware
November 2002

List of References

1. *Federal Clean Air Act*, 42 U.S.C.A. '7401 et seq., as amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

2. *Delaware Phase II Attainment Demonstration for Philadelphia-Wilmington-Trenton Ozone Nonattainment Area*, Delaware Department of Natural Resources and Environmental Control, Dover, Delaware, May 1998, as amended in January 2000, and in December, 2000.

3. *Memorandum: Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity,* from John S. Seitz, Director of Office of Air Quality Planning and Standards, and Margo T. Oge, Director of Office of Transportation and Air Quality, US EPA, Washington D.C., January 18, 2002.

4. *Delaware 1996 Milestone Demonstration for Kent and New Castle Counties: Demonstrating Adequate Progress toward Attainment of the 1-Hour National Ambient Air Quality Standard for Ground-Level Ozone*, Delaware Department of Natural Resources and Environmental Control, Dover, Delaware, January 2000.

5. *The Delaware 2005 Rate-of-Progress Plan for Kent and New Castle Counties*, Delaware Department of Natural Resources and Environmental Control, Dover, Delaware, December 2000.

6. *Amendments to Delaware 2005 Rate-of-Progress Plan for Kent and New Castle Counties*, Delaware Department of Natural Resources and Environmental Control, Dover, Delaware, as proposed in November 2002.

7. *64 FR 70444, December 16, 1999;* Approval and Promulgation of Air Quality Implementation Plans; Delaware; One-hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area; proposed rule.

8. *66 FR 54598, October 29, 2001;* Approval and Promulgation of Air Quality Implementation Plans; Delaware; Post-1996 Rate-of-Progress Plans and One-hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area; final rule.

1. Introduction

Under the Clean Air Act Amendments of 1990 (CAAA, Reference 1), Kent and New Castle Counties in Delaware are classified as severe nonattainment areas with respect to the 1-hour National Ambient Air Quality Standard (NAAQS) of the ground-level ozone. The CAAA requires Delaware to submit to the US Environmental Protection Agency (EPA) a State Implementation Plan (SIP) revision to demonstrate that the 1-hour ozone standard can be attained

in 2005 in these two counties with necessary and adequate control measures over VOC and NOx emission sources. This SIP revision, entitled "Delaware Phase II Attainment Demonstration for Philadelphia-Wilmington-Trenton Ozone Nonattainment Area," was originally submitted to EPA in May 1998, and amended two times thereafter (Reference 2).

One requirement of EPA for a state's attainment demonstration SIP revision is to set up on-road motor vehicle VOC and NOx emission budgets for use in transportation conformity analysis in that state. In its amendments to the Phase II Attainment Demonstration SIP in January 2000, Delaware set up these two budgets for 2005 using EPA's MOBILE5b model and including MOBILE5-based Tier 2 benefits. In its amendments to the Phase II Attainment Demonstration SIP in December 2000, Delaware committed that it would revise the budgets within one year after the release of the then-anticipated MOBILE6 model. In January 2002, EPA officially released the MOBILE6 model.

The document proposed herein is to use MOBILE6 model to revise the on-road motor vehicle VOC and NOx emission budgets in the Delaware Phase II Attainment Demonstration SIP, as amended in January 2000 (Reference 2). The agency with direct responsibility for preparing and submitting this document is the Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Air and Waste Management, Air Quality Management Section (AQM), under the direction of Ali Mirzakhalili, Program Administrator. The working responsibility for this document falls within the Planning and Community Protection (PCP) Branch of AQM, under the management of Raymond H. Malenfant, Program Manager II, and Ron Amirikian, Program Manager I. The following staff members of PCP are responsible for fulfilling this document:

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2. Requirements of EPA on Use of MOBILE6 Model

In January 2002, EPA officially released the MOBILE6 model for states to use in their ozone SIP revisions and transportation conformity analysis. In a policy guidance regarding the use of MOBILE6 model (Reference 3), EPA requires that, if a state used MOBILE5-based Tier 2 benefits when it determined its previous on-road motor vehicle emission budgets, the state must revise those budgets within one year after MOBILE6 is released, and submit the revised budgets to EPA as a SIP revision. Since Delaware used the MOBILR5-based Tier 2 benefits in its last mobile budget SIP submittal, Delaware needs to meet this requirement upon the MOBILE6 release (See also References 7 and 8).

According to the same guidance, Delaware can revise its motor vehicle emission budgets using MOBILE6 without revising the entire Phase II Attainment Demonstration SIP or completing additional modeling, if Delaware can satisfy the following two criteria: (1) the SIP continues to demonstrate attainment when the MOBILE6 is used to estimate motor vehicle emissions and to set up new emission budgets, and (2) the growth and control strategy assumptions for stationary sources and non-road mobile sources continue to be valid to maintain the overall conclusions of the SIP.

Delaware decides not to revise the entire Phase II Attainment Demonstration SIP and not to conduct additional modeling. The second criterion above can be satisfied by the following two documents: (1) Delaware 1996 Milestone Demonstration for Kent and New Castle Counties (Reference 4), and (2) Delaware 1999 Milestone Compliance Demonstration for Kent and New Castle Counties (currently under development). In these two documents, Delaware has successfully demonstrated that the overall emissions of VOC and/or NOx in the 1996 and 1999 Periodical Emission Inventories are below the emission targets in these two milestone years, which indicates continuous adequate progress toward the attainment of the 1-hour ozone standard in 2005.

In the following sections of this document, Delaware will show that EPA's first criterion will be satisfied by demonstrating that the MOBILE6 estimates of motor vehicle emissions are equal to or lower than the previous MOBILE5 estimates for the attainment year of 2005.

3. MOBILE6 Estimates of On-Road Mobile Source Emissions

The MOBILE6 modeling has been conducted in-house by staff members of DNREC Air Quality Management Section. The modeling domain includes all control measures specified in Delaware's 2005 Rate-of-Progress Plan (Reference 5). The model input files, output files, and summary of emission factors generated by MOBILE6 are provided in Appendix A of this document. Using the emission factors generated by MOBILE6 and the VMT/speed data currently available and used in the original 2005 RPP, the MOBILE6-based motor vehicle emissions can be calculated. The calculations and results are also presented in Appendix A. The MOBILE6 estimates of on-road motor vehicle emissions are summarized in Table 1.

Table 1. MOBILE6 Estimates of On-Road Motor Vehicle Emissions in 2005.

Attainment Year	Kent	County	New Castle	County	Total	NAA*
2005	VOC	NOx	VOC	NOx	VOC	NOx
Emission (TPD)	6.06	7.39	16.13	19.94	22.19	27.33

*NAA: Non-Attainment Area.

4. Comparison of MOBILE6-Based Estimates and MOBILE5b-Based Estimates

The MOBILE5-based estimates of on-road motor vehicle emissions in 2005 are presented in Table 2. These estimates are also the on-road motor vehicle emission budgets as specified in Delaware's Phase II Attainment Demonstration SIP, as amended in January 2000 (Reference 2). Details of how Delaware conducted MOBILE5b modeling work and obtained these estimates are provided in Delaware's 2005 Rate-of-Progress Plan (Reference 5).

Table 2. MOBILE5 Estimates of On-Road Motor Vehicle Emissions in 2005.

Attainment Year	Kent	County	New Castle County		Total	NAA*
2005	VOC	NOx	VOC	NOx	VOC	NOx
Emission (TPD)	4.84	7.91	14.76	22.92	19.60	30.83

*NAA: Non-Attainment Area.

Comparison of MOBILE6-based estimates and MOBILE5-based estimates can be made through the following steps.

(1) For the total non-attainment area (NAA), the MOBILE6 VOC emission is 2.59 TPD higher than the MOBILE5 VOC emission (22.19 – 19.60 = 2.59 TPD), while the MOBILE6 NOx emission is 3.50 TPD lower than the MOBILE5 NOx emission (27.33 – 30.83 = - 3.50 TPD).

(2) Delaware's 1990 baseline VOC and NOx emissions, as adjusted to the attainment year of 2005 using MOBILE6 model, are 128.49 TPD and 154.24 TPD, respectively (Reference 6). Thus, the VOC-to-NOx emission ratio is 1-to-1.2.

(3) Using the above VOC-to-NOx emission ratio, the 2.59 TPD VOC emission increase due to using MOBILE6 is equivalent to a 3.11 TPD NOx emission increase (2.59 x 1.20 = 3.11 TPD). This equivalent NOx emission increase is smaller than the 3.50 TPD NOx emission decrease as indicated in (1) above.

The above comparison indicates that in the attainment year of 2005, the new MOBILE6 estimates are lower than the MOBILE5 estimates previously presented in Delaware's Phase II Attainment Demonstration SIP, as mended in January 2000 (Reference 2), and in Delaware's 2005 Rate-of-Progress Plan (Reference 5). Therefore, the first criterion specified in EPA's MOBILE6 guidance document (Reference 3) is satisfied.

5. New MOBILE6-Based Motor Vehicle Emission Budgets

Since the two criteria specified in EPA's MOBILE6 guidance document (Reference 3) are satisfied, Delaware decides to set the new MOBILE6-based estimates to be the new on-road motor vehicle emission budgets for Kent and New Castle Counties, as presented in Table 3. After January 29, 2003 the mobile budgets established by this SIP revision shall be used to determine the conformity of transportation plans and programs to the SIP (Reference 7 and 8).

Table 3. New MOBILE6-Based Motor Vehicle Emission Budgets for 2005.

Attainment Year	Kent County		New Castle County		Total	NAA
2005	VOC	NOx	VOC	NOx	VOC	NOx
Budgets (TPD)	6.06	7.39	16.13	19.94	22.19	27.33

Appendix A: MOBILE6 Input/Output Files, Emission Factors and Calculations.

Available upon request.

Symbol Key

Roman type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. **[~~Bracketed stricken through~~]** indicates language deleted at the time the final order was issued.

Final Regulations

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations. At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the Register of Regulations, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

DEPARTMENT OF ADMINISTRATIVE SERVICES

DIVISION OF PROFESSIONAL REGULATION

BOARD OF OCCUPATIONAL THERAPY

24 DE Admin. Code 2000

Statutory Authority: 24 Delaware Code Section 2006(a)(1) (24 **Del. C.** 2006(a)(1))

ORDER

A public hearing was held to receive comments on November 20, 2002 at the regularly scheduled meeting of the Board of Occupational Therapy. Proposed changes to the Rules and Regulations were published in the Register of Regulations, Vol. 6, Issue 4, October 2, 2002. Copies of the notices from two newspapers were admitted as Exhibit 1.

At the meeting that followed the public hearing, the Board considered changes to its rules and regulations that were published. Deliberations continued at the meeting held January 8, 2003. The rules, as revised after public comment, were adopted on March 5, 2003.

Summary Of The Evidence And Information Submitted

1. A memorandum dated November 13, 2002 was received from Rita Landgraf, Chairperson , State Council for Persons with Disabilities (SCPD). (Exhibit 2). The SCPD approves of the requirement that an applicant who completed the NBCOT more that three years before applying for licensure should demonstrate continuing education. The SCPD presumes instruction in abuse/neglect reporting or IEP drafting would be accepted for continuing education.

The SCPD is concerned about Rule 5.1. In order to insure that a licensee is given sufficient notification of the disapproval of CE to obtain replacement credits by July 31, the SCPD makes the following suggestions:

(i) insert an outside date such as June 15 for the notification of disapproval**;** or

(ii) clarify the applicability of the waiver in Rule 5.6 to the circumstances of CE disapproval; or

(iii) move up the deadline for CE submission to a date earlier than May 31.

2. A letter dated November 15, 2002 was received from Patricia L. Maichle, Chairperson of the Governor's Advisory Council for Exceptional Citizens. (Exhibit 3). The comments are substantially the same as those from the SCPD summarized in paragraph 1.

3. A letter dated November 18, 2002 was received from Karen C. Smith, OT, Regulatory Associate of the American Occupational Therapy Associates, Inc. (AOTA). (Exhibit 4). AOTA has recommended that the Board automatically pre-approve activities sponsored by the AOTA or offered by the AOTA approved providers in proposed Rule 5.3.2. Suggestions that contact hour be defined as 60 minutes excluding breaks and that the term 'CEU' be eliminated from activities such as professional meetings are proposed in Rule 5.4.1 and 5.4.2. Rules 5.4 and 5.5.1 proposed by the AOTA also include ideas for other activities such as web-based courses and the AOTA self-

paced clinical courses. The AOTA believes the Board should more clearly define 'alternative therapies' or give examples in Board proposal Rule 5.5.1.1. It is also urged that credit for preparation of presentations be increased from one to two hours for one hour presentation. Finally, the AOTA believes fieldwork supervision for Level II OT and OTA students should be creditable.

A Summary Of The Verbal Comment Follows:

(1) Karen G. Smith supplemented her written comment with testimony. She distributed informational material about the AOTA and its approved provider program to the members. She encouraged the Board to automatically accept continuing education approved by the AOTA and noted there are post tests that measure learning in there programs.

In addition to approving courses, the AOTA will be approving providers who pass their criteria. She suggested the Board should automatically accept continuing education offered by the AOTA-approved providers. The AOTA will not be reviewing the course but relying on the providers. Accepting the AOTA approved courses and courses by the AOTA providers will reduce the work of the Board in reviewing continuing education.

Ms. Smith repeated her concerns in the written comments including providing some clarification for the term "alternative therapies," approving reimbursement courses as a matter of consumer protection, including field supervision as creditable continuing education, limiting the use of the term "CEU" to courses, and approving "self-paced" programs and web delivery without a cap on the contact hours.

(2) Wendy Mears, President of the Delaware Occupational Therapy Association, stated that she agreed with the remarks made by Ms. Smith.

Findings Of Fact

1. The Board finds that making the recommended changes to the terminology related to the pediatric specialty and contact hours (instead of CEU) clarify the rules.

2. The SCPD and the GACEC both had concerns about the May 31st deadline for submitting the log of continuing education for each biennial renewal period. The Board finds that the professional licensees can comply with the rule as proposed. A licensee is notified in writing immediately following the Board meeting if an activity is not approved as submitted so there is necessarily over a month to replace the disapproved continuing education. The latest notification would be in June for someone who does not submit until after the posted May meeting.

Licensees can submit at an earlier date but should not be so required by rule. The unintended effect of an April deadline may be to reduce the courses offered in May of a renewal year. It is sufficient to have June and July for replacement continuing education. A licensee can submit a proposal for pre-approval in accordance with proposed Rule 5.3.2. Moreover, a licensee who is taking continuing education in May prior to license renewal can always take a course that has already been approved in order to avoid the potential for having to make up disallowed hours.

3. The SCPD and the GACEC have suggested that instruction in abuse/neglect reporting or IEP drafting will be approved. Whether an activity is approved may depend on the unique circumstances of the licensee and these proposed rules should not be read as a pre-approval. For example, activities that are job requirements are not approved under Rule 5.5.1. In-service training may qualify if it satisfies the criteria in proposed 5.3.1.

4. The language suggested by the AOTA explaining a contact hour improves the language in current Rule 5.4.1. Accordingly, the current Rule will be changed to read "Contact Hour" means a unit of measure for a continuing education activity. One contact hour equals 60 minutes in a learning activity, excluding meals and breaks." It will no longer be necessary to put the break exclusion in current Rule 5.4.4.

5. The AOTA has asked for a definition or examples of alternative therapies. The Board believes since this in an area of fluxion, specificity can lead to confusion or misunderstanding. Application for continuing education credit that involves alternative therapies will be considered individually.

6. Providing one hour of preparation time for each hour of presentation is consistent with the goal of diversifying credits. The Board recognizes that the presenter spends much more time for preparation than is credited as continuing education, but some time should be spent on other activities.

7. Credit for field work supervision will not be offered. Field work supervision is part of an employee's responsibilities. It is true that as a supervisor, one is learning not only from a recent student but from the self-study often necessary to properly supervise. However, the primary activity of the supervisor is teaching and that is the supervisor's job. Continuing education means more than growth inherent in achieving job excellence.

8. The AOTA has recommended that the programs that it sponsors, or the programs offered by its approved sponsors, be automatically approved. This has some appeal and will be implemented with limitations. Giving the licensees some assurance that the programs offered by the professional organization are necessarily approved creates a predictability that simplifies selecting continuing education programs. However, the Board will retain the discretion to disallow programs who primary focus is reimbursement as provided under Rule 5.5.1.

9. The Board believes the 10 hour cap on self-study

should remain. There are benefits to learning in a setting that enables peer interaction. Licensees should not be permitted to obtain most of their contact hours through self-study.

10. The changes made to the proposed rules are not substantive. The Board does not believe these changes would prompt additional public comment.

Text And Citation

The text of the Regulations 2.0 and 5.0 follow as they appeared in the Register of Regulations, Vol. 6, Issue 4, October 1, 2002 with the non-substantive changes noted above and other clerical changes are shown in bracketed bold typeface.

Decision And Effective Date

The Board adopts the changes to Regulation 2.0 and 5.0 as modified after public comment to be effective 10 days following publication of this order in the Register of Regulations.

SO ORDERED this 5th day of March, 2003.

STATE BOARD OF OCCUPATIONAL THERAPY

December Hughes, President
John Kirby, Vice President
Mara Schmittinger
David Mangler

1.0 Supervision/consultation Requirements for Occupational Therapy Assistants

1.1 "Occupational therapy assistant" shall mean a person licensed to assist in the practice of occupational therapy **under the supervision of an occupational therapist. 24 Del.C. §2002(4).(emphasis added)**

"Under the supervision of an occupational therapist" means the interactive process between the licensed occupational therapist and the occupational therapy assistant. It shall be more than a paper review or co-signature. The supervising occupational therapist is responsible for insuring the extent, kind, and quality of the services rendered by the occupational therapy assistant.

The phrase, "Under the supervision of an occupational therapist," as used in the definition of occupational therapist assistant includes, but is not limited to the following requirements:

1.1.1 Communicating to the occupational therapy assistant the results of patient/client evaluation and discussing the goals and program plan for the patient/client;

1.1.2 In accordance with supervision level and applicable health care, educational, professional and institutional regulations, reevaluating the patient/client, reviewing the documentation, modifying the program plan if necessary and co-signing the plan.

1.1.3 Case management;

1.1.4 Determining program termination;

1.1.5 Providing information, instruction and assistance as needed;

1.1.6 Observing the occupational therapy assistant periodically; and

1.1.7 Preparing on a regular basis, but at least annually, a written appraisal of the occupational therapy assistant's performance and discussion of that appraisal with the assistant.

The supervisor may assign to a competent occupational therapy assistant the administration of standardized tests, the performance of activities of daily living evaluations and other elements of patient/client evaluation and reevaluation that do not require the professional judgment and skill of an occupational therapist.

1.2 Supervision for Occupational Therapy Assistants is defined as follows:

1.2.1 Direct Supervision requires the supervising occupational therapist to be on the premises and immediately available to provide aid, direction, and instruction while treatment is performed in any setting including home care. Occupational therapy assistants with experience of less than one (1) full year are required to have direct supervision.

1.2.2 Routine Supervision requires direct contact at least every two (2) weeks at the site of work, with interim supervision occurring by other methods, such as telephonic or written communication.

1.2.3 General Supervision requires at least monthly direct contact, with supervision available as needed by other methods.

1.3 Minimum supervision requirements:

1.3.1 Occupational therapy assistants with experience of less than one (1) full year are required to have direct supervision.

Occupational therapy assistants with experience greater than one (1) full year must be supervised under either direct, routine or general supervision based upon skill and experience in the field as determined by the supervising OT.

1.3.2 Supervising occupational therapists must have at least one (1) year clinical experience after they have received permanent licensure.

1.3.3 An occupational therapist may supervise up to three (3) occupational therapy assistants but never more than two (2) occupational therapy assistants who are under direct supervision at the same time.

1.3.4 Levels of supervision should be determined by the occupational therapist before the individuals enter into a supervisor/supervisee relationship.

The chosen level of supervision should be reevaluated regularly for effectiveness.

1.3.5 The supervising occupational therapist, in collaboration with the occupational therapy assistant, shall maintain a written supervisory plan specifying the level of supervision and shall document the supervision of each occupational therapy assistant. Levels of supervision should be determined by the occupational therapist before the individuals enter into a supervisor/supervisee relationship. The chosen level of supervision should be reevaluated regularly for effectiveness. This plan shall be reviewed at least every six months or more frequently as demands of service changes.

1.3.6 A supervisor who is temporarily unable to provide supervision shall arrange for substitute supervision by an occupational therapist licensed by the Board with at least one (1) year of clinical experience, as defined above, to provide supervision as specified by Rule 1.0 of these rules and regulations.

See 2 DE Reg. 2040 (5/1/99)

2.0 Licensure Procedures:

2.1 To apply for an initial license, <u>including re-licensure after expiration</u>, an applicant shall submit to the Board:

2.1.1 A completed notarized application on the form approved by the Board;

2.1.2 Verification of a passing score on the NBCOT standardized exam submitted by the exam service or NBCOT;

<u>2.1.2.1 If the date of application for licensure is more that three years following the successful completion of the NBCOT exam, the applicant shall submit proof of twenty (20) hours of continuing education in the two years preceding the application in accordance with Rule 5.0 of these rules and regulations</u>.

2.1.3 Official transcript and proof of successful completion of field work submitted by the school directly to the Board office;

2.1.4 Fee payable to the State of Delaware.

2.2 To apply for a reciprocal license, in addition to the requirements listed in 24 **Del.C.** §2011, an applicant shall submit the following to the Board:

2.2.1 A completed notarized application on the form approved by the Board;

2.2.2 Verification of a passing score on the NBCOT standardized exam submitted by the exam service or NBCOT;

2.2.3 Letter of verification from any state in which the applicant has been licensed (the applicant is responsible for forwarding the blank verification form to all states where they are now or ever have been licensed);

2.2.4 Fee payable to the State of Delaware.

2.3 To apply for renewal, an applicant shall submit:

2.3.1 A completed renewal application on the form approved by the Board;

2.3.2 Evidence of meeting continuing education requirements as designated by the Board in Rule 5;

2.3.3 Renewal fee payable to the State of Delaware.

2.4 To apply for inactive status:

A licensee may, upon written request to the Board, have his/her license placed on inactive status if he/she is not actively engaged in the practice of occupational therapy in the State.

2.5 To apply for reactivation of an inactive license, a licensee shall submit:

2.5.1 A letter requesting reactivation;

2.5.2 A completed application for renewal

2.5.3 Proof of continuing education attained within the past two years (20 contact hours). The twenty (20) hours must be in accordance with Rule 5.0 of these rules and regulations;

2.5.4 Fee payable to the State of Delaware.

2.6 To apply for reinstatement of an expired license, an applicant shall submit (within three (3) years of the expiration date):

2.6.1 A completed application for renewal;

2.6.2 Proof of continuing education attained within the past two years (20 contact hours). The twenty (20) hours must be in accordance with Rule 5.0 of these rules and regulations;

2.6.3 Licensure and late fee payable to the State of Delaware.

3.0 Temporary Licensure/Examination Eligible OT:

3.1 To apply for a temporary license, an applicant shall submit to the Board:

3.1.1 A completed, notarized application on the form approved by the Board;

3.1.2 Official transcript and proof of successful completion of field work submitted by the school directly to the Board office;

3.1.3 A letter indicating the date on which the applicant proposes to take the NBCOT examination;

3.1.4 A signed agreement from an occupational therapist currently licensed by the state of Delaware certifying that the applicant will be supervised while practicing, in accordance with the definitions for supervision as stated herein, in 3.3;

3.1.5 Fee payable to the State of Delaware.

3.2 Following the examination, the temporary licensee shall submit to the Board a notarized copy of the verification of exam scores, if the Board has not directly received the results of the examination. If the temporary licensee has not successfully passed the examination the temporary license will be surrendered to the Board immediately upon notification of exam results.

3.3 Supervision of the exam-eligible occupational therapist with a temporary license shall be defined as follows:

3.3.1 The supervising occupational therapist must hold a current license to practice in the state of Delaware;

3.3.2 Must have completed a minimum of one year of practice from the date of their permanent licensure status;

3.3.3 Supervision must consist of daily face to face contact between the supervisor and the temporary licensee;

3.3.4 The supervising occupational therapist shall at no time supervise more than four (4) temporarily licensed occupational therapists. In the event that the temporary licensees should be working at separate sites, the supervising therapist shall supervise no more than two (2) temporarily-licensed therapists. A supervising therapist can assume responsibility for no more than five (5) including temporarily licensed OTs and OTAs and licensed OTAs.

4.0 Temporary Licensure/Examination Eligible OTA:

4.1 To apply for a temporary license, an applicant shall submit to the Board:

4.1.1 A completed, notarized, application on the form provided by the Board;

4.1.2 Official transcript and proof of successful completion of field work submitted by the school directly to the Board Office;

4.1.3 A letter indicating the date on which the applicant proposes to take the NBCOT examination;

4.1.4 A signed agreement from an occupational therapist currently licensed by the state of Delaware certifying that the applicant will be supervised while practicing, in accordance with the definitions for supervision as stated herein, in 4.3;

4.1.5 Fee payable to the State of Delaware.

4.2 Following the examination, if the Board has not directly received the results of the examination, the temporary licensee shall submit to the Board a notarized copy of the verification of exam scores. If the temporary licensee has not successfully passed the examination, the temporary license will be surrendered to the Board immediately upon notification of exam results.

4.3 Supervision for the examination-eligible occupational therapy assistant with a temporary license shall be defined as follows:

4.3.1 The supervising occupational therapist must hold a current license to practice in the state of Delaware;

4.3.2 Must have completed a minimum of one year of practice from the date of their permanent licensure status;

4.3.3 Direct Supervision as defined in Rule 1 shall be required of all temporarily licensed occupational therapy assistants;

4.3.4 The supervising occupational therapist shall at no time supervise more than three (3) temporarily licensed occupational therapy assistants. A supervising therapist can assume responsibility for no more than five (5) including temporarily licensed OT, OTAs and licensed OTAs).

5.0 Continuing Education:

5.1 Continuing Education **[~~Units (CEUs):~~ Content Hours]**

5.1.1 Proof of continuing education (CE) is required for license renewal and shall be submitted by May 31st of each renewal year. A licensee who submits continuing education that is not approved by the Board will be notified so that he or she may obtain additional **[~~CEU's~~ CE]** to substitute before the license expiration date of July 31.

5.1.2 A log of CE on a form approved by the Board shall be maintained and submitted. Documentation of the CE should not be routinely sent with the log but must be retained during the licensure period to be submitted if the renewal application is selected for CE audit. Random audits will be performed by the Board to ensure compliance with the CE requirement. Licensees selected for the random audit shall submit attendance verification.

5.1.3 Contact hours shall be prorated for new licensees in accordance with the following schedule:

~~5.1.1~~ 5.1.3.1 *21 months up to and including 24 months remaining in the licensing cycle requires 20 hours

~~5.1.2~~ 5.1.3.2*16 months up to an including 20 months remaining in the licensing cycle requires 15 hours

~~5.1.3~~ 5.1.3.3 *11 months up to and including 15 months remaining in the licensing cycle requires 10 hours

~~5.1.4~~ 5.1.3.4*10 months or less remaining in the licensing cycle - exempt

5.2 Definition of Acceptable Continuing Education Credits:

Activities must be earned in two (2) or more of the ~~seven (7)~~ six (6) categories for continuing education beginning in section 5.5.

5.3 Continuing Education Content:

5.3.1 Activities must be **~~[a structured educational experience beyond entry-level academic degree level]~~** in a field of health and social services related to occupational therapy, must be related to a licensee's current or anticipated roles and responsibilities in occupational therapy, and must directly or indirectly serve to protect the public by enhancing the licensee's continuing competence.

5.3.2 Approval will be at the discretion of the Board. A licensee or continuing education provider may request prior approval by the Board by submitting an outline

of the activity at least six weeks before it is scheduled. **[The Board pre-approves continuing education activities sponsored or approved by AOTA or offered by AOTA-approved providers as long as the content is not within the exclusion in Rule 5.5.1 for courses covering documentation for reimbursement or other business matters.]**

5.3.3 **[~~CEUs~~ CE]** earned in excess of the required credits for the two (2) year period may not be carried over to the next biennial period.

5.4 Definition of Contact Hours:

5.4.1 **[~~Academic course work, correspondence courses, or seminar/workshop shall be equivalent to one (1) contact hour~~. "Contact Hour" means a unit of measure for a continuing education activity. One contact hour equals 60 minutes in a learning activity, excluding meals and breaks."]**

5.4.2 One (1) academic semester hour shall be equal to fifteen (15) contact hours.

5.4.3 One (1) academic quarter hour shall be equal to ten (10) contact hours.

~~5.4.4.The preparing of original lectures, seminars, or workshops in occupational therapy or health care subjects shall be granted one (1) contact hour for preparation fro each contact hour of presentation. Credit for preparation shall be give for the first presentation only.~~ **[~~Credit is given for substantive content only and not for breaks~~]**

5.5 ~~Categories for~~ Continuing Education Activities:

5.5.1 Courses: The maximum credit ~~number of hours~~ for course work ~~which~~ shall not exceed nineteen (19) hours**, [~~(1.9 CEUs)~~]**. ~~are hour-for hour program content only, courses from~~ Extension courses, refresher courses, workshops, seminars, lectures, conferences, and non patient-specific in-service training qualify under this provision as long as they **[are presented in a structured educational experience beyond entry-level academic degree level and]** satisfy the criteria in 5.3.1. ~~in-services, as long as they enhance occupational therapy services.~~ Excluded are any job related duties in the workplace such a fire safety, OSHA or CPR. Also excluded are courses covering documentation for reimbursement or other business matters.

5.5.1.1 Course work involving alternative therapies shall be limited to five(5) hours, **[~~(5.0 CEUs)~~]**.

5.5.1.2 Course work by homestudy/ correspondence shall be limited to ten (10) hours, **[~~(1.0 CEU)~~]**

5.5.2 Professional Meetings & Activities: The maximum number of credit hours shall not exceed ten (10) hours, **[~~(1.0 CEU)~~].** Approved credit includes attendance at: DOTA business meetings, AOTA business meetings, AOTA Representative Assembly meetings. NBCOT meetings, OT Licensure Board meetings and AOTA National Round Table discussions. Credit will be given for participation as an elected or appointed member/officer on a board, committee or council in the field of health and social service related to occupational therapy. Seminars or other training related to management or administration are considered professional activities. Excluded are any job related meetings such a department meetings, supervision of students and business meetings within the work setting.

5.5.3 Publications: The maximum number of credit hours shall not exceed fifteen (15) hours, **[~~(1.5CEUs)~~]**. These include writing chapters, books, abstracts, book reviews accepted for publication and media/ video for professional development in any venue. ~~Prior approval by the Board for individual credit is mandatory for the licensee. Publications submitted at the close of the licensure period, which have not been previously reviewed and approved by the Board, will not be considered for continuing education credits.~~

5.5.4 Presentations: The maximum number of credit hours shall not exceed fifteen (15) hours, **[~~(1.5 CEUs).~~]** This includes workshops and community service organizations presentations that the licensee presents. Credit will not be given for the presentation of information that the licensee has already been given credit for under another category. Excluded are presentations that are part of a licensee's job duties. The preparation of original lectures, seminars, or workshops in occupational therapy or health care subjects shall be granted one (1) hour **[~~(0.1 CEU)~~]** for preparation for each contact hour of presentation. Credit for preparation shall be given for the first presentation only.

5.5.5 Research/Grants: **[Credit] [~~M~~]**may be **[awarded ~~used~~]** one time for ~~CEUs~~ **[contact hours]** per study/topic regardless of length of project, not to exceed ten (10) hours, **[~~(1.0 CEU)~~]**. **[Contact hours ~~CEUs~~]** accumulated under this category may not be used under the publication category. Licensees must submit documentation of authorship or letters from authorizing entity to receive continuing education credit. ~~Documentation must be presented for prior Board approval to determine the number of CEU hours.~~

5.5.6 Specialty Certification: Approval for credit hours for specialty certification, requiring successful completion of courses and exams attained during the current licensure period will be at the discretion of the Board. Examples include Certified Hand Therapist (CHT) and **[~~Certified Pediatric~~]** Occupational Therapist, **[Board Certified in Pediatrics]** (BCP).

~~5.5.7 Home Study Courses: The maximum number of credit hours shall not exceed ten (10) hours, (1.0 CEUs). These include distance learning and correspondence courses. Documentation must be presented for prior Board approval for home study courses~~

5.6 The Board may waive or postpone all or part of the continuing education activity requirements of these regulations if an occupational therapist or occupational

therapy assistant submits written request for a waiver and provides evidence to the satisfaction of the Board of an illness, injury, financial hardship, family hardship, or other similar extenuating circumstance which precluded the individual's completion of the requirements.

6.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

6.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

6.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

6.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

6.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

6.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

6.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

6.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

6.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

6.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

6.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

6.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

6.6.6 Compliance by the regulated professional

with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

6.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

6.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

6.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

6.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

6.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a non disciplinary matter.

6.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

Decision And Effective Date

The Board adopts the changes to Regulation 2.0 and 5.0 as modified after public comment to be effective 10 days following publication of this order in the Register of Regulations.

SO ORDERED this 5th day of March, 2003.

STATE BOARD OF OCCUPATIONAL THERAPY

December Hughes, President
John Kirby, Vice President
Mara Schmittinger
David Mangler

DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF PSYCHOLOGISTS

24 Delaware Admin. Code 3500
Statutory Authority: 24 Delaware Code, Section 3506 (24 **Del. C.** §3506(a)(1))

Summary Of The Evidence

There were no written or verbal comments concerning the proposed Rule and Regulation 7.2.

Findings Of Fact

The Board of Examiners of Psychologists ("Board") makes the following findings of fact pursuant to 29 Del.C. § 10118(b):

1. Pursuant to 24 Del.C. §3506(a), the Board proposed to revise its existing Rules and Regulations, so that postdoctoral experience must consist of 1,500 hours of actual work experience, instead of 3,000 hours, and that such experience is to be completed in not less than one year, instead of two years.

2. Pursuant to 29 Del.C. § 10115, notice was given to the public that a hearing would be held on February 3, 2003 at 9:00 a.m. in the Second Floor Conference Room of the Cannon Building, 861 Silver Lake Blvd., Dover, Delaware to consider the proposed revisions. Notice of the public hearing was published in the Delaware Register of Regulations dated January 1, 2003 and two Delaware newspapers of general circulation.

3. The notice invited the public to submit written comments regarding the proposed revisions.

4. A hearing was held on February 3, 2003, at which a quorum of the Board was present to hear public comment, deliberate and render a decision.

5. No written comments were received prior to and at the February 3, 2003 hearing and no person appeared at the hearing concerning the proposed revisions.

6. The Board reviewed and discussed the proposed revisions to Rule 7.2. Rule 7.2 is changed in order to be consistent with a recent amendment to 24 Del.C. § 3508 that changed the postdoctoral degree experience from two (2) years to one (1) year.

7. As part of its discussions, the Board proposed that the sentence in Rule 7.2,"There is to be one hour of face-to-face supervision for every 1-10 hours of clinical work," should be revised to state, "There is to be one hour of face-to-face supervision for every 1 to 10 hours of clinical work." The Board finds that this proposed change is a nonsubstantive matter, that the meaning of the rule has not changed with this proposed revision, and that the Board is not required to repropose the regulation change in light of this additional proposal. 29 Del.C. § 10118(c). The Board

finds the proposed revisions serve to clarify and update 24 Del.C. Ch. 35 and its Rules and Regulations.

Text And Citation

The text of the Rules and Regulations hereby promulgated are attached hereto and incorporated herein as Exhibit A with the revisions noted.

Decision And Order

NOW THEREFORE, by unanimous vote of the Board, it is the decision and order of the Board that the revised Rules and Regulations, as adopted, are attached hereto and incorporated herein as Exhibit A. It is also the decision and order of the Board that the Rules and Regulations are adopted in the text as it substantively appeared in the Delaware Register of Regulations, attached as Exhibit B, which does not reflect a nonsubstantive change proposed at the hearing, as noted above. The effective date of this Order and the Rules and Regulations is ten (10) days after the date the Order is published in its final form in the Delaware Register of Regulations pursuant to 29 Del.C. § 10118(g).

IT IS SO ORDERED this ___ day of _____, 2003.

STATE OF DELAWARE, BOARD OF EXAMINERS OF PSYCHOLOGISTS:

William Ulmer, Jr., Public Member
Dr. Joseph Keyes, Professional Member
Dr. Vivian Yamada, Professional Member
Richard Lindale, Public Member
Donna Galla, Public Member
Frank Szczuka, Public Member

ATTEST:

Karin Stone, Administrative Assistant to the Board

This is to certify that the above and foregoing is a true and correct copy of the Order of the Delaware State Board of Examiners of Psychologists in the Matter of Revision and Adoption of Rule and Regulation 7.2.

Board Of Examiners Of Psychologists
Rules And Regulations

7.0 Supervised Experience

The types of supervision pertinent to licensure as a psychologist or registration as a psychological assistant are comprised of three types of supervisory experiences:

7.1 Predoctoral internship supervision as required by doctoral programs in psychology. The predoctoral internship consists of a minimum of 1,500 hours of actual work experience completed in not less than 48 weeks, nor more than 104 weeks. At least 50% of the predoctoral supervised experience must be in clinical services such as treatment, consultation, assessment, and report writing, with at least 25% of that time devoted to face-to-face direct patient/client contact. No more than 25% of time shall be allocated for research.

7.2 Postdoctoral supervision is required for initial licensure as a psychologist. Postdoctoral experience must consist of ~~3,000~~ 1,500 hours of actual work experience. This experience is to be completed in not less than ~~two years~~ one year and not more than three calendar years, save for those covered under 24 **Del.C.** §3519(e). For those individuals the accrual of ~~3,000~~ 1,500 hours of supervised postdoctoral experience must take place within six calendar years from the time of hire. There is to be one hour of face-to-face supervision for every 1 **[- to]** 10 hours of clinical work. This experience shall consist of at least twenty-five percent and not more than sixty percent of the time devoted to direct service per week in the area of the applicant's academic training. "Direct service" consists of any activity defined as the practice of psychology or the supervision of graduate students engaging in activities defined as the practice of psychology. Not more than 25% of this supervision can be done by other licensed mental health professionals besides psychologists.

The purpose of the postdoctoral supervision is to train psychologists to practice at an independent level. This experience should be an organized educational and training program with explicit goals and a clear plan to meet those goals. There should be regular written evaluations based on this program.

7.3 Supervision of psychological assistants is required at the frequency of one hour of face-to-face supervision for every 1-10 hours of clinical work by the psychological assistants, as required by Section 9 of the Rules and Regulations. An individual registered as a psychological assistant may or may not be receiving supervision in pursuit of independent licensure as a psychologist.

7.4 A psychologist providing either postdoctoral supervision or supervision of psychological assistants must have been in practice for two years post licensure in this or any other state without having been subject to any disciplinary actions. He/she must provide 24-hour availability to both the supervisee and the supervisee's clients, or ensure that adequate alternative coverage is provided in the supervisor's absence. The supervising psychologist shall have sufficient knowledge of all clients including face-to-face contact when necessary and must be employed or under contract in the setting where the clinical service takes place and the supervision must occur within that setting.

See 2 DE Reg. 776 (11/1/98)

*** PLEASE NOTE: AS THE REST OF THE REGULATIONS WERE NOT AFFECTED THEY ARE NOT BEING REPRODUCED HERE.**

DIVISION OF PROFESSIONAL REGULATION
BOARD OF SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS, AND HEARING AID DISPENSERS

24 DE Admin. Code 3700

Statutory Authority: 24 Delaware Code, Section 3706(a)(1) (24 **Del.C.** §3706(a)(1))

A public hearing was held to receive comments on March 12, 2003 at the regularly scheduled meeting of the Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers. During the meeting that followed, the Board considered changes to its Rules and Regulations that were published in the Register of Regulations, Vol. 6, Issue 8, February 1, 2003.

Summary of the Evidence

There were no written or verbal public comments.

Text and Citation

The proposed rules were adopted as they appear in the Register of Regulations, Vol. 6, Issue 8, February 1, 2003, except that the month for notification of the audit is changed from May to April in Rule 8.2.7 so the Board will have sufficient time to receive and review the audited continuing education. A typographical error was corrected in Rule 8.32. The Board determined that the changes was non-substantive.

Decision And Effective Date

The Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers hereby adopts the changes to the Rules and Regulations as provided herein to be effective 10 days following final publication in the Register of Regulations.

BOARD OF SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID DISPENSERS

Gary Marencin, President
Marilyn Karam
Frank Divita
Les Moore
Cynthia Parker
Andrea Lipchek

Dated: March 12, 2003

1.0 Division of Professional Regulation

1.1 Responsibilities

1.1.1 All applications and other forms may be obtained from, and must be returned after completion, to the Division of Professional Regulation, ATTN: SLP-AUD-HAD, at 861 Silver Lake Blvd., Ste. 203, Dover, DE 19904-2467 by mail or in person during regular business hours. Information and forms are also available at the web site at http://www.professionallicensing.state.de.us

1.1.2 Fees required under the statute are to be made payable to the State of Delaware and remitted to the Division of Professional Regulation. No license shall be issued until all required fees are paid.

1.1.3 The Administrative Assistant assigned by the Division of Professional Regulation performs support functions for the Board and serves as the contact person for the Board to receive inquires.

2.0 Licensure Requirements for Speech-Language Pathologists and Audiologists

2.1 Education

2.1.1 To be eligible for a license as a Speech/ Language Pathologist or Audiologist, the applicant must submit verification by an official transcript of completion of at least a master's degree or its equivalent, from an accredited college or university with major emphasis in speech-language pathology, audiology, communication disorders or speech-language and hearing science.

2.2 Clinical Practicum

2.2.1 The Speech/Language Pathology and Audiology applicant must have completed a minimum of 375 clock hours of supervised clinical practicum with major emphasis in the professional area for which the license is being sought. Clinical observation may qualify for up to 25 of the hours in the supervised clinical practicum.

2.2.2 A minimum of 250 clock hours in the area of specialty of the supervised clinical practicum must have been obtained at the graduate level.

2.3 Clinical Fellowship Year (CFY)

2.3.1 The Speech/Language Pathology or Audiology applicant must have the equivalent of nine (9) months of full-time or eighteen (18) months of part time (defined as 15-20 hours per week) supervised * CFY in the

major professional area in which the license is being sought. The CFY must start after completion of the academic and clinical practicum requirements.

* Supervision is defined as direct observation consisting of 36 supervisory activities, including 18 one hour on-site observations and 18 other monitoring activities. (From Appendix E of Clinical Fellowship Year adopted ASHA 1985)

2.4 National Examination

2.4.1 The Speech/Language Pathology and Audiology applicant must have completed and passed the national examination approved by the Division of Professional Regulation for the area of specialty with at least the minimum nationally recommended score. Scores must be sent directly from the testing service to the Division of Professional Regulation.

2.4.2 A Speech/Language Pathology or Audiology applicant with a temporary license is permitted to complete the appropriate national examination during the period of the temporary license.

2.4.3 Anyone who fails two examinations may not be reexamined for a period of one year following the second failure. Prior to reexamination after a second failure, an applicant must submit proof of additional course work and/or clinical experience.

2.5 Application Process-Temporary Licensure

2.5.1 An applicant must complete a notarized application for temporary licensure. Items which must be provided to the Division of Professional Regulation include:

2.5.1.1 Official Transcript(s);

2.5.1.2 Documents verifying the appropriate number and level of supervised clinical practicum hours;

2.5.1.3 CFY plan on a form approved by the Board, signed by the licensed professional who will provide the supervision;

2.5.1.4 payment of appropriate fees.

2.5.2 A temporary license is valid for one year from the date of issuance and may be renewed for one year in extenuating circumstances upon application to the Board. Requests for Board consideration of a renewal shall be made in writing and sent to the Division of Professional Regulation 60 days prior to expiration.

2.6 Application Process -Permanent Licensure

2.6.1 Speech/Language Pathology and Audiology applicants must complete the application on a form approved by the Board and submit the appropriate fee.

2.6.2 An applicant who has ASHA Certification must comply with Section 2.6.1 and submit a copy of current ASHA certification.

2.6.3 An applicant who is currently licensed in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this state, must comply with Section 2.6.1 and submit verification of licensure in good standing from all jurisdictions where he or she is or has been licensed. Applicants for reciprocal licensure from states not substantially similar to this state shall provide proof of practice for a minimum of five years after licensure in addition to meeting the other qualifications in 24 **Del.C.** 3710 this section. Verification of practice should be by notarized letter from the employer(s).

2.6.4 An applicant who has completed the supervised CFY in Delaware and has a current temporary license, must submit the following documentation to the Division of Professional Regulation 30 days prior to expiration of the temporary license:

2.6.4.1 proof of completion of the CFY,

2.6.4.2 national examination score unless previously provided,

2.6.4.3 licensure fee.

3.0 Licensure Requirements for Hearing Aid Dispensers

3.1 Education

3.1.1 To be eligible for a license as a Hearing Aid Dispenser, the applicant must submit verification of high school diploma or its equivalent.

3.2 National Examination

3.2.1 Hearing Aid Dispensing applicants must have completed and passed the national examination approved by the Division of Professional Regulation, in accordance with scores as recommended by the national testing service, National Institute for Hearing Instruments Studies (NIHIS), or its successor.

3.2.2 Anyone who fails two examinations may not be reexamined for a period of one year following the second failure. Prior to reexamination after a second failure, an applicant must submit proof of course work and/or supervised experience.

3.3 Application Process - Temporary Licensure

3.3.1 An applicant must complete the application for temporary licensure. Items which must be provided to the Division of Professional Regulation include:

3.3.1.1 verification of a high school diploma or its equivalent,

3.3.1.2 payment of appropriate fees, and

3.3.1.3 notarized signature of a Delaware licensed sponsor stating a willingness to provide direct supervision and training. Direct supervision is defined as a minimum of 25% direct on-site observations during the temporary licensure period.

3.3.2 A temporary license is valid for one year from date of issuance and may be renewed for one year in extenuating circumstances upon application to the Board. Requests for Board consideration of a renewal shall be made in writing and sent to the Division of Professional Regulation 60 days prior to expiration.

3.4 Application Process-Permanent Licensure

3.4.1 All Hearing Aid Dispensing applicants

must complete an application on a form approved by the Board and submit it with the appropriate fee to the Division of Professional Regulation.

3.4.2 A Hearing Aid Dispensing applicant who is currently licensed in another state, the District of Columbia, or territory of the United States, whose standards for licensure are substantially similar to those of this state, must comply with 3.4.1 and submit verification of licensure in good standing from all jurisdictions where he or she is or has been licensed. Applicants for reciprocal licensure from states not substantially similar to this state shall provide proof of practice for a minimum of five years after licensure in addition to meeting the other qualifications in 24 **Del.C.** 3710. Verification of practice should be by notarized letter from the employer(s).

3.4.3 Licensees holding temporary Hearing Aid Dispensing licenses must submit a passing score on the national examination described in 3.2.1 and the required fee to the Division of Professional Regulation to obtain a permanent license.

4.0 Expired Licenses and Inactive Status

4.1 Expired Licenses

4.1.1 A holder of an expired license may renew the license within one year of the date the renewal was due by fulfilling all of the renewal requirements and paying the late fee established by the Division of Professional Regulation.

4.2 Inactive Status

4.2.1 A licensee may apply to the Board for inactive status for up to five years. The license may be reactivated upon application on a form approved by the Board and proof of 20 CE's completed within the preceding 24 months (30 CE's for a triple license) as required by Section 8.2.3, and paying the fee established by the Division of Professional Regulation.

5.0 Requirements for Audiology Aides

5.1 Certification

5.1.1 Certification of the Audiology Aide must be by the Council of Accreditation of Occupational Hearing Conservationists, or its equivalent, with documentation. The supervising Delaware-licensed audiologist must annually register each Audiology Aide using a form approved by the Board.

5.2 Direct Supervision

5.2.1 An Audiology Aide assists a licensed audiologist in professional activities with direct supervision by the audiologist. Direct supervision requires the presence of the supervising audiologist on the premises when the aide is performing professional activities.

5.3 Duties of the Audiology Aide

5.3.1 Duties of the Audiology Aide must be specified by the supervising audiologist and may include the following:

5.3.1.1 Air conduction pure tone assessment and data recording.

5.3.1.2 Hearing screenings.

5.3.1.3 Assisting with conditioning techniques.

5.3.1.4 Cursory otoscopy.

5.3.1.5 Basic hearing aid maintenance.

5.3.1.6 Routine instrument sterilization.

5.3.1.7 Biologic and electroacoustic assessment of the audiometer.

5.3.1.8 Clerical support.

5.3.1.9 Participation with the professional in research projects, in service training, or similar endeavors.

5.3.1.10 Other duties as may be appropriately determined with training from and direct supervision of the Delaware licensed audiologist.

6.0 Requirements for Speech/Language Pathology Aides

6.1 Education

6.1.1 A Speech Pathology Aide must have a minimum of a high school diploma or its equivalent.

6.2 Direct Supervision

6.2.1 A Speech Pathology Aide assists a licensed Speech/Language Pathologist in professional activities with direct supervision of the Speech Pathologist. Direct supervision requires the presence of the supervising Speech/Language Pathologist at all times where an aide is assisting with testing, and/or treatment.

6.3 Duties of the Speech/Language Pathology Aide

6.3.1 Duties of the Speech Pathology Aide must be specified by the supervising Speech/Language Pathologist and may include the following:

6.3.1.1 Assisting with testing or treatment.

6.3.1.2 Clerical support.

6.3.1.3 Client escort.

6.3.1.4 Preparation of therapeutic materials

6.3.1.5 Equipment maintenance.

6.3.1.6 Participation with the professional in research projects, in service training, or similar endeavors.

6.3.1.7 Other duties as may be appropriately determined with training from and direct supervision of the Delaware licensed Speech/Language Pathologist.

7.0 Electronic equipment

7.1 Standards

7.1.1 Calibration of electronic equipment used to assess hearing shall be performed by a certified professional consistent with the standards set by the American National Standards Institute (ANSI).

7.1.2 Every licensed Audiologist and Hearing Aid Dispenser shall annually submit proof of calibration to the Board. Any Audiologist who does not have such equipment may file an affidavit so stating on a form

approved by the Board.

8.0 Continuing Education For All Licensees:

Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers

8.1 Philosophy

8.1.1 Continuing education is required by the Delaware Board of Examiners to maintain professional licensure in the fields of Speech/Language Pathology, Audiology and Hearing Aid Dispensing. Continuing education requirements arise from an awareness that these fields are in a continual state of transition due to the introduction of new philosophies and the refinement of already existing knowledge. Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers should continually strive to update their clinical skills in an effort to deliver high quality services.

8.1.2 The Delaware Board of Examiners is keenly aware of existing educational opportunities in Delaware and neighboring states and has established regulations which will provide continuing education credit as effortlessly as possible while assuring quality instruction. Credit will be given for participation in a variety of activities which increase knowledge and enhance professional growth.

8.1.3 These regulations recognize the financial and time limitations of Delaware's professionals while assuring continued appropriate services to those individuals who require them.

8.2 Continuing Education ~~Hours and Definitions~~ Criteria

8.2.1 One contact hour is abbreviated as CE and is defined as 60 minutes of attendance/participation in an approved continuing education activity unless otherwise stated.(Therefore, credits and CEU's issued by various organizations must be translated. e.g., 1.0 ASHA CEU = 10 CE's)

8.2.2 Continuing Education Time Frame: CE requirements must be completed by April 30th of each license renewal period. Each licensee has up to 24 months in which to complete the minimum continuing education requirements, that is from May 1 (of the current renewal year) to April 30 of the next renewal year. Licenses expire on July 31 of the odd-numbered years.

8.2.3 The required number of continuing education contact hours vary with certification and/or professional status as outlined below:

8.2.3.1 New License: If a license would cover less than one year, the licensee is not required, but is encouraged, to accrue continuing education hours. If a license would cover more than one year, but less than 2 years, the licensee is required to obtain 10 CE's or one-half of the required total hours.

8.2.3.2 Single License: Individuals retaining a license in one area of specialty must obtain a minimum total of 20 CE's for each two-year license period.

8.2.3.3 Dual License: Individuals retaining licenses in two areas of specialty must obtain a minimum total of 20 CE's for each two year license period, with 10 CE's obtained in each area of licensure. One course may be split between areas of licensure to fulfill multiple continuing education requirements. Content must be shown to be relevant to those areas.

8.2.3.4 Triple License: Individuals retaining licenses in three areas of specialty must obtain a minimum of 30 CE's for each two-year license period, with 10 CE's obtained in each area of licensure. One course may be split between areas of licensing to fulfill multiple continuing education requirements. Content must be shown to be relevant to those areas.

8.2.3.5 Temporary License: All continuing education requirements will be waived for temporary licensees; however, individuals are encouraged to participate in continuing education activities during their CFY period.

8.2.3.6 Extenuating Circumstances: The Board may consider a waiver of CE requirements or acceptance of partial fulfillment based on the Board's review of a written request with supporting documentation. Extenuating circumstances may include, but are not limited to, disability, illness, extended absence from the jurisdiction, and exceptional family responsibilities.

8.2.4 Continuing education courses shall focus on the enhancement of clinical skills and professional growth as defined below.

8.2.4.1 Clinical Skills: conferences, workshops, courses, etc., that expand a licensee's scope of practice by enhancing skills in the areas of prevention, assessment, diagnosis and treatment of the client (minimum of 14 CE's for licensure period)

8.2.4.2 Professional Growth: conferences, workshops, courses, etc., that may not directly impact on clinical services to the population being served, but are of interest to the licensee and will allow the licensee the opportunity to stay abreast of current trends in the profession or related fields of interest(maximum of 6 CE's for licensure period)

8.2.5 Verification is required and allows the licensee to show the relevance of continuing education to professional practice. Excluded are any job related duties in the workplace such as staff meetings, in-service training, CPR, etc.

8.2.6 A licensee or sponsor who wishes to be sure that an activity will be approved by the Board may request advance approval from the Board by submitting a completed Board Approval form.

8.2.7 The Board will monitor compliance using an audit system. Licensees will be selected for audit and notified by mail in ~~May~~ **[April]** of each renewal year. A licensee who is audited shall submit the Continuing

Education Record. Licensees who are not audited shall retain their documentation as provided in Rule 8.4.1.2.

8.3 ~~Suggested Activities for Obtaining CE's~~ Continuing Education

~~8.3.1 Continuing education courses shall focus on professional growth and the enhancement of clinical skills. and be recorded on the appropriate Board form(s). Verification is required and allows the licensee to show the relevance of continuing education to professional practice.~~

~~8.3.2 All continuing education activities approved and sponsored by the American Speech, Language and Hearing Association or other accredited related professional associations, including study of professional journals which grant ASHA CEU's. Verification is required--photocopy acceptable.~~

8.3.1 Continuing education activities sponsored by accredited related professional organizations, provided the topics are relevant to the improvement of the licensee's clinical skills or professional growth as defined in Rule 8.2.4. Verification of completion is required. Agenda of sessions attended and time spent is required for convention activities.

8.3.2 A licensee may receive up to 3 CE's for training obtained from a colleague who, after attending a professional conference, gives a formal presentation of the information from the conference after developing an agenda and outline.

~~8.3.3 All scientific and clinical sessions and short courses of the American Speech, Language and Hearing Association National Conventions or other accredited related professional associations. Verification required--photocopy of short course completion acceptable. Agenda of sessions attended and time spent is required for convention activities.~~

~~8.3.4 All Delaware Speech, Language and Hearing Association (DSHA) sponsored activities, including professional meetings. Verification of completion required.~~

~~8.3.5 Delaware Department of Education course offerings in areas related to the professions (1/5 Delaware Department of Education (DDE) credit = 3 hours= 3 CE's) Verification required.~~

~~8.3.6 Professional study group and journal group meetings recognized and monitored by the Delaware Speech, Language and Hearing Association. Verification required including summary/agenda and time spent.~~

~~8.3.7~~ 8.3.3 ~~Professional~~University/College coursework for academic credit in the field of Speech/ Language Pathology, Audiology or Hearing Aid Dispensing. Verification of credits earned upon course completion along with a course description should be submitted to the Board for approval. The course description may be submitted for prior approval of the course. (1 undergraduate credit = minimum of 3 CE's ; 1 graduate credit = minimum of 5 CE's)

~~8.3.8~~ 8.3.4 Professional presentations. ~~by licensee on professional required topics~~. Verification, including summary, time spent and verification from sponsor. Credit is given for each presentation only once during a licensure period. (1 hour of presentation = 3 CE's)

~~8.3.9~~ 8.3.5 Professional publication in ~~by licensee within ASHA or~~ related specialty journals. Verification required. Reprint of publication.

~~8.3.10~~ 8.3.6 Other continuing education with documentation of content and hours attended. ~~A licensee who wishes to be sure that an activity will be approved by the Board may request advance approval from the Board (See Rule 4.1.3)~~

8.4 Continuing Education ~~Checklist of~~ Responsibilities

8.4.1 All licensees shall:

8.4.1.1 ~~obtain a Continuing Education Record form~~ Complete the required continuing education by April 30 of each renewal year.

8.4.1.2 Document completed continuing education activities on the Continuing Education Record form and retain in your records for three years following renewal. ~~document completed continuing education activities on Continuing Education Record~~

8.4.1.3 If audited, provide documentation of having attended approved continuing education activities as outlined under Rule 8.2.3 to the Board. If an activity was completed but is not approved by the Board, the licensee shall replace the CE with an approved activity before July 31 of the renewal year. ~~obtain a Board Approval form and submit before the Board meeting preceding the start of a proposed activity if a licensee seeks advance approval and determination of CE's.~~

~~8.4.1.4 obtain a Board Approval form and submit after completion of the CE activity for approval and determination of CE's.~~

8.4.1.5 Mail Continuing Education Record to the Division of Professional Regulation by May 1st of the renewal year.

~~8.4.1.6 retain photocopy of Continuing Education Record for personal records.~~

9.0 Code of Ethics for Speech-Language Pathologists, Audiologists, and Hearing Aid Dispensers

9.1 PREAMBLE. The preservation of the highest standards of conduct and integrity is vital to achieving the statutory declaration of objectives in 24 **Del.C.** §3701. Adopting a code of ethics by regulation puts licensees on notice of the kinds of activity that violate the level of care and protection to which the clients are entitled. The provisions are not intended to be all-inclusive but rather they should serve as examples of obligations that must be satisfied to maintain minimum standards.

9.2 Standards of Professional Conduct

9.2.1 A licensee who violates the following Standards of Professional Conduct may be guilty of illegal, negligent, or incompetent practice and disciplined pursuant to 24 **Del.C.** §3715(a)(2).

9.2.1.1 Licensees shall provide all services competently. Competent service refers to the use of reasonable care and diligence ordinarily employed by similarly licensed individuals.

9.2.1.2 Licensees shall use every resource, including referral, to provide quality service.

9.2.1.3 Licensees shall maintain reasonable documentation of professional services rendered.

9.2.1.4 Licensees shall not evaluate or treat a client with speech, language, or hearing disorders solely by correspondence. Correspondence includes telecommunication.

9.2.1.5 Licensees shall delegate responsibility only to qualified individuals as permitted by law with appropriate supervision.

9.2.1.6 Licensees who have evidence that a practitioner has violated the Code of Ethics or other law or regulation shall present that information by complaint to the Division of Professional Regulation for investigation.

9.3 Standards of Professional Integrity.

9.3.1 A licensee who violates the following Standards of Professional Integrity may be guilty of consumer fraud, deception, restraint of competition, or price-fixing and disciplined pursuant to 24 **Del.C.** §3715(a)(6).

9.3.1.1 Licensees shall not charge for services not rendered nor misrepresent the services or products dispensed.

9.3.1.2 Licensees shall inform clients of the nature and possible effects of services. Care must be taken to speak to a client in lay terms that he or she can understand.

9.3.1.3 Licensees may use clients in research or as subjects of teaching demonstrations only with their informed consent. An informed consent must be explained and written in lay terms.

9.3.1.4 Licensees shall inform clients in any matter where there is or may be a conflict of interest. Conflicts of interest may be found when a client is steered to a particular provider by one with an expectation of financial gain (kickbacks) or a provider is involved in double dipping by providing services in a private practice that he or she is obligated to provide though public employment (double-dipping).

9.3.1.5 Licensees shall make no guarantees of the results of any product or procedure but may make a reasonable statement of prognosis.

9.3.1.6 Licensees shall provide services or dispense products only when benefits can reasonably be expected.

9.3.1.7 Licensees shall not engage in misrepresentation, dishonesty, fraud, or deceit. Misrepresentation includes statements likely to mislead or an omission of material information.

9.3.1.8 Licensees who advertise shall provide information in a truthful manner that is direct and not likely to mislead the public.

9.3.2 A licensee who violates the following Standards of Professional Integrity may be guilty of misrepresentation, impersonation, or facilitating unlawful practice and disciplined pursuant to 24 **Del.C.** §3715(a)(1).

9.3.2.1 Licensees shall accurately represent any credentials, education, and experience to the public.

9.3.2.2 A licensee who has evidence that an individual is practicing the profession without a license in violation of 24 **Del.C.** §3707 has a duty to report that information to the Division of Professional Regulation.

9.4 Miscellaneous Professional Standards

9.4.1 A licensee who violates the following Professional Standards may be subject to disciplinary action under 24 **Del.C.** §3715(a)(7)

9.4.1.1 Licensees shall respect the privacy of clients and not reveal, written authorization, any professional or personal information unless required by law.

9.4.1.2 Licensees shall not discriminate on the basis of race, sex, age, religion, national origin, sexual orientation, or disability.

9.4.1.3 Licensees shall offer services and products on their merits and should refrain from making disparaging comments about competing practitioners or their services and products.

10.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

10.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

10.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

10.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

10.4 A regulated professional with chemical

dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

10.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

10.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

10.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

10.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

10.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

10.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

10.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

10.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

10.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

10.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

10.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

10.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

10.11 Any person who reports pursuant to this

section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a non disciplinary matter.

10.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

DEPARTMENT OF AGRICULTURE

HARNESS RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10027 (3 **Del.C.** §10027)

ORDER

Pursuant to 29 *Del. C.* §10113(b) and 3 *Del. C.* §10005, the Delaware Harness Racing Commission ("the Commission") hereby issues this Order to not adopt a proposed Rule 8.8. Following notice and a public hearing held on March 4, 2003, the Commission makes the following findings and conclusions:

Summary Of Evidence And Information Submitted

1. The Commission posted public notice of the proposed rule amendment in the February 1, 2003 Register of Regulations and in the Delaware Capital Review and the Delaware State News. The proposal contained a proposed new Rule 8.8 to permit aminocarproic acid ("amicar") as a race day medication, to establish the procedure for the administration of amicar, and to establish the procedure for a horse to be entered in the Amicar program and to be removed from the Amicar program.

2. The Commission received no written public comments prior to the public hearing. The Commission received comments at the public hearing on March 4, 2003.

3. Charles Lockhart, Vice-President, Dover Downs, stated that the proposed rule raised several issues-1)whether any horse could receive amicar; 2)under the treatment times, could different horses be treated at different times and if so, would additional stalls be needed at the track; 3)does the dosage given affect the horse's performance; 4)how can a horse be removed and then put back on the program. Mr. Lockhart questioned the validity of the proposed Amicar Program and stated the proposed rule would compound the image problem that exists in harness racing with illegal medications. Mr. Lockhart believed that the rule contains a lot of uncertainty.

4. Dr. Jay Baldwin, D.V.M, stated that all horses would be eligible for the Amicar Program. The proposed rule is based on the declaration program currently used in California. Most horses bleed at some time and that may explain the language of the proposed rule. Dr. Baldwin stated the proposed rule would allow for treatment time of between 75 and 120 minutes before the race. The intent of the rule was to allow for some flexibility in the treatment of the horse. There is no major performance enhancing effect related to the time at which amicar is administered. Dr. Baldwin stated that the effect of amicar on race horses has not been completely studied. Dr. Baldwin was not clear on whether the amount of the amicar dosage would affect performance. The proposed rule would require a horse to be in the program for a minimum of sixty days so that there would not be a lot of horses flip-flopping in and out of the program. The proposed rule is based on the existing rule used by the Thoroughbred Racing Commission.

5. Frank Chick stated that he agreed with the comments of Mr. Lockhart and believed that the rule was "all over the place" and should not be adopted.

Findings Of Fact And Conclusions

6. The public was given notice and an opportunity to provide the Commission with comments in writing and at a public hearing.

7. The Commission finds that the proposed amendment to the Commission's Rules should not be adopted on this record. The public comments at the public hearing raised several significant questions about the impact of the proposed rule. The comments from the public addressed significant concerns about whether the performance of a horse could be impacted from the timing of the administration of amicar or from the amount of the dosage. The Commission concludes that the significant unanswered questions on this record weigh against adoption of the proposed rule. The Commission concludes that its decision to not adopt the proposed amicar rule on this record is consistent with this agency's duty to regulate and oversee harness racing in the public interest under 3 *Del. C.* §10005. The Commission concludes that the proposed Rule should not be adopted as proposed.

8. This Order will be published in the April 1, 2003 Register of Regulations. The effective date of the Order will be April 11, 2003.

IT IS SO ORDERED this 11th day of March, 2003

Beth Steele, Chair
Mary Ann Lambertson, Commissioner
Robert L. Everett, Commissioner
Kenneth Williamson, Commissioner

~~[8.8 Aminocarproic Acid (Amicar)~~

~~8.8.1 General~~

~~Aminocarproic Acid (Amicar) is a permitted race day medication. Amicar may only be administered in a Commission's designated area by the Commission's Lasix Veterinarian. All horses are eligible for Amicar. To become eligible, the trainer must file a written request with the Judge's office prior to entry of the horse in a race.~~

~~8.8.2 Treatment Time~~

~~Treatment time shall be within 120 minutes of post time up to a minimum of 75 minutes prior to post time.~~

~~8.8.3 Dosage~~

~~As a guideline, dosage shall be not less than 10 cc and not greater than 30 cc.~~

~~8.8.4 Declaration of Amicar/Amicar Program~~

~~Amicar must be declared at time of entry. A horse shall remain on the Amicar Program for a minimum period of 60 (sixty) days unless there is a medical reason to be removed at the discretion of the Commission or Lasix Veterinarian. That recommendation would be made to the Judges for their consideration. Following the 60 (sixty) days participation in the Amicar Program, the trainer may request that the horse be removed from the program. Such request must be in written form and shall be filed with the Judge's office for consideration. The written request shall be prior to entry in a race to ensure proper notification to the public.~~

~~8.8.5 Listing of Amicar Program Horses~~

~~A list of horses on the Amicar Program will be maintained by the Judge's office.~~

~~8.8.6 Racing Program Designation~~

~~A horse enrolled in the Amicar Program will be noted as an "A" in the racing program next to the "L" designated for Lasix.]~~

DEPARTMENT OF EDUCATION

14 DE Admin. Code 410

Statutory Authority: 14 Delaware Code, Section 122 (d) (14 **Del.C.** § 122 (d))

Regulatory Implementing Order

410 Satellite School Agreements

Summary of the Evidence and Information Submitted

The Secretary seeks to amend regulation 410 Satellite School Agreements by adding the definition of a Satellite School from the statute as 1.0, adding clarity to section 1.0 (2.0 as amended) and eliminating the word "etc." from 3.0 (4.0 as amended) and replacing it with the words "and other considerations relevant to the health and safety of students".

Notice of the proposed regulation was published in the News Journal and the Delaware State News on January 21, 2003, in the form hereto attached as Exhibit A.

Comments were received from the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities recommending the addition of the word "accessibility" to section 4.0 as one of the considerations in order to clarify and highlight that accessibility is a generally significant consideration. The word "accessibility" has been added as suggested.

Findings of Facts

The Secretary finds that it is appropriate to amend this regulation in order to add the definition of Satellite schools, to eliminate the reference to "etc." and to add the word accessibility to section 4.0.

Decision To Amend The Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the regulation. Therefore, pursuant to 14 *Del. C.* §122, the regulation attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 *Del. C.* §122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

Text and Citation

The text of the regulation amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 DE Admin. Code § 410 in the *Regulations of the Department of Education.*

Effective Date of Order

The actions herein above referred to were taken by the Secretary pursuant to 14 *Del. C.* §2005, on March 7, 2003. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations.*

IT IS SO ORDERED the 7th day of March 2003.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

410 Satellite School Agreements

1.0 ~~Satellite school facilities shall be subject to the same health and safety codes required of other public school~~

~~facilities. Plans and specifications of proposed satellite school facilities shall be submitted for review and approval, as appropriate, to the following agencies by the local district or charter school board: Fire Marshal of Appropriate Jurisdiction, Architectural Accessibility Board, Division of Public Health for food preparation and serving area and swimming pools, Department of Natural Resources & Environmental Control for wastewater and erosion control, local building officials to provide a Certificate of Occupancy or Approval, State Risk Manager and the Department of Education~~

~~1.1 Fire Marshal of Appropriate Jurisdiction~~

~~1.2 Architectural Accessibility Board~~

~~1.3 Division of Public Health for food preparation and serving area and swimming pools~~

~~1.4 Department of Natural Resources & Environmental Control, wastewater and erosion control~~

~~1.5 Local Building Officials to provide Certificate of Occupancy or Approval.~~

~~1.6 State Risk Manager~~

~~1.7 Department of Education~~

Definition: As per 14 Del.C.§ 2005 a satellite school is defined as a public school that operates in physical facilities leased from, donated by or located on property that is owned or leased by a private sector or governmental employer which is not the school district or charter school operating the satellite school.

2.0 Satellite school facilities shall be subject to the same health and safety codes required of other public school facilities. Plans and specifications of proposed satellite school facilities shall be submitted for review and approval, as appropriate, to the following agencies by the local district or charter school board: Fire Marshal of appropriate jurisdiction, Architectural Accessibility Board, Division of Public Health for food preparation and serving area and swimming pools, Department of Natural Resources & Environmental Control for wastewater and erosion control, local building officials to provide a Certificate of Occupancy or Approval, State Risk Manager and the Department of Education.

~~2.0~~ 3.0 Documentary evidence of review and approval by the authorities listed as [**~~1.1 through 1.7~~ in 2.0]** shall be provided to the Department of Education.

~~3.0~~ 4.0 Upon receipt of the aforementioned documentary evidence, the Department of Education shall cause a review of the plans or inspection of the proposed facilities to be conducted by appropriate Department staff to determine the adequacy of the facilities for the intended educational purpose considering such items as size, **[accessibility,]** adequacy of sanitary facilities, adequacy of lighting and ventilation, ~~etc.~~ and other considerations relevant to the health and safety of students.

~~4.0~~ 5.0 Certificates of Occupancy or Occupancy Permits shall be obtained from the appropriate jurisdictional authorities prior to occupancy of the facilities by the satellite school. A copy of such certificate or permit shall be provided to the Department of Education. The satellite school facilities shall be subject to the same periodic inspections for health and safety as other public schools.

~~5.0~~ 6.0 The reorganized school district or charter school shall confer with the State Risk Manager regarding any liabilities that they and their employees may be subject to and shall provide appropriate protection and coverage for same.

Regulatory Implementing Order
729 School Custodians

Summary Of The Evidence And Information Submitted

The Secretary seeks to amend regulation 729 School Custodians in order to change section 2.4 to permit employment of the full custodial staff two months before pupil occupancy of a new building rather than one month and to eliminate the class hour certificate for the Building and Grounds Supervisor since it is not listed in the statute. Other changes simply clarify procedures involved in the allocation of school custodial positions.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on January 21, 2003, in the form hereto attached as *Exhibit A*. Comments were received from DSEA through E-mail seeking clarification of references in sections 2.2.1, 2.2.1.1, 2.8, 2.9, 3.2.1, and 4.1. All of the questions were answered to the satisfaction of the individual and no changes were required to the content of the regulation.

Findings of Facts

The Secretary finds that it is appropriate to amend this regulation in order to permit employment of the full custodial staff two months before pupil occupancy of a new building, to eliminate the class hour certificate for the Building and Grounds Supervisor since it is not listed in the statute and to clarify procedures involved in the allocation of school custodial positions.

Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the regulation. Therefore,

pursuant to 14 *Del.C.* §122, the regulation attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 *Del. C.* §122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

Text and Citation

The text of the regulation amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 DE Admin. Code § 729 in the *Regulations of the Department of Education*.

Effective Date of Order

The action herein above referred to were taken by the Secretary pursuant to 14 *Del. C* §122 on March 7, 2003. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 7th day of March 2003.

DEPARTMENT OF EDUCATION
Valerie A. Woodruff, Secretary of Education

729 School Custodians

1.0 Experience:
Custodians may be allowed one (1) year's experience for each creditable year of experience in similar employment as determined by the district.

2.0 Allocation of Custodial Units
2.1 The custodial units allocated to a district may be assigned to various locations at the discretion of the local school board and the chief school officer.

2.2 Districts are allocated one (1) full-time custodial employee for each twelve (12) custodial units or for a major fraction thereof. The number of units in each school is determined in the following way:

2.2.1 ~~One (1) unit for each classroom or its equivalent. What is counted as "equivalent" shall be determined by the Department of Education.~~ One (1) unit for each classroom. Other space that can qualify as part of a classroom unit shall be determined through criteria established by the Department of Education.

2.2.2 One (1) unit for a small auditorium (less than 150 students).

2.2.3 Two (2) units for a large auditorium (more than 150 students).

2.2.4 One (1) unit for a cafeteria having a seating capacity up to 150. One (1) unit for each 150 capacity or major fraction thereof.

2.2.5 One (1) unit for a gymnasium.

2.2.6 One (1) unit for a combined auditorium and gymnasium (less than 150 students).

2.2.7 Two (2) units for a combined auditorium and gymnasium (more than 150 students).

2.2.8 One (1) unit for two locker rooms.

2.2.9 Seven (7) units for a swimming pool.

2.2.10 Units for a central heating plant are determined from the following table:

No. of Classrooms or equivalent	No. of Units
1 - 6	3/4
10 - 15	1
16 - 20	1 ½
21 - 25	2
26 - 30	2 ½
31 - 35	3
36 - 40	3 ½
41 - 45	4
46 - 50	4 ½
51 - 55	5
56 - 60	5 ½
61 or more	

2.2.11 One-half (½) unit for each developed acre of the school plant site, not to exceed 48 acres or 24 units on a given site. If two schools are located on the same site of 100 acres or more, the second school shall receive credit for half of the acres for that site.

2.3 Part-time custodians equivalent to one or more full-time custodians may be employed with the provision that proper records will be maintained for review.

2.4 A full custodial staff for a new school building may be employed ~~one (1) month~~ two (2) months prior to the pupil occupancy of the building.

2.5 The termination date for custodial units in buildings closed shall be six (6) weeks from the last day classes are held in the building.

2.6 Buildings which are closed and retained under the control of the school district shall lose all custodial units except units provided for site maintenance and heating.

2.7 When the school district signs a lease or in any way loses direct control of the building, ~~such as transfer or sale legislation~~ through transfer, sale or legislation, the custodial units for site maintenance and heating shall terminate on the effective date of the ~~lease or legislation~~ lease, transfer, sale or legislation .

2.8 ~~When the function of a building is changed it shall be reevaluated for custodial units~~. It is the school district's responsibility to notify the Department of Education when the function of a building is changed. When the notification is received, a re-evaluation of the custodial units will be completed by the Department of Education. The Department will notify the district by letter of the results of

the re-evaluation.

2.9 ~~All custodial allocations shall be determined and approved by the Department of Education~~. The Department of Education shall calculate and approve all custodial unit allocation requests submitted by the local school districts.

3.0 Classification

3.1 Custodian-Fireman

3.1.1 When there is only one (1) custodian in a district, the custodian may be classified as a custodian-fireman.

3.1.2 There shall be only one custodian-fireman employed in each building.

3.2 Chief Custodian

3.2.1 ~~A chief custodian may be classified chief custodian when at least two other full-time custodians or the equivalent are employed in the school building or district.~~ A custodian may be classified as a Chief Custodian when at least two other full-time custodians or the equivalent are employed in the school building or other district facility. There shall only be one Chief Custodian per building.

~~3.2.2 There can be only one (1) chief custodian in a building, but there can be as many chief custodians in a district as there are buildings in the district with three or more custodians.~~

3.3 Maintenance Mechanic: Each school district may classify up to ten (10) percent of the total number of custodial personnel as maintenance mechanics. Qualifications shall be as defined by the employing board.

3.4 Skilled Craftsperson

3.4.1 Each district may classify an incumbent in one or more of its Maintenance Mechanic positions as a Skilled Craftsperson for purposes of this section if the incumbent:

3.4.1.1 has received a certificate as a union journeyman or equivalent in any of the following fields: Boiler Maker, Carpenter, Electrician, HVAC Mechanic, Mill Wright, Heavy Machinery Operator, Pipe Fitter, Plumber, Roofer, or Sheet Metal Worker; or

3.4.1.2 possesses a current state license in any of the fields listed in paragraph 3.4.1.1 above; or

3.4.1.3 is an Automobile Mechanic who possesses two or more National Institute for Automotive Service Excellence (ASE) Certifications in the Automotive, Truck or School Bus categories; or

3.4.1.4 is a Boiler Maker who possesses either an AWS or ASME Welding Certification; or

3.4.1.5 is a Computer Technician who possesses an A Plus Certification from CompTIA (Computing Technology Industry Association); or

3.4.1.6 is an HVAC Mechanic who possesses two or more certifications from manufacturers of digital control systems in use by the district, or possesses a certification from a manufacturer of centrifugal chillers used within the district; or

3.4.1.7 possesses two or more Hazardous Material Certifications from the State of Delaware, OSHA, or the United States Environmental Protection Agency; or

3.4.1.8 is a Pipe Fitter who possesses an AWS or ASME Welding Certification; or

3.4.1.9 is a Roofer who possesses Training Certifications from two or more manufacturers of Roofing Systems in use by the District; or

3.4.1.10 is a Burner Mechanic who possesses a certification from a manufacturer of oil or gas burners used within the District.

3.5 Building and Grounds Supervisor: Each district with ninety-five (95) or more custodial units may employ a school buildings and grounds supervisor according to the salary schedule in 14 Del.C.§1311. This position is included in the total number of custodial personnel allowed. ~~Section 1311e).~~

4.0 Certificates Granted by the Department of Education for Additional Hours of Special Training

4.1 The following hourly requirements shall be met in order ~~to receive the Custodial Certificates listed below~~ for the Department of Education to grant the custodial certificates listed in 4.1.1 through 4.1.3. The certificate guarantees additional pay as specified in ~~the~~ ~~**Del.C**~~. 14 **Del.C**. §1311 but only the local school district can change a custodian's classification.

~~4.1.1 120 class hours minimum Building and Grounds Supervisor (issued only to those who hold this position).~~ Chief Custodian Certificate (120 class hours)

~~4.1.2 120 class hours Chief Custodian Certificate.~~ Fireman and Custodian Certificate (90 class hours)

~~4.1.3 90 class hours Fireman Custodian Certificate.~~ Custodian Certificate (60 class hours)

~~4.1.4 60 class hours General Custodian Certificate.~~

Regulatory Implementing Order

1102 Standards for School Bus Chassis and Bodies For Buses Placed in Production on or after March 1, 2002

(Terminology and School Bus Types are Those Described in the National School Transportation Specifications and Procedures (NSTSP), May 2000)

Summary Of The Evidence And Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to amend regulation 1102 Standards for School Bus Chassis and Bodies For Buses

Placed in Production on or after March 1, 2002 (Terminology and School Bus types are Those Described in the National School Transportation Specifications and Procedures (NSTSP), May 2000) in order to reflect the additional requirements for school buses built on or after March 1, 2003 including changing the full title to reflect the additional standards for 2003.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on January 17, 2003, in the form hereto attached as *Exhibit A*. No comments were received.

Findings of Facts

The Secretary finds that it is appropriate to amend this regulation in order to update the additional standards for school bus chassis.

Decision To Amend The Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the regulation. Therefore, pursuant to 14 *Del. C.* §122, the regulation attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 *Del. C.* §122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

Text and Citation

The text of the regulation amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 DE Admin. Code § in the *Regulations of the Department of Education*.

Effective Date of Order

The actions herein above referred to were taken by the Secretary pursuant to 14 *Del. C.* Chapter 29 on March 20, 2003. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 20th day of March, 2003.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

Approved this 20th day of March, 2003

STATE BOARD OF EDUCATION

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1102 Standards for School Bus Chassis and Bodies For Buses Placed in Production on or after March 1, 2002 With Specified Changes For Buses Placed in Production on or after March 1, 2003

(Terminology and School Bus Types are Those Described in the ~~National School Transportation Specifications and Procedures~~ *National School Transportation Specifications and Procedures (NSTSP)*, May 2000)

The following six (6) sections of the regulation in addition to the title have been amended. Other than the title the amendments are additions to the existing regulation. They include the following, 1.2.1, 1.26.3.1, 2.25.5, 2.34.6, 2.28.3.1 and 2.49.1.1. As the remainder of the regulation was not affected it is not being reproduced here. The existing regulation may be viewed at: http://www.state.de.us/research/AdminCode/Education/Frame.htm

1.2.1 For bus chassis and bodies produced after March 1, 2003, all buses with a capacity of 66 passengers or greater shall have a 9,000 pound front axle minimum.

1.26.3.1 For bus chassis and bodies produced after March 1, 2003, all buses with a capacity of 36 passengers or greater, shall have an engine that produces at least 190 hp.

2.25.5 For bus chassis and bodies produced after March 1, 2003, the interiors shall have mar-proof side walls.

2.28.3.1 For bus chassis and bodies produced after March 1, 2003, buses for 36 passengers or greater shall be equipped with heated and remote control exterior rear view mirrors.

2.34.6 There shall be a rub rail (snow rail) or equivalent bracing located horizontally at the bottom edge of the body side skirts.

2.49.1.1 For bus chassis and bodies produced after March 1, 2003, a two-speed or variable speed windshield wiping system shall be provided and an intermittent feature shall be provided.

DEPARTMENT OF FINANCE

DIVISION OF REVENUE

Statutory Authority: 30 Delaware Code, Section 5401(1)(j) (30 **Del.C.** § 5401(1)(j))

Subject: Realty Transfer Tax – Transfer To And From An Exchange Accommodation Titleholder Under Internal Revenue Service, Rev. Proc. 2000-37.

Authority:

This regulation is published pursuant to authority granted to the Department of Finance in 30 **Del.C**. § 5407 to adopt rules pertaining to the administration and enforcement of Chapter 54 of Title 30 of the Delaware Code.

Background:

Questions have arisen concerning whether a conveyance between an "exchange accommodation titleholder" (as defined in Internal Revenue Service, Rev. Proc. 2000-37, 200-40 IRB (September 18, 2000) hereinafter "Rev. Proc. 2000-37") and the taxpayer with whom such exchange accommodation titleholder has entered into a "qualified exchange accommodation arrangement" (hereinafter the "taxpayer"), also as defined in Rev. Proc. 2000-37, may be exempt from the realty transfer tax as a conveyance to or from a "trustee, nominee or straw party" under 30 **Del.C.** §5401(1)j.

Pursuant to 30 **Del.C.** §5401(1)j, any conveyance "to a trustee, nominee or straw party for the beneficial owner" or "from a trustee, nominee or straw party to the beneficial owner" is not a "document" subject to realty transfer tax under Chapter 54 of Title 30 of the Delaware Code.

Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"), provides for non-recognition of gain or loss on an exchange of certain property by a taxpayer for property of like-kind for purposes of the federal income tax (a "like-kind exchange"). In a like-kind exchange, the property transferred by the taxpayer is called the "relinquished property" and the property acquired by the taxpayer is called the "replacement property." On April 25, 1991, the United States Treasury Department and the Internal Revenue Service issued final regulations, Section 1.1031(k)-1, et seq. (the "Regulations"), providing rules for deferred like-kind exchanges under Section 1031(a)(3) of the Code. The preamble to the Regulations states that the Regulations apply only where the relinquished property is transferred before the taxpayer acquires the replacement property ("Forward Exchanges") and do not apply to situations where the replacement property is acquired before the conveyance of the relinquished property ("Reverse Exchanges"). Based on the Regulations and applicable case law, a practice evolved for Forward Exchanges whereby Forward Exchanges were accomplished by deeds directly from and to the taxpayer, with no deeds to or from any intermediary or facilitator. Insofar as Reverse Exchanges were concerned, a practice evolved whereby a facilitator would agree to take title to either the relinquished property or the replacement property so that, as to the taxpayer, the exchange might be treated as a Forward Exchange. In such Reverse Exchanges, the facilitator might not seek an exemption from realty transfer tax to further support its status in the exchange, for federal income tax purposes, as the beneficial owner of the property, which it holds.

On September 18, 2000, the Internal Revenue Service published Rev. Proc. 2000-37, which provides a "safe harbor" for certain qualifying Reverse Exchanges. Rev. Proc. 2000-37 states, in part, that "it is in the best interest of sound tax administration to provide taxpayers with a workable means of qualifying their transactions under §1031 in situations where the taxpayer has a genuine intent to accomplish a like-kind exchange at the time that it arranges for the acquisition of the replacement property and actually accomplishes the exchange within a short time thereafter." However, Rev. Proc. 2000-37 continues to require that the facilitator (or "exchange accommodation titleholder") holding title to property to facilitate an exchange be treated as the beneficial owner of the property for all federal income tax purposes. Normally, a transfer of real property to a beneficial owner is subject to the Delaware Realty Transfer Tax. However, in this case the exchange accommodation titleholder who takes title as beneficial owner is merely acting as the agent of a taxpayer to qualify the transaction for non-recognition treatment as a like-kind exchange under section 1031 of the Code. In reality, the exchange accommodation titleholder acquires beneficial ownership only in a transitory way in order to facilitate the exchange. Taking title as the agent of the taxpayer in a transitory way without intending to acquire any beneficial interest in the property for his or her own account (other than to facilitate the exchange), combined with the fact that the parties intend the exchange accommodation titleholder to be treated as a beneficial owner only for purposes of section 1031, should result in the exchange accommodation titleholder acting as a "trustee, nominee or straw party" for the taxpayer. This view is supported by the determination of the Internal Revenue Service in P.L.R. 2001-48-042. In that ruling, the Internal Revenue Service stated its position that state or local tax treatment of beneficial ownership may differ from the treatment for federal income taxes, and permitted a provision in a qualified exchange accommodation agreement declaring the exchange accommodation titleholder to be the taxpayer's agent for realty transfer tax purposes.

Ruling:

Based on the foregoing, the Director hereby establishes a safe harbor from the Delaware realty transfer tax consistent with the safe harbor established under Rev. Proc. 2000-37.

It is the ruling of the Division of Revenue that a conveyance of relinquished property by the taxpayer to a person intended to be an "exchange accommodation titleholder," pursuant to a writing intended to be a "qualified exchange accommodation agreement," both as defined in Rev. Proc. 2000-37, constitutes a conveyance "to a trustee, nominee or straw party" within the meaning of 30 **Del.C.** §5401(1)j; and that a conveyance of replacement property from an exchange accommodation titleholder to the taxpayer constitutes a conveyance "from a trustee, nominee or straw party" within the meaning of 30 **Del.C.** §5401(1)j; *provided*, in either case, that one or both of the following conditions applies:

(a) The qualified exchange accommodation agreement between the taxpayer and the exchange accommodation titleholder declares that the exchange accommodation titleholder is the taxpayer's agent for all purposes, except federal income tax purposes, or other similar language; or

(b) The exchange accommodation titleholder qualifies as an exchange accommodation titleholder under Rev. Proc. 2000-37 and the transaction involving the conveyance to or from the purported exchange accommodation titleholder qualifies for non-recognition of gain or loss under Section 1031(a) of the Code.

A transaction otherwise qualifying for the foregoing safe harbor will not fail to qualify because the conveyance was accomplished by a transfer of an intangible interest in a corporation, partnership, or trust, as described in 30 **Del.C.** §5401(7).

Parking transactions or other transfers designed to qualify a transaction for non-recognition treatment under Code section 1031 accomplished outside the safe harbor provided in Rev Proc. 2000-37 or this Tax Ruling are presumptively subject to the realty transfer tax unless the taxpayers otherwise have established that the transactions are exempt.

Like-kind exchanges will continue to be subject to the realty transfer tax, as between the principals to the exchange transaction, twice: once on the transfer of the relinquished property from the taxpayer to the other principal, and again on the transfer of the replacement property to the taxpayer from the other principal, unless it is established that the transaction is otherwise excluded from the application of the realty transfer tax, either because the relinquished or replacement property is not Delaware real estate, or because it is excluded under other provisions of Chapter 54.

Examples:

The application of this Ruling may be illustrated by the following examples:

(a) Pursuant to a document intended to be a qualified exchange accommodation agreement, the taxpayer conveys the relinquished property by deed to a person intended to be an exchange accommodation titleholder ("Conveyance #1") in exchange for the taxpayer's receipt of the replacement property by deed from a third party pursuant to the direction of the exchange accommodation titleholder ("Conveyance #2"). The exchange accommodation titleholder subsequently conveys the relinquished property by deed to a third party ("Conveyance #3"). The qualified exchange accommodation agreement declares that the exchange accommodation titleholder is the taxpayer's agent for all purposes, except federal income tax purposes, or other similar language, or the exchange accommodation titleholder qualifies as an exchange accommodation titleholder under Rev. Proc. 2000-37 and the conveyance of the relinquished property qualifies for non-recognition of gain or loss under Section 1031(a) of the code. Conveyance #1 is exempt from the Delaware realty transfer tax based on the exemption provided under 30 **Del.C.** §5401(1)j. Unless another exemption applies, Conveyance#2 and Conveyance #3 are not exempt from the Delaware realty transfer tax.

(b) Pursuant to a document intended to be a qualified exchange accommodation agreement, a person intended to be an exchange accommodation titleholder acquires title to property by deed, which the taxpayer intends to acquire as its replacement property ("Conveyance #1). The taxpayer subsequently conveys the relinquished property by deed to a third part pursuant to the direction of the exchange accommodation titleholder ("Conveyance #2") in exchange for the exchange accommodation titleholder's conveyance of the replacement property by deed to the taxpayer ("Conveyance #3"). The qualified exchange accommodation agreement declares that the exchange accommodation titleholder is the taxpayer's agent for all purposes, except federal income tax purposes, or other similar language, or the exchange accommodation titleholder qualifies as an exchange accommodation titleholder under Rev. Proc. 2000-37 and the taxpayer's conveyance of the relinquished property qualifies for non-recognition of gain or loss under Section 1031(a) of the Code. Conveyance #3 is exempt from the Delaware realty transfer tax based on the exemption provided under 30 **Del.C.** § 5401(a)j. Unless another exemption applies, Conveyance #1 and Conveyance #2 are not exempt from the Delaware realty transfer tax.

Administration:

The exemption from the realty transfer tax provided by this safe harbor shall be claimed, as with other exemptions, on the affidavit of residence and gain filed with the exempt document to or from the accommodation titleholder as the particular case may be. As these transactions require three separate documents to complete, upon the filing of the document completing the like-kind exchange, the closing attorney shall, in order to qualify for this safe harbor, notify the Division of Revenue by letter of the other parts of the

transaction comprising the exchange. The notification shall include the name and address of each of the principals, the identity of the accommodation titleholder, the identity of the relinquished property and the replacement property by address (and tax parcel number to the extent the property is Delaware property), and the realty transfer tax paid on each part of the exchange, unless a part does not involve Delaware property or is otherwise exempt from Chapter 54. The notification shall be sent to:

Delaware Division of Revenue
Carvel State Office Building
820 N. French Street
Wilmington, DE 19899
Attention: Realty Transfer Tax Auditor
David M. Sullivan, Director of Revenue

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 505 (31 **Del.C.** §505)

ORDER

Nature Of The Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Title XXI Delaware Healthy Children Program State Plan to expand the state plan to cover more DSCYF (Department of Services to Children, Youth and their Families) services. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the February 2003 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by February 28, 2003 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Comments Received with Agency Response

The State Council for Persons with Disabilities (SCPD) offered the following observations:

First, SCPD strongly endorses lifting the 31-day cap on reimbursable mental health and substance abuse treatment. Likewise, authorizing the Division of Youth rehabilitation Services (YRS) and the Division of Family Services (DFS) reimbursement on a fee-for-service basis should enhance the ability of these agencies to cover the cost of medically necessary care.

***DSS Response*:** Thank you for your endorsement.

Second, there is a technical oversight reflected in the proposed regulations. The comment period in the regulations published on February 1 is advertised as ending February 28. State law requires a minimum 30-day comment period. Please refer to Title 29 Del.C. §10118(a).

DSS Response: DSS recognizes the importance of the technical oversight identified. We have an ongoing commitment and responsibility to adhere to the regulations contained in the Administrative Procedures Act. We will continually assess compliance.

Third, both the Emergency and Proposed version of the regulations retain the following sentence: "Beyond the 31 days of additional coverage of inpatient care, children will become eligible for Medicaid long-term care services." Since the amendments otherwise delete the 31 day standard in favor of simply adopting a "medical necessity" limit, this sentence may merit revision.

DSS Response: The proposed regulation is a change in reimbursement mechanism, not in the coverage mechanism. This change will allow the State to draw down more federal funding. The provision of services continues; there is no change in coverage for either Medicaid or the Delaware Healthy Children Program.

Findings Of Fact:

The Department finds that the proposed changes as set forth in the February 2003 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Title XXI Delaware Healthy Children Program State Plan is adopted and shall be final effective April 10, 2003.

Vincent P. Meconi, Secretary, DHSS , 3/14/2003

Section 3. Methods of Delivery and Utilization Controls (Section 2102(a)(4))

3.1 Describe the methods of delivery of the child health assistance using Title XXI funds to targeted low-income children. Include a description of the choice of financing and the methods for assuring delivery of the insurance products and delivery of health care services covered by such products to the enrollees, including any variations.

(Section 2102)(a)(4) (42 CFR 457.490(a))

The Delaware Healthy Children Program (DHCP) is targeted to children under age 19 with income at or below 200% of the Federal Poverty Level (FPL). The service package will include all of those basic benefit services provided under the State's Medicaid Managed Care program as it was structured during 1998. Services will be provided by the same fully capitated managed care organizations (MCOs) participating with Medicaid. In addition, participants in the DHCP will receive pharmacy services comparable to the Medicaid population. ~~They will also receive 31 days of mental health and substance abuse treatment services (any treatment modality) in a calendar year in addition to the basic MCO benefit of 30 outpatient visits for mental health.~~ They will also receive all medically necessary mental health and substance abuse treatment services (any treatment modality) which exceed the basic MCO benefit of 30 outpatient visits for mental health. The mental health/substance abuse services will be provided through the State's Department of Services for Children, Youth, and Families. For children actively case managed by the Department's Division of Child Mental Health Services (a JCAHO-certified public mental health managed care provider), a monthly encounter rate will be billed to the DHCP. Children receiving mental health or substance abuse services by the Department's Division of Family Services or the Division of Youth Rehabilitation Services will have their care paid on a fee-for-service basis. Beyond the 31 days of additional coverage of inpatient care, children will become eligible for Medicaid long-term care services. Thus the DHCP will provide very high quality mental health and substance abuse coverage - coverage which is better by far than most private sector coverage. Services will be provided statewide with no variations based on geography.

(Note: Break In Continuity of Sections)

6.2 The state elects to provide the following forms of coverage to children: (Check all that apply. If an item is checked, describe the coverage with respect to the amount, duration and scope of services covered, as well as any exclusions or limitations) **(Section 2110(a)) (42 CFR 457.490)** (Note: Break In Continuity of Sections)

6.2.10 ☒ Inpatient mental health services, other than services described in 6.2.18, but including services furnished in a state-operated mental hospital and including residential or other 24-hour therapeutically planned structural services (Section 2110(a)(10)) - *inpatient mental health services* ~~*may be provided as a "wrap-around" service for up to 31 days per calendar year with the limitation that the 31 days also includes any other mental health and/or substance abuse treatment services (including outpatient, residential and any other treatment modality) outside of the basic MCO benefit of 30 outpatient visits*~~ *will be provided as "wrap-around" services by the DSCYF. Inpatient services will be provided with limits based on medical necessity. Children who need inpatient services beyond this will convert to Medicaid Long-Term Care.*

6.2.11 ☒ Outpatient mental health services, other than services described in 6.2.19, but including services furnished in a state-operated mental hospital and including community-based services **(Section 2110(a)(11) -***30 days of* outpatient care included in the basic MCO benefit. Additional days ~~(up to 31)~~, with limitations based on medical necessity, will be provided by *the DSCYF.* ~~*available through wrap around*~~. ***See note in 6.2.10.***

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH & WILDLIFE

Statutory Authority: 7 Delaware Code, Section 6010, (7 **Del.C.** §6010)

Order No. 2003-F0015

Summary Of Evidence And Information

Pursuant to due notice **6 DE Reg. 940 - 941** (2-1-03), The Department of Natural Resources and Environmental Control proposed amendments to oyster harvesting regulations to cover the harvest season, the harvestable amount of oysters and areas where oysters may be landed in 2003. It also proposed that it be illegal to possess a empty bag or cage with oyster tags attached. Partially filled cages must have the appropriate number of tags attached to reflect the number of bushels of oysters in the cage.

A public hearing was held on March 5, 2003 to take comments on Shellfish Regulations Nos. S-63 Oyster Harvesting Season, S-65 Oyster Landing Areas, S-73 Oyster Harvesting Licensee Requirements, S-75 Oyster Harvest Quota. Written comments were received at the hearing and after the hearing during the comment period.

Findings Of Fact

- One person who testified at the public hearing wanted Woodland Beach included as an approved landing site for oysters. This person indicated that it was problematic for him to land oysters in Leipsic. He also submitted written testimony requesting that the public access areas at Woodland

Beach be designated as approved oyster landing areas.

- Two people that provided comments for the record at the hearing indicated concerns with the proposed language in S-37 (c) from the standpoint that partially filled cages were the norm at the end of the harvesting day and the current language would make them illegal. They indicated that it was impossible to always have a full cage at the end of the workday. They suggested that as long as the proper number of tags were on the cage to reflect the number of bushels of oysters in the cage it should not be a problem.
- One individual who provided comments for the record endorsed the addition of Lewes as an approved oyster landing area. This person indicated that it was difficult for him to find some place to off load oysters other than his home dock in Lewes.

Conclusions

I have reached the following conclusions:

- Woodland Beach and Lewes should be designated as approved oyster landing sites in Shellfish Regulation S-65.
- Language in the proposed regulation S-71 needs to be changed in order to permit partially filled cages of oysters to be legal if the appropriate number of tags are attached to the cage to reflect the number of bushels of oysters in the cage. It was clear from the testimony provide at the hearing that harvesters could not always insure that all cages were full at the end of the working day. Availability of oysters and market demands often makes it impossible to insure that full cages will always be part of the daily harvest.
- The quota for the 2003 oyster season should be 11,640 bushels based on the survey index generated by the Department during the October 2002 survey of the natural oyster beds.
- The oyster season should start at sunrise on May 12, 2003 and end at sunset on June 28, 2003 and began again at sunrise on September 1, 2003 and end at sunset on December 31, 2003.

Order

It is hereby ordered, this 12th day of March, in the year 2003, that amendments to Shellfish Regulation Nos. S-63, S-65, S-73, S-75, copies of which are attached hereto, are adopted pursuant to 7 **Del.C.** §1902, and 7 **Del.C.** §2106, and are supported by the Department's findings of fact from the evidence and testimony received. This order shall be effective April 10, 2003.

John A. Hughes, Secretary
Department of Natural Resources
and Environmental Control

Final Amendments To Shellfish Regulation Pertaining To Oysters

S-63 Oyster Harvesting Seasons

It shall be unlawful for any person to harvest or to attempt to harvest oysters from the State's natural oyster beds except during the seasons beginning at sunrise on May **[~~10~~]**, ~~2002~~ **[12, 2003]** and ending at sunset on June **[~~29~~]**, ~~2002~~ **[28, 2003]** and beginning at sunrise on September **[~~2~~]**, ~~2002~~ **[1, 2003]** and ending at sunset on December 31, ~~2002~~ **[2003]**. **[~~(Subject to change after public hearing).~~]**

S-65 Oyster Landing Areas

(a) It shall be unlawful for any person to land oysters taken for direct sale from the state's natural oyster beds at any site other than in the town of Leipsic, Flemings Landing, Port Mahon, Bowers Beach, Lewes, **[Woodland Beach]** or the Cedar Creek areas.

(b) 'To Land' shall mean to bring to shore.

S-67 Oyster Harvesting Gear

(a) It shall be unlawful for any person to harvest oysters or attempt to harvest oysters from the State's natural oyster beds with any gear other than an oyster dredge that measures no more than 52 inches in length along the tooth bar.

(b) It shall be unlawful for any person to harvest oysters or attempt to harvest oysters from the State's natural oyster beds with an oyster dredge with teeth measuring more than four (4) inches in length.

(c) It shall be unlawful for any person to harvest oysters or attempt to harvest oysters from the State's natural oyster beds with more than two oyster dredges overboard at the same time.

(d) It shall be unlawful for any person to harvest oysters or attempt to harvest oysters from the State's natural oyster beds with any dredge that is attached to another dredge.

S-69 Oyster Minimum Size Limit

(a) It shall be unlawful for any person to possess any oyster harvested for direct sale from the State's natural oyster beds that measures less than 2.75 inches between the two most distant points on the edges of said oyster's shell.

S-71 Oyster Harvesting Control Dates

(a) A person is authorized to participate in the seasonal harvest of oysters for direct sale from the State's natural oyster beds provided said person complies with the

following criteria:

1. He/she has a valid oyster harvesting license and meets the eligibility requirements in §2103, 7 Del. C.

2. He/she has indicated in writing to the Department no later than 4:30 PM on a date at least 30 days prior to the opening date of the oyster harvesting season that he/she will participate.

3. He/she pays the harvest fee of $1.25 per bushel for his/her individual allotment of oysters no later than 4:40 PM on a date at least 10 days prior to the opening date of the oyster harvesting season.

(b) In the event a person who indicates in writing to the Department that he/she will participate in the next seasonal harvest of oysters from the State's natural oyster beds and then fails to pay his or her oyster harvest fee on time said person's share of oysters shall be pooled and made available for subsequent allocations to individuals who have paid their oyster harvest fees on time. The quantity of the subsequent allocation of oysters shall be determined by dividing the pooled allotments by the number of paid participants. Interested participants may obtain no more than one subsequent allocation by paying the oyster harvest fee of $1.25 per bushel prior to harvesting same.

S-73 Oyster Harvesting Licensee Requirements

(a) It shall be unlawful for any person licensed to harvest oysters from the State's natural oyster beds to possess another person's oyster harvesting tags while on board the vessel listed on said person's oyster harvesting license unless the other person is on board said vessel.

(b) It shall be unlawful for any person licensed to harvest oysters from the State's natural oyster beds for direct sale to not attach an oyster harvesting tag in the locked position through the fabric of a bushel bag containing oysters.

(c) It shall be unlawful for any person to possess a bushel bag **[~~or oyster cage~~]** that is empty or partially filled with oysters so long as an oyster harvesting tag is attached to said bag **[~~or oyster cage~~].**

[(d) It shall be unlawful for any person to possess an oyster cage that is empty of oysters so long as an oyster harvesting tag is attached to said cage. A partially filled oyster cage must have the appropriate number of tags attached to reflect the number of bushels of oysters in the cage.]

S-75 Oyster Harvest Quota

The oyster harvest quota for the ~~2002~~ 2003 season is ~~24,445~~ 11,640 bushels.

DIVISION OF FISH & WILDLIFE

Statutory Authority: 7 Delaware Code, Section 6010, (7 **Del.C.** §6010)

Order No. 2003-F-0014

Summary Of Evidence And Information

Pursuant to due notice, **6 DE Reg. 941-943** (2/1/2003), The Department of Natural Resources and Environmental Control proposes to amend Tidal Finfish Regulation Nos. 4 and 23 pertaining to summer flounder and black sea bass respectively. For summer flounder the proposed regulation would maintain the current size (17.5") limit and creel limit (4) and eliminate any seasonal closure for the 2003-fishing season. The closed season of January 1 through May 15 that was in place for the 2002 fishing season would be repealed and there would be no closed season for the recreational harvest of summer flounder. For black sea bass the proposed regulation will increase the size limit from 11.5 to 12 inches and retain the daily harvest limit of 25 fish per day. A closed season for the harvest of black sea bass by recreational anglers will be imposed during the periods September 2, 2003 to September 15, 2003 and December 1, 2003 to December 31, 2003. These changes are necessary for Delaware to remain in compliance with the Atlantic States Marine Fisheries Commission fishery management plan provisions for these two species and all of the management measurers offered have been pre-judged to be in compliance with the mandatory provisions of these fishery management plans (FMPs).

A public hearing was held on the proposed amendments to Regulations 4 and 23 on February 24, 2003. Comments were taken on the eight options for summer flounder and the one option for black sea bass. Written testimonies in the form of e-mails were received after the hearing.

Finding Of Fact

- Among the 10 people who spoke at the public hearing, eight supported option 7 as their preferred approach to managing summer flounder for the 2003 - fishing season. In addition, thirteen e-mails were received all supporting option 7. It is clear based on the input from the public that the 17.5 inch size limit in conjunction with a four fish creel limit and no closed season was the most acceptable approach from the public's perspective.
- There was no opposition to the size limit or the season proposed for black sea bass. However, there were concerns regarding the 25 fish creel limit being too high. Four of the five people who commented on the black sea bass regulations were

concerned that the 25 fish creel limit would lead to waste of the resource especially from charter boat patrons.

Conclusions

I have reached the following conclusions:

- Delaware's minimum size limit and creel limit for summer flounder should remain at 17.5 inches and four fish during the 2003 recreational fishing season. In addition, there should be no closed season for the recreational harvesting of summer flounder in 2003.
- The minimum size limit for recreationally-harvested black sea bass should be increased from 11.5 inches to 12 inches for the 2003 fishing year. The creel limit should remain at 25 fish per day per angler. A season should be imposed that prohibits the harvest of black sea bass by recreational anglers during the time period September 2, 2003 through September 15, 2003 and December 1, 2003 through December 31, 2003.
- Despite some concerns regarding the 25-creel limit, any reductions in the limit at this time would result in a severe economic disadvantage to the Delaware head and charter boat industry. As such, the creel limit should remain at 25 fish until neighboring states decide to mutually coordinate a reduction in the creel limit.

ORDER

It is hereby ordered this 11th day of March in the year 2003 that amendments to Tidal Finfish Regulations 4 and 23, copies of which are attached hereto, are adopted pursuant to 7 **Del.C.** §903(e)(2)(a) and are supported by the Department's findings of evidence and testimony received. This Order shall become effective on April 10, 2003.

John A. Hughes, Secretary
Department of Natural Resources
and Environmental Control

[~~Proposed~~ Final] Amendments To Tidal Finfish Regulations.

No. 4, Summer Flounder Size Limits; Possession Limits; [~~Seasons.~~]

~~a) It shall be unlawful for any recreational fisherman or any commercial hook and line fisherman to take and reduce to possession or to land summer flounder beginning at 12:01 AM January 1, 2002 and ending midnight May 15, 2002.~~ **[~~(Note: closed season to be determined in combination with creel and minimum size limit.)~~]**

[(~~b~~ a)] It shall be unlawful for any recreational fisherman to have in possession more than ~~four (4)~~ **[four (4)]** summer flounder at or between the place where said summer flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging. **[~~(Note: creel limit to be determined in combination with seasonal closure and size limit.)~~]**

[~~e~~ b)] It shall be unlawful for any person, other than qualified persons as set forth in paragraph (**[~~f~~ e]**) of this regulation, to possess any summer flounder that measure less than ~~seventeen and one half (17.5)~~ **[seventeen and one half (17.5) ~~(Note: minimum size limit to be determined in combination with seasonal closure and creel limit.~~)]** inches between the tip of the snout and the furthest tip of the tail.

[~~d~~ c)] It shall be unlawful for any person, while on board a vessel, to have in possession any part of a summer flounder that measures less than ~~seventeen and one half (17.5)~~ **[seventeen and one half (17.5) ~~(Note: minimum size limit to be determined in combination with seasonal closure and creel limit.)~~]** inches between said part's two most distant points unless said person also has in possession the head, backbone and tail intact from which said part was removed.

[~~e~~ d)] Is omitted intentionally.

[~~f~~ e)] Notwithstanding the size limits and possession limits in this regulation, a person may possess a summer flounder that measures no less than fourteen (14) inches between the tip of the snout and furthest tip of the tail and a quantity of summer flounder in excess of the possession limit set forth in this regulation, provided said person has one of the following:

1) A valid bill-of-sale or receipt indicating the date said summer flounder were received, the amount of said summer flounder received and the name, address and signature of the person who had landed said summer flounder.

2) A receipt from a licenses or permitted fish dealer who obtained said summer flounder; or

3) A bill of lading while transporting fresh or frozen summer flounder.

4) A valid commercial food fishing license and a foodfishing equipment permit for gill nets.

[~~g~~ f)] Is omitted intentionally.

[~~h~~ g)] It shall be unlawful for any commercial finfisherman to sell, trade and or barter any summer flounder or part thereof that is landed in this State by said commercial fisherman after a date when the de minimis amount of commercial landings of summer flounder is determined to have been landed in this State by the Department. The de minimis amount of summer flounder shall be 0.1% of the

coast wide commercial quota as set forth in the Summer Flounder Fishery management Plan approved by the Atlantic States Marine Fisheries Commission.

[i h)] It shall be unlawful for any vessel to land more than 200 pounds of summer flounder in any one day in this State.

[j i)] It shall be unlawful for any person, who has been issued a commercial foodfishing license and fishes for summer flounder with any food fishing equipment other than a gill net, to have in possession more than ~~four (4)~~ **[four (4) ~~(Note: creel limit to be determined in combination with seasonal closure and size limit.)~~]** summer flounder at or between the place where said summer flounder were caught and said persons personal abode or temporary or transient place of lodging.

[~~Note: Proposed options for seasonal closures associated with creel limits and minimum size limits to restrict the recreational summer flounder harvest in Delaware in 2003.~~

~~Opening Option~~	~~Final Day~~	~~Number of Day~~	~~Bag Open Days~~		~~Minimum Limit~~	~~Size~~
~~1~~	~~01-Jan~~	~~32-Jul~~	~~212~~	—	~~7~~	~~16"~~
~~2~~	~~01-Jan~~	~~06-Aug~~	~~218~~	—	~~5~~	~~16.5"~~
~~3~~	~~01-Jan~~	~~23-Aug~~	~~235~~	—	~~5~~	~~17"~~
~~4~~	~~25-May~~	~~02-Aug~~	~~70~~	—	~~7~~	~~16"~~
~~5~~	~~25-May~~	~~09-Aug~~	~~77~~	—	~~5~~	~~16.5"~~
~~6~~	~~25-May~~	~~27-Aug~~	~~95~~	–	~~5~~	~~17"~~
~~7~~	~~01-Jan~~	~~31-Dec~~	~~365~~	—	~~4~~	~~17.5~~**]**

No. 23, Black Sea Bass Size Limits; Trip Limits; Seasons; Quotas

a) It shall be unlawful for any person to have in possession any black sea bass *Centropritis striata* that measures less than eleven (11) inches, total length.

b) It shall be unlawful for any recreational person to have in possession any black sea bass that measures less than ~~eleven and one-half (11.5)~~ twelve (12) inches total length.

~~c) It shall be unlawful for any person to possess on board a vessel at any time or to land after one trip more than the quantity of black sea bass determined by the Atlantic States Marine Fisheries Commission for any quarter. The Department shall notify each individual licensed to land black sea bass for commercial purposes of the quarterly trip limits established by the Atlantic States Marine Fisheries Commission.~~

~~"One trip shall mean the time between a vessel leaving its home port and the next time said vessel returns to any port in Delaware."~~ It shall be unlawful for any recreational fisherman to have in possession more than 25 black sea bass at or between the place where said black sea bass were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.

~~d) It shall be unlawful for any person to fish for black sea bass for commercial purposes or to land any black sea bass for commercial purposes during any quarter after the date in said quarter that the Atlantic States Marine Fisheries Commission determines that quarter's quota is filled." The Department shall notify each individual licensed in Delaware to land black sea bass for commercial purposes of any closure when a quarterly quota is filled.~~ It shall be unlawful for any recreational fisherman to take and reduce to possession or to land black sea bass during the periods beginning at 12:01 AM on September 2, 2003 and ending at midnight on September 15, 2003 and beginning at 12:01 AM on December 1, 2003 and ending at midnight on December 31, 2003.

~~[c) Is omitted intentionally.]~~

DIVISION OF FISH & WILDLIFE

Statutory Authority: 23 Delaware Code, Section 2114, (23 **Del.C.** §2114)

Order No. 2003-F-011

Summary Of Evidence And Information

Pursuant to due notice, **6 DE Reg. 848-849** (1/1/2003), the Department of Natural Resources and Environmental Control proposes to amend Tidal Finfish Regulation No. 22 pertaining to Tautog. The proposed regulation would rename Regulation 22 "Tautog; Size limits, Creel Limits and Seasons". All creel limits and seasons would remain in effect except that the closed season would be changed from September 8-18 to September 1-28, and increase of 17 days. This option was selected from among eight options approved by the Atlantic States Marine Fisheries Commission Tautog Technical Committee as adequate to reduce tautog harvest by 25%. This reduction is mandated in Addendum 3 of the ASMFC Fishery Management Plan for tautog.

A Public Hearing was held on the proposed amendment to Tidal Finfish Regulation 22 on January 6, 2003. Comments were received at the hearing and written comments were received during the comment period, which ended on January 31, 2003.

Findings of Fact

- A total of 7 individuals spoke at the public hearing. Eight written comments were received and one petition, containing 33 signatures, was submitted.
- Several individuals felt that no additional management measures were necessary for tautog and that the population and fishery are in good

shape. Each stated that if a change was necessary they favored Option A, as the least objectionable.

- No specific comments were received in favor of options B, D, E or H.
- Of the options favoring closure during the spawning season (B &C) only one comment was received in favor of Option C. Several parties felt that a closure during spring was unnecessary and unfair to some user groups (spearfishermen).
- There was moderate support for a reduction in creel limit (Options F and G) in combination with a September closure to achieve the required reduction. Some of these individuals favored a creel limit reduction because they questioned the effectiveness of a September closure in reducing harvest.
- A clear majority of responses favored Option A as the preferred approach. Reasons for support included that it was the most efficient way to reduce harvest, it was the least intrusive, leaving other management factors unchanged and it was fair to all user-groups including spearfishermen. This option was favored by both members of the public (petition signed by 33 individuals) as well as charter vessel captains from Lewes and Indian River Inlet.

Conclusions

I have reached the following conclusions:

- Based upon comment from the Public Hearing and comment period, Option A should be implemented, increasing the length of the September closed season for tautog by an additional 17 days to include the period September 1 – 28, effective April 1, 2003. All other size and creel limit provisions will remain unchanged.

IT IS HEREBY ORDERED this 10th day of March in the year 2003 that amendments to Tidal Finfish Regulation 22, a copy of which is attached here to, are adopted pursuant to and are supported by the Department's findings of evidence and testimony received. This order shall become effective on April 10, 2003.

John A. Hughes, Secretary
Department of Natural Resources
and Environmental Control

TIDAL FINFISH REGULATION NO. 22 TAUTOG; SIZE LIMITS, CREEL LIMITS AND SEASONS

a) It shall be unlawful for any person to possess any tautog *Tautoga onitis*, less than fourteen (14) inches in total length during the period beginning at 12:01 a.m. on July 1 and ending at 12:00 p.m. on March 31, next ensuing.

b) It shall be unlawful for any person to possess any tautog less than fifteen (15) inches in total length during the period beginning at 12:01 a.m. on April 1 and ending at 12:00 p.m. on June 30, next ensuing.

c) Notwithstanding the provisions of 7 Del.C §938 and §939, it shall be unlawful for any person to possess more than three (3) tautog during the period beginning at 12:01 on April 1 and ending at 12:00 p.m. on June 30, next ensuing, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.

d) It shall be unlawful for any person to possess more than ten (10) tautog during the period beginning at 12:01 a.m. on July 1 and ending at 12:00 p.m. on March 31, next ensuing, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.

e) Notwithstanding the provisions of subsections (a) and (d) of this regulation, it shall be unlawful for any person to possess any tautog during the period beginning at 12:01 a.m on September **[1 ~~8~~]** and ending at 12:00 p.m. on September **[28 ~~18~~]** next ensuing, except in said person's personal abode or temporary or transient place of lodging.

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF HIGHWAY SAFETY

Statutory Authority: 21 Delaware Code, Section 4177D (21 **Del.C.** § 4177D)

ORDER

The Department of Public Safety ("the Department") held a properly noticed public hearing on January 9, 2003 to receive comment on proposed Regulation Number 92 of the Department's Regulations. Although the public hearing was properly noticed as required by the Administrative Procedures Act, no one attended the hearing and the Department received no written comment.

Decision and Order

The Department adopts Regulation 92 as proposed.
IT IS SO ORDERED this 9th day of January, 2003.

James L. Ford, Jr., Secretary, Department of Public Safety
Michael D. Shahan, Director, Division of Motor Vehicles

REGULATION Number 92: Drinking Driver Programs Standard Operating Procedures

1.0 Nature and Purpose

Pursuant to 21 Del.C. § 4177D, this is a policy of the Department of Public Safety, Office of Highway Safety. The purpose of this document is to provide a written operating procedure that shall apply to all Department of Public Safety contracted treatment, education and assessment providers. The Secretary of Public Safety or his/her designee must approve any changes to this document.

2.0 Definitions

"Enrollment", The point at which the intake process has been completed, the client has paid the full Education Program fee or half of the Outpatient Program fee, and the program begins to provide clinical service.

"No Show", Defined as when a client fails to show for a scheduled appointment; is late for a scheduled appointment; calls to cancel a scheduled appointment without adequate notice; arrives for an appointment without the needed documentation; or arrives for an appointment under the influence of alcohol as evidenced by a positive breathalyzer.

"Case Management", The process of coordinating and monitoring the services provided to a client both within a program and in conjunction with other providers. In the context of the Delaware DUI System, Case Management Services will only be provided by the Department of Public Safety contracted evaluation and referral provider.

"In-State Clients", The Delaware Evaluation and Referral Program will be responsible for coordinating services to address the client's DUI incident, for monitoring compliance with Delaware law regarding DUI, and updating client information and disposition status in the online tracking system. For those clients discharged at-risk, DERP is responsible for coordinating a referral for continuing treatment. DERP will also monitor the client's status for compliance with discharge requirements and update their disposition in the online tracking system.

"Out-of-State Clients", DERP is responsible for referring out-of-state clients to an approved provider in their area. DERP will continue to monitor the client's progress and status through communications with the out-of-state agency. Once the offender has completed the program in their area, DERP will review the evaluation results for compliance with the Delaware DUI program requirements. DERP will also be responsible to update the online tracking system with regard to the client's disposition status.

"Discharge Status"

"Satisfactory", This category indicates that the client has completed the program and that he/she has evidenced positive behavioral change, which indicates the capacity for responsible future behavior.

"Discharge At Risk", This category indicates that the client has completed the program's attendance requirements and paid the required fee, but has not demonstrated sufficient change to indicate responsible behavior in the community.

"Non-Compliance", The client has failed to comply with the rules and regulations associated with program entry and has also failed to comply with the conditions and expectations as outlined in the initial sessions.

"Administrative Discharge", The client has evidenced a need for services other than those available through the program. For example, worsening alcoholism that results in admission to detoxification or residential treatment services. This status is also assigned for clients who cannot attend the program for reasons beyond their control (i.e., permanent disability occurring after enrollment).

3.0 Applicability

These standard operating procedures apply to all Department of Public Safety contracted DUI treatment, education, and assessment providers, as well as to all clients referred to this program whether they reside in or out of the State of Delaware.

4.0 Client Flow

4.1 Referral to the Delaware Evaluation and Referral Program (DERP). The court is the organization that generally makes the referral to DERP by providing them with the client's name and referral information. DERP will then process this information according to the following procedures:

4.1.1 For a DUI client residing in Delaware or seeking treatment services through a Delaware contracted provider:

4.1.1.1 Sources of Referral

4.1.1.1.1 Court System

4.1.1.1.2 Probation and Parole

4.1.1.1.3 Client Self-Referral

4.1.1.1.4 Out-of-State DMV

4.1.1.1.5 Delaware DMV

4.1.1.2 Intake and Referral Process ***(at DERP)***

4.1.1.2.1 DERP will enter client information into the online tracking system upon receipt.

4.1.1.2.2 The client has 72 hours from the court appearance time and date to contact DERP and schedule an interview. DERP will send an introduction letter (Attachment A) to the client, typically within 24 hours of receipt of the referral.

4.1.1.2.3 DERP will contact each client by telephone on the evening prior to his or her scheduled appointment.*

***Please note** Should the client fail to contact DERP and schedule the appointment with 72 hours of their court appearance, the staff at DERP may issue a*

non-compliance discharge (Attachment C). Referral agency will be notified, the tracking system will be updated, and the process now stops.

Should the client fail to keep an appointment or arrive at the appointment without the fee or required paperwork, the staff at DERP will apply a no-show fee of $25.00 to the client's account, and the scheduling process will begin again.

Should the client fail to reschedule within 24 hours of the missed appointment, the staff at DERP may issue a non-compliance discharge. Referral agency will be notified, the tracking system will be updated, and the process now stops until the client takes the necessary steps to re-entry (Attachment D)

4.1.1.2.4 DERP will conduct a screening of the client and make a recommendation for program level of treatment, provide a supervisory clinical review (CADC), and make a referral (Attachment B) to a Delaware contracted DUI provider agency, as selected by the client.

4.1.1.2.5 A DERP screening is valid for two years. Education referrals, however, must be re-screened after each non-compliance discharge.

4.1.1.2.6 The Delaware contracted DUI provider agency selected should be county-appropriate, or by client request, and the referral shall be made within five business days of the client's assessment appointment.

4.1.1.3 Reasons for and Process of a DERP Non-Compliance

4.1.1.3.1 Client fails to contact DERP within 72 hours of court appearance.

4.1.1.3.2 Client fails to show for a scheduled appointment and does not contact DERP to reschedule within 24 hours of the missed appointment.

4.1.1.3.3 Client fails to keep two scheduled appointments per referral episode.

4.1.1.4 Completion Process ***(In-State Clients at DERP)***

4.1.1.4.1 Update the tracking system with a notification date to the court (in-state or out-of-state court) of completion.

4.1.1.4.2 Advise Delaware, or other state's DMV, of completion.

4.1.1.4.3 Notify referring organization of discharge status.

4.1.1.4.4 Close case and maintain file.

4.1.1.5 Fees ***(In-State Clients)***

4.1.1.5.1 Screening - $75.00

4.1.1.5.2 No-Show - $25.00 per missed appointment

4.1.1.5.3 Administrative Re-Entry Processing - $25.00

4.1.2 For a DUI client not residing in Delaware:

4.1.2.1 Sources of Referral

4.1.2.1.1 Court System

4.1.2.1.2 Probation and Parole

4.1.2.1.3 Client Self-Referral

4.1.2.1.4 Out-of-State DMV

4.1.2.1.5 Delaware DMV

4.1.2.2 Intake and Referral Process ***(at DERP)***

4.1.2.2.1 Enter the client information into the online tracking system upon receipt.

4.1.2.2.2 Send to and receive back from the client a complete release of information (Attachment E) and a letter regarding the process to reach completion (Attachment F).

4.1.2.2.3 If necessary, direct the client to a facility in their area for an evaluation.

4.1.2.2.4 If required paperwork is incomplete, or not received within 15 days of the date DERP sent the letter, DERP may issue a non-compliance discharge and close the case. The Administrative Processing Fee would then be applicable for the client to re-enter the system.

4.1.2.2.5 Refer the client to a facility in their area for the appropriate program as determined by the evaluation.

4.1.2.2.6 Maintain contact with the client until all client information is received.

4.1.2.3 Completion Process ***(Out-of-State Clients at DERP)***

4.1.2.3.1 Update the tracking system with a notification date to the court (in-state or out-of-state court) of completion.

4.1.2.3.2 Advise Delaware, or other state's DMV, of completion.

4.1.2.3.3 Notify referring organization of discharge status.

4.1.2.3.4 Close case and maintain file.

4.1.2.4 Fees ***(Out-of-State Clients)***

4.1.2.4.1 Out of State Client Processing - $100.00

4.1.2.4.2 Administrative Re-Entry Processing - $25.00

4.2 Referral from DERP is made to a Delaware Department of Public Safety DUI contracted provider.

4.2.1 Intake and Referral Process ***(at Provider Agency)***

4.2.1.1 Check the DUI tracking system and extract new referrals daily.

4.2.1.2 Print the new referral information and establish a client chart.

4.2.1.3 Mail an appropriate introduction letter (Attachment G) to the client and update the online system indicating that the initial notification has been made.

4.2.1.4 Enter data into the provider's internal client tracking system.

4.2.1.5 Conduct client Orientation Meeting

and schedule clients' events, client completes clinical intake and begins the program.*

***Please note.** Should the client fail to attend an Orientation within 30 days of referral, the staff at the Provider Agency shall send a 30-day letter, issue a non-compliance discharge (Attachment H), and update the tracking system. The client seeking re-entry will be responsible for any no-show fees and the administrative processing fee.*

4.2.2 Program Completion and Client Disposition **(at Provider Agency)**

4.2.2.1 Assign discharge status to client's event (s).

4.2.2.2 Update the online system. For clients other than satisfactory discharge, any notes that explain the status will be helpful to DMV and the court system.

4.3 Re-Licensing

4.3.1 Ignition Interlock Device Program

4.3.1.1 First Offense Election. The IID Diversion Program is offered to DUI first offenders who qualify for the regular first offense election. This election must be made in court at the time of their plea. Eligibility requirements include enrollment in an appropriate education or treatment program and license revocation of at least one month.

4.3.1.2 Refused Chemical Test. Offenders with a revoked license for refusal to submit to a chemical test may voluntarily participate in the IID program. Eligibility requirements include enrollment in an appropriate education or treatment program, license revocation for an additional two month period above and beyond their initial revocation, and their revoked license must be in the Division for a minimum period of two months (for a 12 month revocation), six months (for an 18 month revocation), or twelve months (for a 24 month revocation).

4.3.1.3 Subsequent Conviction or Probable Cause Administrative Action. Offenders revoked for a subsequent DUI offense in either of these categories may voluntarily participate in the IID program. Eligibility requirements include enrollment in an appropriate treatment program, license revocation for an additional two month period above and beyond their initial revocation, and the revoked license must be in the Division for a minimum period of two months (for a 12 month revocation) or six months (for an 18 month revocation).

4.3.1.4 License Validity. The IID license is valid for Class D driving privileges provided the offender is driving a vehicle equipped with an approved Ignition Interlock Device and has the IID license in their possession.

4.3.2 Conditional Licensing

4.3.2.1 The conditional license is only authorized for offenders with a first DUI violation who elect the First Offender Election option in court upon meeting the specific criteria.

4.3.2.2 The offender must satisfactorily complete a minimum of sixteen (16) hours of alcohol education or treatment as determined by the Delaware Evaluation and Referral Program.

4.3.2.3 There is a minimum 90-day hard revocation before a conditional license may be issued.

4.3.2.4 The fee for a conditional license is $10.00.

4.3.3 Reinstatement for First Offense Election

4.3.3.1 The offender must satisfactorily complete an education or treatment program as determined by the Delaware Evaluation and Referral Program.

4.3.3.2 There is a minimum six-month hard revocation before reinstatement can be made.

4.3.3.3 The offender must complete a favorable character background review with the Division.

4.3.3.4 The fee for reinstatement is $143.75.

4.3.4 Reinstatement for DUI Conviction (without administrative action)

4.3.4.1 The offender must satisfactorily complete an education or treatment program as determined by the Delaware Evaluation and Referral Program.

4.3.4.2 There is a minimum six-month hard revocation before reinstatement can be made.

4.3.4.3 The offender must complete a favorable character background review with the Division

4.3.4.4 The fee for reinstatement is $143.75.

4.3.4.5 The offender must pass the vision, law, and road test administered by the Division, as well as pay the $12.50 license fee. ***(in-state offenders only)***

4.3.5 Reinstatement for Probable Cause or Refused Chemical Test (alone or with a DUI conviction)

4.3.5.1 The offender must satisfactorily complete an education or treatment program as determined by the Delaware Evaluation and Referral Program.

4.3.5.2 The offender must serve the revocation period in full.

4.3.5.3 The offender must complete a favorable character background review with the Division.

4.3.5.4 The fee for reinstatement is $143.75.

4.3.5.5 The offender must pass the vision, law, and road test administered by the Division, as well as pay the $12.50 license fee. ***(in-state offenders only)***

5.0 Provider Programs

5.1 DUI Education Program

5.1.1Overview

5.1.1.1The DUI Education Program consists of 16 hours of drug and alcohol education.

5.1.1.2 This program is designed for the first time offender who is of legal age to consume alcohol in the State of Delaware and who presents for an assessment following a DUI incident without evidence of an abuse problem, and typically with a BAC of less than 0.15.

5.1.1.3 The client referred to the program will receive 16 hours of education services through eight 2-hour classes. The class enrollment may be open or closed as long as the client does not have to wait more than 30 days to get started. The frequency of the meetings may vary by program.

5.1.1.4 Typically, the client will be referred to a program in the client's county of residence, but may request a referral to any of the three counties in Delaware.

5.1.1.5 During the course of the 16-hour program, a urine-drug screen (UDS) will be administered to every client. A positive UDS is grounds for immediate discharge at-risk from the Education program. (Other criteria that can result in a discharge at-risk can be found on Page 14.)

5.1.1.6 Clients discharged at-risk from the Education program will be referred to a higher level of care, as determined by the client's counselor. This can include a referral to a DUI Outpatient treatment program, an intensive outpatient program at another agency, or an inpatient program at another agency.

5.1.2 Associated Fees

5.1.2.1 Education Program - $200.00

5.1.2.2 No Show - $25.00 per missed appointment

5.1.2.3 Urinalysis - $25.00

5.1.2.4 Administrative Re-Entry - $25.00

5.1.3 Discharge Criteria (Attachment I)

5.1.3.1 Satisfactory. The client must attend all scheduled classes, pay the fee, and get a passing grade (80% or greater) on a standardized content test; the client must also complete the requirements of the program within 90 days of the referral. Participation must be evident and the client must present an acceptable DUI Avoidance Plan. (Attachment J) Attendance at an addiction-focused community support group is also required.

5.1.3.2 Non-Compliance. The client will be considered non-compliant and a non-compliance discharge status will be assigned if the client meets any of the following criteria:

5.1.3.2.1 The client fails to begin the program within 30 days of referral.

5.1.3.2.2 The client fails to pay the required fee according to the program, or individually designed payment plan.

5.1.3.2.3 The client contact is lost for more than 30 days.

5.1.3.2.4 The client has failed to complete the program within 90 days of the referral.

5.1.3.2.5 A non-compliance discharge will also be assigned to clients who are disruptive to the process.

5.1.3.2.6 Clients who fail to show for two consecutive scheduled appointments, or fail to show for three scheduled appointments during the entire course of treatment, will also be non-complied. (Attachment K)

5.1.3.3 At-Risk. A client who has failed to accomplish the goals and objectives of the Education Program will be released under an At-Risk status. (Attachment K) Specific reasons for this status include:

5.1.3.3.1 Failure of a client to remain abstinent while in the program.

5.1.3.3.2 Lack of participation in the group setting.

5.1.3.3.3 Lack of, or an unacceptable DUI Avoidance Plan.

5.1.3.3.4 Failure to achieve a passing grade on the content test.

5.1.3.3.5 Being arrested for an alcohol-related incident while in the program.

5.1.3.3.6 The presence of clinical issues that indicate the necessity of further treatment in accordance with the DSM IV diagnostic criteria.

5.1.3.4 Administrative Discharge. This discharge status is reserved for clients who cannot attend the program for medical reasons, have passed away, or cannot attend for a sound reason. This status may also be used to discharge a client to the services of another.

5.2 The DUI Out-Patient Treatment Program

5.2.1 Overview

5.2.1.1 This program consists of the base program and two sub-programs, all of which require a minimum of sixteen hours of drug and alcohol treatment.

5.2.1.1.1 The "21 and Under Treatment Program" provides services specifically geared to the issues most common to a population of this age.

5.2.1.1.2 The "Alternative/Mental Health Treatment Program" provides services specifically geared to the issues most common to this population.

5.2.1.2 This program is designed for the repeat offender and the first offender who presents for an assessment following a DUI incident with evidence of an abuse problem and typically with a BAC of greater than 0.15.

5.2.1.3 The client referred to the program will receive a minimum of 16 hours of treatment services. The services are provided through a variety of methods and will differ by contracted service provider. The class enrollment may be open or closed as long as the client does not have to wait more than thirty (30) days to get started. The frequency of the meetings may vary by program.

5.2.1.4 Typically, the client will be referred to a program in the client's county of residence, but may request a referral to any of the three counties in Delaware.

5.2.2 Acceptance of Prior Treatment

5.2.2.1 Clients having received prior treatment services will be required to attend the DUI Provider's DUI program orientation. Having completed any

form of intensive substance abuse treatment indicates, in and of itself, a level of need that would typically warrant extended care and monitoring.

5.2.2.2 These clients will be required to submit for a detailed assessment and should bring all paperwork relating to any prior substance abuse treatment. A urine drug screen will be required at the time of assessment. Any treatment received within the last 60 days will be reviewed and a clinical decision made to determine the extent to which the treatment satisfies DUI Outpatient Treatment Program's requirements. Any treatment older than 60 days will not be considered.

5.2.2.3 If the clinical determination is that the substance abuse treatment was adequate, but the "drinking and driving" component of the program was missing, the client will be referred to a DUI Education Program to ensure that this component is received. If the treatment completed was an inpatient program, after-care services will be required prior to discharge from the DUI program.

5.2.3 Fees

5.2.3.1 Program - $600.00

5.2.3.2 No Show (group session) - $25.00

5.2.3.3 No Show (individual session) - $25.00

5.2.3.4 Urinalysis - $25.00

5.2.3.5 Administrative Re-entry - $25.00

5.2.4 Discharge Criteria (Attachment I)

5.2.4.1 Satisfactory. The client must attend all scheduled classes, pay the fee, and get a passing grade (80% or greater) on a standardized content test; and must complete the requirements of the program within 120 days of the referral. Participation must be evident, client demonstrated a change in behavior, and the client must present an acceptable DUI Avoidance Plan. Attendance at a minimum of 6 addiction-focused community support group meetings is also required.

5.2.4.2 Non-Compliance. The client will be considered non-compliant and a non-compliance discharge status will be assigned if the client meets any of the following criteria:

5.2.4.2.1 The client fails to begin the program within 30 days of referral.

5.2.4.2.2 The client fails to pay the required fee according to the program, or individually designed payment plan.

5.2.4.2.3 The client contact is lost for more than 30 days.

5.2.4.2.4 The client has failed to complete the program within 120 days of the referral.

5.2.4.2.5 A non-compliance discharge will also be assigned to clients who are disruptive to the process.

5.2.4.2.6 Clients who fail to show for two consecutive scheduled appointments, or fail to show for three scheduled appointments during the entire course of treatment, will also be non-complied.

5.2.4.3 At-Risk A client who has failed to accomplish the goals and objectives of the Treatment Program will be released under an At-Risk status (Attachment L). Specific reasons for this status include:

5.2.4.3.1 Failure of a client to remain abstinent while in the program.

5.2.4.3.2 Lack of participation in the group setting.

5.2.4.3.3 Failure to complete the treatment plan

5.2.4.3.4 Lack of, or an unacceptable DUI Avoidance Plan.

5.2.4.3.5 Failure to achieve a passing grade on the content test.

5.2.4.3.6 Being arrested for an alcohol-related incident while in the program.

5.2.4.3.7 The presence of clinical issues that indicate the necessity of further treatment in accordance with the DSM IV diagnostic criteria.

5.2.4.4 Administrative Discharge. This discharge status is reserved for those clients who cannot attend the program for medical reasons, have passed away, or cannot attend for a sound reason. This status may also be used to discharge a client to the service of another.

5.3 Other Programs. There are other, more intensive services available for use at the discretion of the Program Managers. These include services such as residential treatment and medical detoxification. In addition, a Hardcore Program for drinking drivers is currently in the development stages. This program will target offenders with a history of DUI incidents, and offer appropriate treatment services.

6.0 Appeals Process

6.1 Overview. An individual who has been discharged from a DUI Education/Treatment Program, and has unsuccessfully appealed that discharge in accordance with the duly established appeals procedures of the education/ treatment agency, may appeal the discharge to the Division of Alcoholism, Drug Abuse and Mental Health (DADAMH).

6.2 Client Responsibilities. Within 10 days from the effective date on the official notice of the internal appeals decision of the education/treatment agency, the client must submit an appeal to DADAMH, which includes all of the following documents:

6.2.1 Notice of Appeal of Discharge to DADAMH form (Attachment M). This form should be obtained from the education/treatment agency. The client must use the form to clearly state the reason (s) for the appeal. The client must clearly cite the specific items in the discharge letter from the treatment/education agency that he/ she is challenging. The client must also present objective,

measurable facts that support his/her challenge to the education/treatment agency's decision.

6.2.2 Discharge letter from education/treatment agency that clearly indicates the specific reasons for discharge.

6.2.3 Official notice of the internal appeals decision from the education/treatment agency verifying that the client has completed the agency's internal appeal process, and that the decision to discharge has been upheld.

6.2.4 A fully completed and signed "Consent for Release of Confidential Information" that complies with 42 CFR requirements allowing the education/treatment agency to provide information to the DADAMH DUI Appeals Team. A copy of this form must also be given to the education/treatment agency. (This form should be obtained from the education/treatment agency.)

6.3 Education/Treatment Agency Responsibilities. The education/treatment agency that has discharged the client must:

6.3.1 Provide the client with a letter, which details the specific objective, measurable reasons why he/she has been discharged from the program. These reasons must be based upon the Criteria for Discharge that have been approved by the Office of Highway Safety (OHS) for the DUI Education/Treatment Program.

6.3.2 Offer the client the opportunity to appeal the discharge to the education/treatment agency following the appeals process approved by OHS and give the client an official notice of the internal appeals decision verifying that the discharge was upheld.

6.3.3 Explain the process to appeal further to DADAMH and provide the client with the Appeal of Discharge to DADAMH form.

6.3.4 Provide the client with the appropriate "Consent for Release of Confidential Information" form and assist the client to complete the form correctly and completely. Keep one signed original and give the client one signed copy.

6.3.5 Upon notification from the DADAMH Appeals Team that an appeal has been received, provide the DADAMH Appeals Team, within 10 working days, the specific, objective, measurable documentation to support the reasons for discharge in the letter given to the client.

6.4 DADAMH Appeals Team Responsibilities

6.4.1 Log in and date stamp the appeal packages received from clients

6.4.1.1 Appeal packages received in the DADAMH Appeals Team office, or postmarked no later than ten (10) days from the effective date of the official notice of the internal appeals decision from the education/treatment program, will be scheduled to be reviewed by the DADAMH Appeals Team.

6.4.1.2 Appeals not received in the DADAMH Appeals Team office, or postmarked later than ten (10) days from the effective date of the official notice of the internal appeals decision from the education/treatment program, will be logged in and returned to the appellant without further action.

6.4.1.3 Appeal packages that are incomplete (i.e., do not contain all four of the items outlined in Chapter VI, Section B – Client Responsibilities above, completed inaccurately, or without appropriate signatures as required) will be logged in and returned to the appellant. If a corrected appeals package is not returned before the original ten (10) day period expires, the appeal will not be reviewed by the DADAMH Appeals Team.

6.4.2 The DADAMH Appeals Team will contact the education/treatment agency to request specific, objective, measurable documentation to support the reasons for discharge in the letter given to the client. If the documentation is not received by the DADAMH Appeals Team within 10 working days from the contact date, the Team's decision will be based solely upon the documentation provided by the appellant.

6.4.3 The DADAMH Appeals Team will meet at least monthly to review appropriately submitted appeals. All appropriately submitted appeals received by the DADAMH Appeals Team three days prior to a scheduled review will be considered at the review. Appeals received after three working days before a scheduled review will be considered at the next scheduled review.

6.4.4 The DADAMH Appeals Team will carefully consider all the required documentation provided by the client and the education/treatment provider. Decisions will be based solely on the documentation provided in writing. No in-person hearings will be conducted. No in-person appearances by education/treatment providers will be allowed. THE TEAM WILL RENDER A DECISION REGARDING WHETHER OR NOT THE EDUCATION/TREATMENT AGENCY FOLLOWED THE CRITERIA APPROVED BY DPS/OHS FOR DISCHARGE OF CLIENTS FROM THE DUI EDUCATION/TREATMENT PROGRAM.

6.4.5 Within 10 days of the review, the DADAMH Appeals Team will notify the client, OHS, and the education/treatment agency of the Team's decision and rationale behind the decision. All decisions are final, and no subsequent review will be held by DADAMH on the same appeal.

6.4.6 Within 10 days of the review, the DADAMH Appeals Team will enter the decision into the DUI Tracking System.

7.0 Fee Schedules

Service	Current Fee
Screening by DERP	$75.00
Out of State Processing	$100.00

No Show (DERP)	$25.00
Administrative Re-entry (DERP)*	$25.00
Education Program	$200.00
No Show (Education)	$25.00
Outpatient Treatment	$600.00
No Show (Treatment-Group)	$25.00
No Show (Treatment-Individual)	$25.00
Administrative Re-Entry (Programs)*	$25.00
Urinalysis	$25.00
Hardcore Program – in development	

*This is an administrative fee is for non-complied clients that do not require a new evaluation, but must be re-entered and referred to a program. The client will also be charged this fee at the Provider Agency for administrative costs associated with processing the client referral.

8.0 Reports

Each agency is responsible for maintaining current information in the tracking system on client activity. The information must be sufficient to permit the following reports to be generated:

8.1 The number of clients referred to any provider agency by DERP. The program the client was referred to within the provider agency must also be shown. The client referral date to the program represents the reference datum. All time-related information reported must be relative to this date.

8.2 The number of calendar days from referral date to the provider agency and 1st contact with client by the provider.

8.3 The number of calendar days from referral date to the provider agency and client enrollment.

8.4 The number of clients that have been referred in the target month but have not started the program in that same month.

8.5 The number of calendar days from referral date to the client completing the program.

8.6 The number of clients referred during a target month by the discharge status assigned.

8.7 It is also necessary for the agencies to report the distribution of the population by age, BAC, sex and number of DUI events.

9.0 Attachments

9.1 Client Introductory Letter from DERP
9.2 In-State Client Letter from DERP
9.3 Client Non-Compliance Letter from DERP
9.4 DERP Re-entry Letters
9.5 Standard Release of Information
9.6 Out-of-State Client Information Letters
9.7 Client Introductory Letter from Program
9.8 Client Non-Compliance Letter from Program
9.9 Discharge Criteria – Supporting Information
9.10 Sample DUI Avoidance Plan
9.11 No-Show Non-Compliance Letter from Program
9.12 At-Risk Letter from Program
DADAMH Appeals Process and Letter

EXECUTIVE DEPARTMENT

DELAWARE ECONOMIC DEVELOPMENT OFFICE

Statutory Authority: 29 Delaware Code, Sections 5005(11) & 7903(10); 30 Del.C. 2004

DELAWARE ECONOMIC DEVELOPMENT OFFICE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
TAX APPEAL BOARD

Order Adopting and Promulgating Final Regulation
Governing Neighborhood Assistance Act Tax Credit Program

AND NOW, this 14th day of March, 2003, Judy Ann Cherry, as Director of the Delaware Economic Development Office ("DEDO"), Vincent P. Meconi, as Secretary of the Department of Health and Social Services ("DHSS"), and Donald E. Gregory, Todd Schiltz, Regina Dudziec, Cynthia L. Hughes and Joan Winters, as the members of the Tax Appeal Board ("TAB"), in accordance with the Neighborhood Assistance Act, 30 *Del.C.* §§2001 - 2007 (the "Act"), and 29 *Del.C.* Ch 11, Subch. III and Ch. 101, for the reasons set forth below enter this ORDER adopting and promulgating the "Neighborhood Assistance Act Tax Credit Program Regulation" (the "Regulation") set forth below.

Nature Of Proceedings; Synopsis Of The Subject And Substance Of The Regulation

In accordance with procedures set forth in 29 *Del.C.* Ch. 11, Subch. III and 29 *Del.C.* Ch. 101, the Secretary of DHSS, the Director of DEDO and the members of the TAB proposed to adopt regulations pertaining to the tax credit set forth in the Neighborhood Assistance Act, 30 *Del.C.* §§2001 - 2007. The regulation sets forth certain definitions pertaining to the Act and the regulation and explains how to apply for an NAA Credit and the procedures pertaining to the application process.

The proposed regulation appeared in the Delaware Register of Regulations on November 1, 2002 and a public hearing was held on December 9th, 2002. Both written comments and comments from the Public Hearing were

reviewed and incorporated into a second draft published in the Delaware Register of Regulations on February 1, 2003, *see* 6 **DE Reg.** 943 - 948. Members of the public were able to present written comments on the regulation by submitting such written comments to Mr. Alex Bradley at the address of the Delaware Economic Development Office, 99 Kings Highway, Dover, DE 19901. Written comments must have been received on or before March 3, 2003.

Summary Of Evidence And Information Submitted

One comment was received that provided comment on the proposed regulations. The writer proposed that the definition of "Impoverished Areas" include specific reference to "housing" in the definition, and include an additional criteria for defining an "Impoverished Area".

Findings Of Fact And Conclusions

In the Neighborhood Assistance Act, 30 *Del.C.* §§2001 - 2007 (the "Act"), particularly section 2004 thereof, the General Assembly empowered DHSS, DEDO and the TAB to promulgate regulations for the administration of the Act.

The Act provides that the Neighborhood Assistance Act Advisory Council (the "NAAAC") is to provide guidance and recommendations to DEDO and the TAB in establishing program priorities and mechanisms for the administration of the program.

DHSS, DEDO and the TAB have consulted with and received the guidance and recommendations of the NAAAC in developing the Regulation.

The Secretary of DHSS, the Director of DEDO and the members of the TAB have concluded that no change in the regulation is necessary to address the concern expressed regarding the definition of Impoverished Area. Rather The Secretary of DHSS, the Director of DEDO and the members of the TAB conclude that the current definition identifies Impoverished Areas in such a way that the revitalization and improvement to substandard housing is already covered within the intent of the regulation and the current definition of Impoverished Area. They further concluded that the definition of "Impoverished Area" is inclusive enough and there is no need to add the additional criteria to the definition.

Decision And Order Concerning The Regulation

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Secretary of DHSS, the Director of DEDO and the members of the TAB, ORDER that the Regulation be, and that it hereby is, adopted and promulgated as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware Register of Regulations, in accordance with 29 *Del.C.* §10118(g).

Judy Ann Cherry, Director, Delaware Economic Development Office
Vincent P. Meconi, Secretary, Department of Health and Social Services
Donald E. Gregory, Esquire, Member, Tax Appeal Board
Regina Dudziec, Member, Tax Appeal Board
Joan M. Winters, CPA, Member, Tax Appeal Board
Todd Schiltz, Esquire, Member, Tax Appeal Board
Cynthia L. Hughes, Member, Tax Appeal Board

Proposed Neighborhood Assistance Act Tax Credit Program Regulation

1.0 Introduction

This regulation is promulgated under the authority granted by 30 *Del. C.* §2004 to the Secretary of DHSS, the Director of DEDO, and the TAB to make regulations for the approval or disapproval of Applications from Business Firms for the NAA Credit. The Act, administered by DHSS, DEDO & TAB, is the Neighborhood Assistance Act, 30 *Del. C.* §§2001 – 2007. The Act is designed to encourage both Contributions by Business Firms to Neighborhood Organizations, Community Development Corporations and Community-Based Development Organizations performing Community Service and offering Neighborhood Assistance and the direct operation by Business Firms of Programs for the provision of Job Training, Education, Community Services, Crime Prevention Housing and Economic Development to benefit individuals living in Impoverished Areas.

This regulation sets forth the definition of certain terms used in the Act and describes (i) the eligibility requirements for Business Firms desiring to participate in the program, (ii) the processes used by the Council to provide guidance and recommendations to the Director of DEDO and the TAB on business firms that should receive a tax credit, (iii) how to apply for the tax credit, (iv) how the Council will assist DEDO, DHSS and the TAB.

2.0 Definitions.

For purposes of this regulation, initially capitalized terms not otherwise defined in this section 2.0 shall have the meanings set forth in the Act.

For purposes of this regulation, initially capitalized terms not defined by the Act shall have the following definitions:

"Act" means the Neighborhood Assistance Act, 30 *Del. C.* §§2001 – 2007, as amended from time to time.

"Administrator" means the DHSS, DEDO and the TAB, with the guidance of the Council. For purposes of the approval process over Applications, DEDO shall have

primary responsibility for administration of the Act.

"Applicant" means a Business Firm that makes an application for approval of an Investment or a Program in accordance with this regulation.

"Application" means an application made by an Applicant on the form prescribed by the Administrator setting forth pertinent information pertaining to (i) the Applicant, (ii) the Investment proposed, including, as appropriate, the qualification of the recipient of a Contribution as a Neighborhood Organization, a Community Development Corporation or Community-Based Development Organization, (iii) the purposes for which such Neighborhood Organization, a Community Development Corporation or Community-Based Development Organization will expend or use a Contribution, (iv) a description of a Program, (v) the amount of cash or in-kind support that will be used in the Program and detailed information concerning the underlying factual basis and valuation methodology that the Applicant used to value goods and services proposed to be furnished in connection with a Program, (vi) the Impoverished Area or Low Income People involved, and (vii) such other information or types of information as the Administrator deems necessary. The Administrator may require submission of additional materials to substantiate information elicited by an Application.

"Contribution" means a contribution of money or of goods and services, valued at their Fair Market Value, to (i) a Neighborhood Organization for use by such organization in providing Community Services or in offering Neighborhood Assistance, or (ii) a Community Development Corporation or Community-Based Development Organization for use by such organization in the planning and implementation of Economic Development projects.

"Council" means the Neighborhood Assistance Act Advisory Council established by 30 *Del. C.* §2004.

"DEDO" means the Delaware Economic Development Office.

"DHSS" means the Department of Health and Social Services.

"Emergency Assistance" means the provision of payments or services for families in order to eliminate or alleviate an emergency condition. An "emergency condition" is defined the loss of the family shelter or the loss of energy supply to the family shelter.

"Fair Market Value" means, with respect to an item of goods or services, the price in a market in which the item of such goods or services is most commonly sold to the public at which such item would change hands between an unrelated willing buyer and an unrelated willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts.

"Impoverished Area" means any clearly-defined, economically distressed urban or rural area in the State of Delaware that has been certified as such by DHSS and approved by the TAB. DHSS shall make its certification of an Impoverished Area based on federal census studies and current indices of social and economic conditions. The following areas are hereby certified by DHSS and approved by the TAB as Impoverished Areas: (i) census tracts described in 30 *Del. C.* §2020(1)e., as amended, or in any successor statutes thereto, and (ii) areas designated as ranking "4" or "5" in the document prepared by DHSS in July, 1997 entitled "Community Prioritization in Delaware" and in any updated version of such document based on data gathered by the federal government in the 2000 census and on current indices of social and economic conditions. Additionally, DHSS may certify and TAB may approve as an Impoverished Area any area whose boundaries can be described geographically and that meets one or more of the following criteria: (A) the geographic area has a higher than average percentage of households receiving public assistance; (B) the rate of unemployment in the geographic area is higher than average in the State; (C) the geographic area has a higher than average concentration of residents who are Low Income People; (D) the geographic area has a demonstrated need for assistance in economic development, has significant numbers of vacant or substandard properties or infrastructure problems that may create substandard living conditions or cause the area to be economically distressed; and, (E) the population in the geographic area has special needs to be served by the activities of a Neighborhood Organization, Community Development Corporation or Community-Based Development Organization. DHSS may make the foregoing certification and TAB may approve such certification based on a letter application to DHSS with supporting documentation required by DHSS that is made by an Applicant, or by a Neighborhood Organization, Community Development Corporation or Community-Based Development Organization. If the "Community Prioritization in Delaware" document is updated based on data gathered by the federal government in the 2000 census and on current indices of social and economic conditions, areas designated as ranking "4" or "5" in either version of the document shall constitute Impoverished Areas during the fiscal year of the State in which such update is made. Thereafter, only areas designated as ranking "4" or "5" in such updated version of "Community Prioritization in Delaware" shall constitute Impoverished Areas; provided however, that Applicants whose Applications have been approved in accordance with Section 5.0 of this regulation shall not, as a result of such update, be deprived of any NAA Credit, including any carryforward thereof, based on such Application.

"Investment" means (i) the amount of a Contribution or (ii) the amount of money and the Fair Market Value of goods and services proposed to be made or expended within the taxable year of the Applicant on a Program.

"Locally Based" means, with respect to a Community Development Corporation or a Community-Based Development Organization, that such Community Development Corporation or Community-Based Development Organization is organized by residents of and located in one or more of the Impoverished Areas in which they serve.

"Low Income People" or **"Low Income Person"** means individuals or an individual with an annual income that is fifty percent (50%) or below the established median income for the State or for any political subdivision thereof for which median income data is available from the United States census.

"NAA Credit" means the credit described in 30 *Del. C.* §2005, subject to the limitations of 30 *Del. C.* §2006 and regulations governing the NAA Credit promulgated by the Delaware Division of Revenue.

"Program" means the direct provision by an Applicant in an Impoverished Area of (i) Neighborhood Assistance, (ii) Job Training for individuals not employed by the Applicant, (iii) Education for individuals not employed by the Applicant, (iv) Community Services, (v) Crime Prevention, (vii) Housing, or (viii) Economic Development.

"Proposal" means the description of the relationship between the Business Firm making an Application and the Neighborhood Organization, Community Development Corporation, or Community-Based Development Organization to which the Business Firm will make a Contribution and a description of how the Neighborhood Organization will provide Community Services or Neighborhood Assistance or of how the Community Development Corporation or Community-Based Development Organization will engage in Economic Development.

"Resident-Controlled" means, for purposes of the definition in the Act of the terms "Community Development Corporation" and "Community-Based Development Organization," an organization that otherwise meets the definition of a "Community Development Corporation" or "Community Based Development Organization" under the Act, the by-laws or other organizational documents of which require that at least fifty-one percent (51%) of the members of the board of directors, or other governing body of such organization, reside or work in the Impoverished Area served by the organization.

"TAB" Means the Tax Appeal Board.

3.0 Program Priorities

Applications received for consideration of an Investment must meet all eligibility requirements under the Act and this regulation, including, but not limited to the purpose of the Program or Proposal with respect the Investment is to be made, the eligibility requirements for the Business Firm making an Application and for the Neighborhood Organization, Community Development Corporation, or Community-Based Development Organization that will receive a Contribution.

Applications will be reviewed and ranked on the following factors: (i) financial feasibility of the Program or Proposal, (ii) capacity of the Applicant to carry out a Program or of the Neighborhood Organization, Community Development Corporation, or Community-Based Development Organization that will receive a Contribution to implement the activities described in the Proposal; (iii) specific description of goals to be achieved and the relationship of such goals to the priorities established by the Act; (iv) proposed methods by which the success of the Program or Proposal can be measured; (v) specific description of the impact of the Program or Proposal on an Impoverished Area; and, (vi) other information requested in the Application form prescribed by the Administrator and any supplementary information requested by the Administrator.

4.0 Making Application for NAA Credits

Applications may be submitted at any time directly to: Administrator of the Neighborhood Assistance Act, Delaware Economic Development Office, 99 Kings Highway, Dover Delaware 19901. The Administrator will review the Application for completeness. If the Application is incomplete, the Administrator will return it to the Applicant and shall specify in what regard it is incomplete. The Administrator may also request additional in formation or other documentation in support of an Application.

5.0 Procedures for Recommendation of Approval or Disapproval of Application

5.1 Initial Processing and Distribution of Complete Applications. When the Administrator finds that an Application is complete, it shall submit copies of the Application to DEDO, the members of the TAB and the members of the Council.

5.2 Council Review of Application.

5.2.1 The Council shall review Applications transmitted to it by the Administrator in accordance with Section 5.1 hereof at its public meetings held in compliance with 29 *Del. C.* §10004. In addition to posting its agenda publicly, as required by 29 *Del. C.* §10004(e), the Council shall mail a written notice of such meetings to all Applicants whose Applications will be reviewed by the Council at such meetings at least seven days in advance of such meetings.

5.2.2 At its meeting, the Council shall review the completed Applications based on eligibility criteria set forth in the Act and this regulation.

5.2.3 The Council shall prepare a written recommendation to the Director of DEDO and the members of the TAB on all Applications reviewed at its meetings. The Council's recommendation shall include a

recommendation for the approval or disapproval of an Application and a recommended amount of the Investment to be approved. The Council shall send its written recommendation to the Director of DEDO, the members of the TAB and the Applicant.

5.3 Hearing on Application

5.3.1 In General. Hearings on all Applications shall be conducted jointly by (i) the Director of DEDO, or an employee of DEDO designated by the Director of DEDO, and (ii) the members of the TAB to consider Applications based on the criteria for eligibility set forth in the Act and in this regulation and on the recommendation of the Council. If the Director of DEDO and the members of the TAB so agree, the hearing may be conducted by an employee of DEDO designated as a hearing officer by both the Director of DEDO and the members of the TAB.

5.3.2 Scheduling of Hearings. The Director of DEDO and the members of the TAB, or the hearing officer designated by them in accordance with section 5.3.1, shall schedule a hearing on an Application after receiving the written recommendation of the Council described in subsection 5.2.3 hereof and shall notify the Applicant of the hearing in compliance with the provisions of 29 *Del C.* §10122. The recommendation of the Council shall become part of the record in the hearing, and the Applicant will be asked to stipulate to the inclusion of such recommendation in the record of the hearing; provided, however, that the Applicant shall have the opportunity to introduce evidence and testimony at the hearing to supplement or contradict the recommendation.

5.3.3 Conduct of Hearing; Burden of Proof. The hearing shall be conducted on the record in accordance with the procedures for agency case decisions set forth in 29 *Del.C.* §§10121 – 10129. The burden of proof shall always be on the Applicant.

5.3.4 Final Order; Proposed Order. The Director of DEDO and the members of the TAB shall decide whether to approve or disapprove an Application, with or without modification of the Investment or Program, and on the amount of the approved Investment or Program based on the entire record of the case and shall issue a final order in accordance with 29 *Del. C.* § 10128. If a designated hearing officer conducts the hearing, such hearing officer shall comply with the requirements of 29 *Del. C.* § 10126 in preparing a proposed order for the consideration of the Director of DEDO and the members of the TAB, a copy of which shall be such section.

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

TO: HEADS OF ALL STATE DEPARTMENTS, AGENCIES, AUTHORITIES, ALL POLITICAL SUBDIVISIONS AND GOVERNMENTAL UNITS OF THE STATE OF DELAWARE

PROCLAMATION OF STATE OF EMERGENCY DUE TO A SEVERE WINTER STORM/SNOW

WHEREAS, a Severe Winter Storm, involving predicted accumulations of over a foot of snow with drifts creating substantially higher accumulations has already begun in all three counties of the State of Delaware; and

WHEREAS, the predicted weather conditions will likely create life-threatening conditions and treacherous roads in Delaware;

WHEREAS, the predicted weather conditions threaten power outages and destruction and damage to properties throughout the State;

NOW, THEREFORE, I, Ruth Ann Minner, pursuant to Title 20, Chapter 31 of the Delaware Code, do hereby declare a State of Emergency for the entire State of Delaware, effective 9:20 a.m. on February 16, 2003. The nature of the emergency is heavy snowfall and potentially high winds. Along with such other actions authorized by Title 20, Chapter 31 of the Delaware Code, I specifically direct and authorize that:

1) Until further notice, no motor vehicles are to be operated on any road in the State of Delaware, unless such vehicles are being operated by authorized personnel responding to the State of Emergency or other emergency situations.

2) In order to enforce paragraph 1 of this Order, state and local officials are directed to remove abandoned vehicles from roads in the State of Delaware at the expense of the vehicle owner.

3) The Delaware National Guard is activated to assist in storm-related response efforts.

4) Government entities subject to bidding requirements are exempted from those bidding requirements for the purpose of purchasing materials necessary for responding to this snow and wind emergency.

5) I authorize the Delaware Department of Transportation and the Delaware State Police, in consultation with the Delaware Emergency Management Agency, to order such bridge and road closures as necessary to protect the health and safety of the public.

6) The Delaware Emergency Management Agency shall activate the State Emergency Operations Plan and cooperate with federal entities in making applications, if necessary, for relief and assistance for those towns and communities adversely affected by snow and winds, pursuant to the State Emergency Operations Plan of the State of Delaware and any potentially applicable federal disaster or emergency relief laws, including, but not limited to, the Stafford Disaster Relief and Emergency Assistance Act. The director of DEMA, or his designee, shall be the Governor's Authorized Representative with respect to the interaction with FEMA.

7) I reserve the right to take or direct state or local authorities to take, without issuance of further written order, any other necessary actions authorized by Title 20, Chapter 31 of the Delaware Code to respond to this emergency.

Ruth Ann Minner, Governor

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

TO: HEADS OF ALL STATE DEPARTMENTS, AGENCIES, AUTHORITIES, ALL POLITICAL SUBDIVISIONS AND GOVERNMENTAL UNITS OF THE STAET OF DELAWARE

MODIFICATION OF STATE OF EMERGENCY

WHEREAS, major arteries in Delaware have been plowed sufficiently that they can be traveled safely by motorists; and

WHEREAS, continued closure of these major arteries would impede traffic through Delaware, as well as the efforts of travelers stranded in Delaware to leave the state;

I, RUTH ANN MINNER, GOVERNOR OF THE STATE OF DELAWARE, HEREBY ORDER ON THIS 17TH DAY OF FEBRUARY, 2003:

My emergency order of February 16th, 2003 is modified to allow travel on interstate highways and other major arteries in the State of Delaware.

All other provisions of my emergency order of February 16, 2003 shall remain in effect.

Ruth Ann Minner, Governor

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

TO: HEADS OF ALL STATE DEPARTMENTS, AGENCIES, AUTHORITIES, ALL POLITICAL SUBDIVISIONS AND GOVERNMENTAL UNITS OF THE STATE OF DELAWARE

TERMINATION OF STATE OF EMERGENCY

WHEREAS, the snowfall and winds that prompted my February 16th, 2003 order creating a State of Emergency in Delaware have ceased; and

WHEREAS, prompt and conscientious response by state and local emergency responders has made travel in Delaware possible, provided that motorists exercise extreme caution; and

WHEREAS, I, therefore, find that the emergency has been dealt with to the extent that conditions necessitating a state of emergency no longer exist;

I, RUTH ANN MINNER, GOVERNOR OF THE STATE OF DELAWARE, HEREBY ORDER ON THIS 18TH DAY OF FEBRUARY, 2003:

My emergency order of February 16th, 2003 is terminated as of 6:00 a.m. this morning.

Pursuant to 20 *Del.C.* § 3116(a)(11), the Delaware National Guard shall continue to provide necessary assistance to state and local authorities, at the discretion of the Adjutant General or his designees.

Ruth Ann Minner, Governor

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER NUMBER THIRTY-EIGHT

RE: ESTABLISHING THE STATE OF DELAWARE AS A DISASTER RESILIENT STATE THROUGH A COMPREHENSIVE MITIGATION PROGRAM AGAINST NATURAL AND TECHNOLOGICAL HAZARDS

WHEREAS, the State of Delaware, like all other states, is vulnerable to hurricanes, tornadoes, flooding, and other natural and technological disasters including terrorism and weapons of mass destruction that in the past have or could cause extensive loss of life and property, and severe disruption to essential human services; and

WHEREAS, the Stafford Act was recently amended by the Disaster Mitigation Act of 2000 Section 322 (DMA2K) (P.L. 106-390) which provides new and revitalized approaches to mitigation planning and emphasizes the need for state, local, and tribal entities to closely coordinate mitigation planning and implementation efforts; and

WHEREAS, two-thirds of the population lives in a single county; and

WHEREAS, during warmer months, tourists who visit the state's 90 miles of coastline, often coming from other states, may not fully understand the potential for hazards associated with coastal weather-related disruptive events; and

WHEREAS, in the past ten years, disasters have caused the loss of lives, personal injuries and more than $49 million (in today's dollars) in property damage; and

WHEREAS, hurricane-associated storms alone have caused more than $29 million in agricultural loss; and

WHEREAS, billions of dollars worth of residential, commercial, and coastal property in Delaware are at risk from hurricanes and weather-related damages; and

WHEREAS, partnerships with all levels of government, the private sector, and the residents of Delaware can reduce the impact of future events through hazard mitigation planning; and

WHEREAS, compliance with the new mitigation plan requirements will position the State of Delaware to receive pre- and post-disaster mitigation funding.

NOW, THEREFORE, I, RUTH ANN MINNER, ON THIS 28TH DAY OF FEBRUARY, 2003, DO HEREBY ORDER:

1) The State of Delaware's initiative to improve disaster resistance and resilience will be led by the Delaware Emergency Management Agency (DEMA).

2) In cooperation with public and private partners, DEMA will work to demonstrate the benefits of taking specific, creative steps to help Delaware communities reduce deaths, injuries, property damage, economic losses and human suffering caused by natural and technological disasters.

3) DEMA shall create a Statewide Hazard Mitigation Council (the "Council"), comprised of representatives from all levels of government and the private sector to act as a steering committee to further develop and implement State and local hazard mitigation strategies.

4) DEMA shall identify state agencies and private sector entities responsible and accountable for implementing actions in each of the areas listed below. Executives with authority and accountability in these areas will be asked to help the Council develop a five-year strategic plan and a first-year action plan. The plan shall include the following areas:

a) Completing and periodically updating a state-wide risk and vulnerability assessment of its natural and technological hazards to include terrorism and weapons of mass destruction;

b) Developing partnerships with businesses to provide a public-private link, resulting in a coordinated

approach across all phases of emergency management, including mitigation, preparedness, response and recovery. Partnerships should include critical businesses involved in recovery from natural and technological hazard events (e.g., financial, utilities, communications, food suppliers, and medical facilities) and those businesses that would impact the local and state economy;

c) Obtaining agreement to address relevant hazards and the risks they pose in any state-level land use decisions, including plans for state-owned property. The Council will also encourage municipalities to participate in the creation of county-level hazard mitigation plans that help guide day-to-day decision making;

d) Developing and sustaining local all-hazard mitigation plans that take into account state mitigation priorities;

e) Encouraging communities to participate in the National Flood Insurance Program (NFIP) and the Community Rating System (CRS) and improve the rating of those communities that currently participate. DEMA will provide technical assistance for the preparation of CRS applications;

f) Incorporating protective measures into public and private lifelines, infrastructure and critical facilities;

g) Developing and supporting existing and future programs to increase the public's awareness of natural and technological hazards, including ways to reduce or prevent damage through a coordinated effort lead by the Statewide Hazard Mitigation Council;

h) Supporting the incorporation of natural hazard awareness and reduction programs into school curricula through appropriate means, including the use of the state Department of Education, state university system, community colleges, and other educational institutions;

i) Supporting mitigation training for county and municipal planners, developers, architects, engineers, surveyors, and other government and private sector professionals;

j) Encouraging the participation of government industry and professional organizations in this effort;

k) Identifying existing incentives and disincentives for hazard loss reduction initiatives, and developing and implementing new incentives to further this effort;

l) Encouraging the development of disaster resilient communities within the State through a collaborative partnership with the Federal Emergency Management Agency.

Ruth Ann Minner, Governor

Attest:
Harriet Smith Windsor
Secretary of State

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER THIRTY-NINE

RE: CREATING TASK FORCE ON RESPONSIBLE MANAGEMENT OF FACILITIES HANDLING HAZARDOUS PRODUCTS

WHEREAS, the Metachem facility in Delaware City, Delaware ceased operations in May, 2002; and

WHEREAS, the State of Delaware may ultimately spend millions of dollars to remediate hazardous substances at the Metachem site as a result of the company's abrupt cessation of operations; and

WHEREAS, the Delaware Department of Natural Resources and Environmental Control provided regulatory oversight for a number of activities and processes at Metachem prior to its cessation of operations; and

WHEREAS, an examination of the Metachem situation offers the State of Delaware an opportunity to develop processes and policies to mitigate or avoid similar liabilities in the future;

I, RUTH ANN MINNER, GOVERNOR OF THE STATE OF DELAWARE, DO HEREBY ORDER ON THE 28TH DAY OF FEBRUARY, 2003:

1) The Task Force on Responsible Management of Facilities Handling Hazardous Products is hereby created.

2) The Task Force shall report to me by April 15, 2003 on the following:

a) the conditions that led to the Metachem situation and whether it could have been avoided;

b) corrective actions necessary to prevent this situation from happening again; and

c) a process for identifying other high-risk Delaware industrial facilities which if closed or abandoned would leave the State (and/or Federal government) with the costs for environmental clean-up).

3) Task Force members shall serve at the pleasure of the Governor.

Ruth Ann Minner, Governor

Attest:
Harriet Smith Windsor
Secretary of State

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Board of Directors of the Diamond State Port Corporation	Mr. H. Hickman Rowland, Jr.	1/30/2006
Board of Examiners of Speech/Language Pathology, Audiology & Hearing Aid Dispensers	Ms. Elizabeth V. Daudt	2/25/2006
Board of Funeral Services	Mr. Austin L. Grice, Jr.	2/24/2006
	Mr. Robert C. Hutchinson, Jr.	2/24/2006
Board of Medical Practice	Garrett H. Colmorgen, M.D.	2/25/2006
	Mr. Vance G. Daniels, Sr.	2/25/2006
	Ms. Kathleen J. Haynes	12/27/2005
	Mr. Kishor C. Sheth	2/25/2006
Board of Parole	Reverend H. Milton Cole, Jr.	1/16/2007
Board of Professional Land Surveyors	Mr. Amos W. Aiken	2/21/2006
Community Involvement Advisory Council	Kenneth W. Bell, M.D.	2/25/2006
	Mr. James M. Falk	2/25/2006
	The Honorable Robert G. Frederick	3/3/2006
	Ms. Dolores A. Washam	1/8/2005
Council on Archives	Barbara Benson, Ph.D.	2/25/2004
	Mr. Richard B. Carter	2/25/2005
	Mr. John M. Clayton, Jr.	2/25/2004
	Ms. Margaret R. Dunham	2/25/2004
	Mr. Edward H. Fielding	2/25/2005
	The Honorable Edward J. Freel	2/25/2006
	Ms. Janice C. Green	2/25/2005
	Mr. Robert C. Moor, Jr.	2/25/2006
	Mr. Lewis Purnell	2/25/2004
	The Honorable William T. Quillen	2/25/2006
	Mr. Craig A. Wilson	2/25/2005
	The Honorable George C. Wright, Jr.	2/25/2006
Council on Environmental Control	Mr. Nand K. Singh	5/1/2005
Council on Services for Aging and Adults with Physical Disabilities	Ms. Julia B. Gause	2/25/2006
Council on Social Services	Mr. Jose Quinones	2/21/2006
Delaware Advisory Council	The Honorable John A. Hughes	Pleasure of the Governor
Delaware Agricultural Lands Preservation Foundation	Mr. H. Dennis Clay	2/13/2006
	Mr. William W. Vanderwende	2/13/2006

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Delaware Bicycle Council	Mr. Timothy G. Willard	10/15/2003
Delaware Economic and Financial Advisory Council	The Honorable F. Gary Simpson	Pleasure of the Governor
Delaware Energy Task Force	The Honorable John A. Hughes	Pleasure of the Governor
Delaware Natural Areas Advisory Council	Mr. Carl J. Solberg	1/29/2007
	Ms. Dolores A. Washam	1/30/2007
	Ms. Lynn W. Williams	1/30/2007
Developmental Disabilities Council	Mr. Dennis L. Rubino	2/25/2006
Enhanced 911 Emergency Reporting System Service Board	Mr. Craig S. Harrington	1/30/2006
	Ms. Debra J. Sharp	1/30/2006
Family Court for Kent County	Mr. Lester H. Blades, Jr., Commissioner	1/30/2007
Governor's Task Force on School Libraries	Ms. Patricia W. Birch	Pleasure of the Governor
	Ms. Sharon Brubaker	Pleasure of the Governor
	Ms. Jo Anne Deshon	Pleasure of the Governor
	Ms. Margaret P. Dillner	Pleasure of the Governor
	Ms. Jean Gandek	Pleasure of the Governor
	Ms. Susan W. Gooden	Pleasure of the Governor
	Ms. Jacqueline S. Harris	Pleasure of the Governor
	Mr. Larry E. Harrison	Pleasure of the Governor
	Ms. Lois M. Hobbs	Pleasure of the Governor
	Mr. William Malone, Jr.	Pleasure of the Governor
	Mr. Tony Marchio	Pleasure of the Governor
	Mr. John J. Micklos, Jr.	Pleasure of the Governor
	Ms. Sandra Millard	Pleasure of the Governor
	Ms. Margaret R. Prouse	Pleasure of the Governor
	Mr. Keith T. Purdy	Pleasure of the Governor

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Governor's Task Force on School Libraries	Mr. Robert G. Sutton	Pleasure of the Governor
	Ms. Mary S. Tise	Pleasure of the Governor
	Ms. Catherine W. Wojewodzk	Pleasure of the Governor
Human Relations Commission	Mr. Diaz J. Bonville	2/24/2007
	Mr. David A. Bowman	2/24/2007
	Ms. Dawn S. Brown	2/24/2007
	Mr. Calvin H. Christopher	2/24/2007
	Ms. Chok-Fun C. Chui	2/24/2007
	Mr. Wallace R. Dixon	2/24/2007
	Mr. Harold L. Truxon	2/24/2007
Organ & Tissue Donor Awareness Board	The Honorable Gerald A. Buckworth	3/6/2006
	Ms. Sharon L. Gillespie	3/6/2006
	Ms. Jill Rogers	3/3/2006
	Ms. Sharon L. Smith	3/3/2006
	Ms. Linda C. Wolfe	3/3/2006
State Board of Electrical Examiners	Mr. Jacob A. Good	2/25/2006
	Mr. John W. Gordy	2/25/2006
	Mr. James H. Green	12/6/2003
State Board of Veterinary Medicine	Mr. William H. Cross	2/25/2006
	Sharon A. Little, D.V.M.	2/25/2006
State Banking Commissioner of the State of Delaware	Mr. Robert A. Glen	1/29/2007
State Council on Developmental Disabilities	Ms. Harline D. Dennison	2/11/2006
	Michael Gamel-McCormick, Ph.D.	2/11/2006
State Examining Board of Physical Therapists	Ms. JoAnn O. Kenton	9/7/2004
State Rehabilitation Advisory Council	Mr. Wade L. Churchfield	2/24/2006
	Ms. Catherine M. Gregory	2/24/2006
	Mr. Michael J. Haley	2/24/2006
	Ms. Joanne M. Koston	2/24/2006
	Ms. Micheline Nardo	2/24/2006
Superior Court of the State of Delaware	Mr. Calvin L. Scott, Jr., Associate Judge	2/19/2015
Sussex County Vocational-Technical School Board of Education	Mr. Randall E. O'Neal	9/25/2008
Vocational Rehabilitation Advisory Council for DVI	Mr. James T. Case, III	2/21/2006
	Mr. Adam W. Fisher	2/25/2006
	Ms. Barbara L. Mallory	2/21/2006

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Vocational Rehabilitation Advisory Council for DVI	Ms. Margaret M. Smith	2/25/2006
Water Supply Coordinating Council	The Honorable John A. Hughes	Pleasure of the Governor
Water Supply Task Force	The Honorable John A. Hughes	Pleasure of the Governor

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

PUBLIC NOTICE

Temporary Assistance to Needy Families (TANF)
Caseload Reduction Credit Report

Delaware Health and Social Services/Division of Social Services (DHSS/DSS) is accepting public comments on the ACF-202 Temporary Assistance to Needy Families (TANF) Caseload Reduction Credit Report.

Section 407(b)(3) of the Social Security Act (the ACT) requires a reduction of the State's required participation rate for a fiscal year by the number of percentage points that the average monthly number of families receiving assistance in the State in the immediately preceding fiscal year is less than the average monthly number of families that received assistance in the State in fiscal year (FY) 1995.

The statute prohibits this reduction from including any caseload declines due to requirements of Federal law or due to differences in State eligibility criteria. This reduction in the participation rate is termed the *TANF Caseload Reduction Credit*.

To receive a caseload reduction credit, a State must complete Form ACF-202, the Caseload Reduction Report, in accordance with the regulations at 45 CFR 261.40 et seq. The FY 2003 report provides the information needed to calculate a caseload reduction credit (FY 2003 vs. FY 1995), and thus determine the participation standard the State must meet for the fiscal year. Form ACF-202 and Attachment 1 to Form ACF-202 are available upon request via mail or fax.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning this notice must submit same to Sharon L. Summers, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by March 31, 2003.

ACF-202 TANF Caseload Reduction Report

- Part I - Implementation of All Eligibility Changes Made by the State Since FY 1995
- Part II - Application Denials and Case Closures, By Reason
- Part III - Description of the Methodology Used to Calculate the Caseload Reduction Estimates (Attachment 1 to Form ACF-202)
- Part IV - Certification

State _Delaware_____			Fiscal Year _2003_____
PART I – Implementation of All Eligibility Changes Made by the State Since FY 1995			
#	**Eligibility Change**	**Implementation Date**	**Estimated Impact on Caseload Since Change (positive or negative impact)**
Changes Required by Federal Law			
1	Parents/caretakers must work after 24 months of assistance	March 1997	0
2	Teen parents must live in adult-supervised settings	Prior to FY 1995	0
3	Deny assistance for 10 years for fraudulently misrepresenting residence to obtain assistance in more than one State	March 1997	0
4	Deny assistance for fugitive felons, probation violators, or parole violators	March 1997	0
5	Deny assistance for certain individuals convicted of drug-related felonies	March 1997	0
6	Deny assistance to non-qualified aliens	March 1997	-88
State-Implemented Changes			
Changes Related to Income and Resources			
1	Fill-the-gap budgeting for earnings	October 1995	+542
2	Increased resource limit	October 1995	+274
Changes Related to Categorical or Demographic Eligibility Factors			
	None.		

Changes Related to Behavioral Requirements			
3	Contract of Mutual Responsibility sanctions	October 1995	-548
4	Sanctions for noncompliance with employment and training requirements	October 1995	-621
Changes Due to Full-Family Sanctions			
Other Eligibility Changes			
5	Work for your welfare requirement	October 1995	-989
6	Time limit	October 1995	-27

	Estimated Total Net Impact on the Caseload of All Eligibility Changes	-1,458
	Total Prior Year Caseload	5,584
	Estimated Caseload Reduction Credit	39.8 percent (includes adjustment for excess MOE)

State ___Delaware_____ Fiscal Year _2003_____

PART II – Application Denials and Case Closures, By Reason

	Fiscal Year 1995[1]		Fiscal Year 2002	
Reason for Application Denials	Number	Percentage	Number	Percentage
Failure to comply with procedural requirements	18	31.6	2,075	25.3
Income exceeds standards	15	26.3	3,460	42.2
Application withdrawn	14	24.6	0	0.0
No eligible child	0	0	1,542	18.8
Resources exceed limits	6	10.5	314	3.8
Not deprived of support or care	1	1.8	0	0.0
Ineligible alien	1	1.8	134	1.6
Other	2	3.5	672	8.2
[1] **Delaware's FY 1995 denial and closure numbers are based on the State's quality control sample**				
Total Application Denials	57	100.1	8,197	100.0

Reasons for Case Closures	**Number**	**Percentage**	**Number**	**Percentage**
Failure to comply with procedural requirements	60	46.5	1,379	15.8
Earnings exceed standard of need	29	22.5	1,197	13.7
Voluntary withdrawal/recipient initiative	16	12.4	2,462	28.2
No longer eligible child	10	7.8	2,914	33.4
Moved or cannot locate	8	6.2	707	8.1
No longer deprived of support or care	3	2.3	0	0.0
Support increased from person inside or outside home	0	0	3	0.0
Resources exceed limits	0	0	60	0.8
Other cash income	2	1.6	0	0.0

Failure to comply with JOBS program requirements	0	0	0	0.0
Other	1	0.8	3	0
Total Case Closures	129	100.1	8,732	100.0

State ___Delaware_____Fiscal Year _2003_____
Part III – Description of the Methodology Used to Calculate the Caseload Reduction Estimates (attach supporting data to this form)
See attachment.

State __Delaware_____Fiscal Year _2003_____

PART IV -- Certification

I certify that we have provided the public an appropriate opportunity to comment on the estimates and methodology used to complete this report and considered those comments in completing it. Further, I certify that this report incorporates all reductions in the caseload resulting from State eligibility changes and changes in Federal requirements since Fiscal Year 1995. (A summary of public comments is attached.)

_____
(signature)

_____
(name)

_____
(title)

Delaware TANF Caseload Reduction Credit Report for FY 2003

Attachment 1 to Form ACF-202

Part III—Description of the Methodology Used to Calculate the Caseload Reduction Estimates

A. Actual Caseload Reduction and Adjustment for Excess MOE Funds

- Taking into account the pro rata reduction in the FY2002 caseload due to excess MOE spending, Delaware's average monthly TANF caseload declined by 39.8 percent between FY 1995 and FY 2002. This caseload reduction number includes child-only cases, as instructed in ACF guidance.

Delaware AFDC/TANF Caseload for FY 95 and FY 02	
FY 1995 monthly average caseload	10,775
FY 2001 monthly average caseload, actual (= 5,469 TANF + 115 SSP families)	5,584
FY 2001 monthly average caseload, adjusted for excess MOE spending	5,033
Caseload decline, FY1995 to FY 2002 (not including the effect of eligibility changes)	5,742
Sources:FY1995 and FY2002 TANF caseloads from ACF/OPRE; SSP caseload from DE DSS	

- The following table shows how the pro rata reduction for excess MOE was calculated.
  - Because Delaware served its two-parent caseload under a separate state program in FY 2002, and because the State met its all-family work participation rate requirement in FY 2002, the relevant spending floor is 75 percent of the basic MOE amount.
  - The pro rata reduction takes into account the use of federal TANF funds. The pro rata reduction is calculated as the State excess MOE divided by the average cost per case, where cost is the sum of State and federal TANF funds.
  - The end result is a pro rata reduction of 551 cases. This number is subtracted above from the actual FY 2002 monthly average caseload to yield the adjusted FY2002 caseload of 5,742.
  -

Pro Rata Reduction for Excess MOE			
(a)	DE FY1994 spending	$29,028,092	
(b)	MOE (75% of (a))	$21,771,069	
(c)	DE FY2002 MOE spending	$27,218,130	
(d)	Federal TANF block grant funds spent in FY2002	$27,980,170	
(e)	Total TANF spending for FY2002	$55,198,300	= (c) + (d)
(f)	Average spending per case	$9,885	= (e) / FY2002 caseload = (e)/ (5,469 TANF + 115 SSP)
(g)	Excess MOE for FY2002	$5,447,061	= (c) - (b)
(h)	Cases funded by excess MOE	551	= (g) / (f)

B. Changes Required by Federal Law

1. Parents/caretakers must work after 24 months of assistance or when job-ready

- The estimated impact of this federal policy on Delaware's caseload is 0, because the State's "work for your welfare" requirement effectively supplants the federal policy. The caseload impact of the State policy is described below in Section C.5.

2. Teen parents must live in adult-supervised settings to receive assistance

- The estimated impact of this federal policy since FY 1995 is 0, because the policy has been codified in the State manual for many years prior to FY 1995.

3. A State must deny assistance for 10 years to a person found to have fraudulently misrepresented residence in order to obtain assistance in more than one State

- For fraudulently misrepresenting residence, Delaware removes the adult's needs from the grant, but allows children to receive assistance. Although the policy denies individuals rather than cases, it is possible that a case could be denied if removing an adult's needs reduces the payment standard for a case so that it is no longer greater than countable income. Delaware's automated TANF eligibility system is currently unable to identify such instances, if any exist.

4. A State must deny assistance for fugitive felons, probation violators, or parole violators

- For fugitive felons, probation violators, and parole violators, Delaware removes the adult's needs from the grant, but allows children to receive assistance. Although the policy denies individuals rather than cases, it is possible that a case could be denied if removing an adult's needs reduces the payment standard for a case so that it is no longer greater than countable income. Delaware's automated TANF eligibility system is currently unable to identify such instances, if any exist.

5. A State must deny assistance for certain individuals convicted of drug-related felonies

- For persons convicted of drug-related felonies, Delaware removes the person's needs from the grant, but allows children to receive assistance. Although the policy denies individuals rather than cases, it is possible that a case could be denied if removing an adult's needs reduces the payment standard for a case so that it is no longer greater than countable income. Delaware's automated TANF eligibility system is currently unable to identify such instances, if any exist.

6. Non-qualified aliens are ineligible for Federal TANF assistance

- The total number of cases denied as non-qualified aliens since the federal policy took effect is 88. This includes denials in FY1998, FY1999, FY 2000, FY2001 and FY2002.
- The count of denied non-qualified aliens was adjusted to account for the fact that some of these cases would have left TANF for other reasons (e.g., due to employment or marriage) before or during FY2002 if they had not been denied as non-qualified aliens. See Section D for a description of this adjustment.

C. State-Implemented Changes

1. Fill-the-Gap Budgeting for Earnings

- The average monthly number of cases in FY2002 that were subject to fill-the-gap budgeting for earnings is 542. This number is based on a monthly query to the Delaware Client Information System (DCIS) on all open cases with earnings. Cases were counted as subject to fill-the-gap budgeting for earnings in a month only if earnings minus applicable disregards were above the payment standard for the relevant family size.

2. Increased Resource Limit

- The average monthly number of cases open in FY2002 because of the increased resource limits is 274. This number is based on a count of the number of cases open in a month whose assets—cash plus vehicle—were above the previous limits and below the current limit.
- Some cases were subject to both the increased resource limit and fill-the-gap budgeting for earnings. To avoid such double-counting, the number of cases open because of the increased resource limit—274—*excludes* cases that were also open due to fill-the-gap budgeting.

3. Sanctions for Noncompliance with Contract of Mutual Responsibility (CMR) Provisions

- The average monthly number of cases closed in FY2002 because of CMR sanctions is 548. This number is based on monthly cumulative counts of cases closed due to CMR sanctions for FY 1996 through September 2002.
- The CMR sanction is a graduated fiscal sanction. Sanctions for noncompliance are initially $50 and increase by $50 every month until there is compliance, or until the sanction amount exceeds the grant amount. Cases are counted as closed due to CMR sanctions only when the sanction amount exceeds the grant amount.
- The CMR count was adjusted to account for the fact that some of these cases would have left TANF for other reasons (e.g., due to employment or marriage) before or during FY2002 if they had not been closed due to CMR sanctions. See Section D for a description of this adjustment.

4. Sanctions for Noncompliance with Employment and Training Requirements

- The average monthly number of cases closed in FY 2002 because of noncompliance with employment and training (E&T) requirements is 621.
- The sanction for noncompliance with E&T requirements is a 1/3 reduction of the grant amount for the first occurrence, a 2/3 reduction for the second occurrence, and permanent case closure for the third occurrence. Cases are counted as closed due to E&T sanctions only for the third occurrence.
- Because the E&T level 3 sanction is permanent, the number of cases closed due to E&T sanctions as of the beginning of FY2002 is a cumulative count of all cases closed prior to FY2002. To this number we add the average monthly number of cases closed due to E&T sanctions *during* FY2002.
- The E&T sanction count was adjusted to account for the fact that some of these cases would have left TANF for other reasons (e.g., due to employment or marriage) before or during FY2002 if they had not been closed due to E&T sanctions. See Section D for a description of this adjustment.

5. Work for Your Welfare Requirement

- The average monthly number of cases closed in FY 2002 because of noncompliance with the "Work for Your Welfare" work requirement is 989.
- The workfare count was adjusted to account for the fact that some of these cases would have left TANF for other reasons (e.g., due to employment or marriage) before or during FY2002 if they had not been closed due to noncompliance with the workfare requirement. See Section D for a description of this adjustment.

6. Time Limit

- Prior to January 2000, Delaware limited receipt of Temporary Assistance to Needy Families (TANF) – for families in the Time Limited Program–to 48 cumulative months, subject to compliance with Contract of Mutual Responsibility and Work for Your Welfare requirements.
- Effective January 1, 2000 the time limit for receipt of TANF cash benefits is 36 cumulative months. Individuals found eligible for TANF prior to January 1, 2000 will still have a 48 month time limit even if they reapply for benefits after January 1, 2000.
- Thirteen (13) cases reached the four-year time limit during FY 2002. No cases had reached the newer three-year time limit by the end of FY 2002.

D. Impacts of Eligibility Changes: Adjusting for Cases

that Would Have Left TANF for Other Reasons

- As noted in ACF's guidance for submitting caseload reduction credit information, "a State may adjust its estimate of the impact of a change over time to account for likely caseload decline that would have occurred due to other factors, such as earnings, not associated with any eligibility change." A given cohort of TANF cases will leave TANF over time, even absent sanctions and time limits. Most research shows a monotonic decline over time in the rate of TANF receipt for a given cohort, even when recidivism is accounted for.
- We estimated the rate at which cases would have left over time in the absence of eligibility changes *using TANF receipt rates for the control group from the random assignment evaluation of the State's ABC program*. The control group is close to an ideal counterfactual because control group members were not subject to the eligibility changes. In addition, the control group receipt rates are measured taking into account recidivism.
- More specifically, we used TANF receipt rates for control group cases that were *ongoing* at the point of random assignment, because cases that are sanctioned off or reach the time limit are ongoing cases at the time they are sanctioned or reach the time limit. Using TANF receipt rates for ongoing control group cases is more conservative than using TANF receipt rates for all control group cases, because exit rates are lower for ongoing cases.
- The TANF receipt rates for ongoing control group cases show that:
  - On average over the first year since random assignment, 5.1 percent of cases left TANF;
  - On average over the two years since random assignment, 7.1 percent of cases left TANF;
  - On average over the three years since random assignment, 15.4 percent of cases left TANF;
  - On average over the four years since random assignment, 43.3 percent of cases left TANF;
  - On average over the five years since random assignment, 63.3 percent of cases left TANF;
  - On average over the six years since random assignment, 79.0 percent of cases left TANF; and
  - On average over the seven years since random assignment, 88.7 percent of cases left TANF.

- These net exit rates were applied to the counts of cases that closed due to eligibility changes to get the adjusted number of cases closed due to eligibility changes. For example, the average monthly number of cases closed due to CMR sanctions in FY1998 was 489. Using the control group net exit rates, we assume that 63.3 percent of these cases would have left for other reasons by the end of FY2002, so the adjusted number of cases closed due to CMR sanctions in FY 1998 was 179, which is 489*(1 - .633). A similar adjustment was made to cases closed due to sanctions during other years.
- This approach has two limitations. First, ongoing control group cases became subject to welfare reform policies on average during follow-up quarter 6 or 7. Even so, few or no control group cases would have reached the "work for your welfare" two-year time limit before another eight quarters, meaning follow-up quarters 14 or 15. The second limitation is that, at this point follow-up data are available only through quarter 10. Consequently, net exit rates were extrapolated for quarters 11 through 20, because the adjustment requires exit rates for five full years.

DIVISION OF SOCIAL SERVICES

PUBLIC NOTICE

Medicaid/Medical Assistance Third Party Liability (TPL) Program

Code of Federal Regulations, 42 CFR §§433.138 and 139 details state plan requirements to establish the legal liability of third parties to pay for services under the state plan and for payment of claims involving third parties.

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 107, Delaware Health and Social Services/Division of Social Services (DHSS/DSS) publishes this notice, pursuant to federal law and regulations in Section §1902(a)(25) of the Social Security Act, Title 19 requiring States take all reasonable measures to identify legally liable third parties and treat verified TPL as a resource of the Medicaid applicant or recipient; and, providing for the collection of health insurance information. This notice is being given to provide information of public interest with respect to the intent of DSS to submit to the Centers for Medicare and Medicaid Services (CMS) an amendment to the Title XIX Medicaid State Plan to add *Health Insurance Carriers* to the list of data exchange sources and types.

The purpose of establishing and maintaining effective TPL programs is to reduce Medicaid expenditures. Third party resources are entities or individuals who are legally

responsible for paying the medical claims of Medicaid recipients. A few common third party resources are Medicare, health insurance, worker's compensation, automobile medical insurance, and, medical support order. TPL information is obtained by DSS primarily during the Medicaid/Medical Assistance eligibility determination and redetermination processes. Supplementing this initial contact, DSS uses a combination of data matches/exchanges with both public and private entities, edits within the Medicaid Management Information System (MMIS), direct inquiries to recipients, non-custodial parents, and other potential liable parties. The intent of the state plan amendment includes the requirement that health insurance carriers provide data matches to update client/recipient third party resources.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning this notice must submit same to Sharon L. Summers, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by April 30, 2003.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DSS PUBLIC NOTICE #03-10

ATTACHMENT 4.22-A

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OMB NO.:0938-0193

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: **DELAWARE**

Requirements for Third Party Liability (TPL) - Identifying Liable Resources

1. Frequency of TPL matches:
   a. SSA wage - quarterly
   b. IV-A agency - in Delaware is the same as the Title XIX agency and updates are available, daily
   c. State Workmen's Compensation files - weekly
   d. Motor vehicle - not computerized - no match available
   e. SWICA - quarterly
   f. Health Insurance Carriers - biannually

2. Follow-up requirements of 42 CFR 433.138 (g) (1) (i) and (g) (2) (i) :

As soon as any matches on employers are received by the Delaware Client Information System (DCIS), the system will automatically generate a letter to the employer to verify health insurance coverage. This action will be taken within 30 days of the receipt of match data.

3. State motor vehicle match is unavailable because the information needed for TPL is not carried in the State's motor vehicle automated system.

4. Trauma code reports are produced weekly by the fiscal agent. The TPL unit sends an accident inquiry form to the client/provider within two weeks regarding potential TPL. Positive responses result in a request for claims history and subsequent bills generated to the applicable insurance company or attorney. Any information on ongoing legally liable third party resources is immediately entered into the third party database, which is part of the MMIS.

DELAWARE FIRE PREVENTION COMMISSION

Notice of Public Hearing

The Delaware State Fire Prevention Commission will hold a hearing pursuant to 16 Del.C. 6603 and 29 Del.C. 101 on Thursday, April 24, 2003, at 1:00 pm and 7:00 pm to be held at the Delaware State Fire School, Delaware Fire Service Center, 1463 Chestnut Grover Road, Dover, Delaware in Rooms 4A & 4B. The commission is proposing changes to the following Regulations.

Part I, Annex A	Adopted NFPA Codes & Standards (Numerical & Alphabetical Listing)
Part I, Annex B	Additions, Deletions & Changes to Codes & Standards Listed in Annex A
Part I, Chapter 2	Definitions
Part II, Chapter 6	Standard for Fire Flow for Fire Protection
Part II, Chapter 7	Minimum Requirements for Water Suppliers
Part III, Chapter 1	Operation, Maintenance and Testing of Fire Protection Systems
Part III, Chapter 2	Sales & Servicing of Portable Fire Extinguishers
Part III, Chapter 3	Standard for Fire Hydrant Maintenance, Inspection, Testing & Marking
Part III, Chapter 4	Licensing Regulations for Fire Alarm Signaling Systems
Part III, Chapter 5	Licensing Regulations for Fire Suppression Systems
Part III, Chapter 6	Licensing Regulations for Fire Alarm Signaling Systems In-House Licensee's
Part III, Chapter 7	Licensing Regulations for Fire Suppression Systems In-House Licensee's
Part III, Chapter 8	Licensing and Reporting Requirements for Central Station and Remote Station Services
Part IV, Chapter 2	Fireworks Display
Part IV, Chapter 3	Explosives, Ammunition, Blasting Agents
Part IV, Chapter 4	Amusement Ride Safety
Part V, Chapter 5	Standard for the Marking, Identification and Accessibility of Fire Lanes, Exits, Fire Hydrants, Sprinkler, and Standpipe Connections.
Part V, Chapter 5	Figures 1 through 9

Persons may view the proposed changes to the Regulations between the hours of 8:00 am to 4:30 pm, Monday through Friday, at the Delaware State Fire Prevention Commission, Delaware State Fire School, 1463 Chestnut Grove Road, Dover, DE 19904 or Office of the State Fire Marshal located at the Delaware Fire Service Center, 1537 Chestnut Grove Rd, Dover, DE 19904, or the Regional State Fire Marshal's Offices located 2307 MacArthur Road, New Castle, Delaware 19720 and 22705 Park Avenue, Georgetown, DE 19947. Proposed changes are also available on the Office of State Fire Marshal webpage. The webpage address is www.delawarestatefiremarshal.com under the tabs "Technical Services" and "Proposed Changes".

Persons may present their views in writing by mailing their views to the Commission at the above addresses prior to the hearing, and the Commission will consider those response received before 10:00 am on April 23, 2003 or by offering testimony at the Public Hearing. If the number of persons desiring to testify at the Public Hearing is large, the amount of time allotted to each speaker will be limited. There will be a reasonable fee charge for copies of the proposed changes.

DEPARTMENT OF ADMINISTRATIVE SERVICES

DIVISION OF PROFESSIONAL REGULATION

BOARD OF MASSAGE & BODYWORK

PLEASE TAKE NOTICE, pursuant to 29 **Del. C.** Chapter 101 and 24 **Del. C.** Sections 5306(1) and 5306(7), the Delaware Board of Massage and Bodywork proposes to revise its Rules and Regulations. The proposed revisions seek to clarify the Board's continuing education requirements. The Board proposes to revise Rule 6.3 of the current Rules as follows: 1) amend Rule 6.3.1 to clarify that for each biennial licensing period, the Board requires that eighteen of twenty-four credits required of massage therapists be received in supervised in-class, hands-on study of the "practice of massage and bodywork," and that nine of the required twelve credits required of massage technicians must be received in supervised in-class, hands-on study of the "practice of massage and bodywork;" 2) amend Rule 6.3.2 to clarify that, for each biennial licensing period, massage therapists may complete up to six of the required twenty-four hours in course areas listed in Rules 6.3.2.1-6.3.2.6 and that massage technicians may complete up to three of the required twelve hours in course areas listed in Rules 6.3.2.1-6.3.2.6; and 3) amend Rules 6.3.2.1 and 6.3.2.6 to clarify the courses that are acceptable for continuing education credit requirements of Rule 6.3.2.

A public hearing will be held on the proposed Rules and Regulations on Thursday, May 1, 2003 at 1:30 p.m., in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, 19904. The Board will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Board in care of Susan Miccio at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should notify Susan Miccio at the above address by calling (302) 744-4506.

This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

STATE BOARD OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, April 17, 2003 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF JUSTICE

DIVISION OF SECURITIES

DELAWARE SECURITIES ACT

NOTICE OF PROPOSED REVISIONS TO THE RULES AND REGULATIONS PURSUANT TO THE DELAWARE SECURITIES ACT

In compliance with the State's Administrative Procedures Act (APA-Title 29, Chapter 101 of the Delaware Code) and section 7325(b) of Title 6 of the Delaware Code, the Division of Securities of the Delaware Department of Justice hereby publishes notice of proposed revisions to the Rules and Regulations Pursuant to the Delaware Securities Act. The Division proposes hereby to amend sections 600, 601, 608, and 700 of the Rules and Regulations Pursuant to the Delaware Securities Act and to add a new section 610.

Persons wishing to comment on the proposed regulations may submit their comments in writing to:

James B. Ropp Securities Commissioner Department of Justice State Office Building, 5th Floor 820 N. French Street Wilmington, DE 19801 The comment period on the proposed regulations will be held open for a period of thirty days from the date of the publication of this notice in the Delaware Register of Regulations.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

AIR QUALITY SECTION

NOTICE

Title Of The Regulations:

AMENDMENTS TO DELAWARE 2005 RATE-OF-PROGRESS PLAN, And AMENDMENTS TO DELAWARE PHASE II ATTAINMENT DEMONSTRATION, Toward Attainment Of The 1-hour National Ambient Air Quality Standard (Naaqs) For The Ground-level Ozone In Kent And New Castle Counties.

Brief Synopsis Of The Subject, Substance And Issues:

The Clean Air Act Amendments of 1990 (CAAA) requires Delaware to submit to the U.S. Environmental Protection Agency (EPA) a State Implementation Plan (SIP) revision for every three years after 1996 to demonstrate how Delaware will achieve adequate rate-of-progress in reducing emissions of volatile organic compounds (VOC) and oxides of nitrogen (NOx), which are major precursors that form ground-level ozone. Delaware's 2005 Rate-of-Progress Plan, which covers the three-year period from 2003 to 2005, was submitted to EPA in December 2000. Under the CAAA, Delaware is also required to develop a SIP revision to demonstrate its capability of attaining the 1-hour ozone standard in 2005. This SIP revision, termed as the Phase II Attainment Demonstration, was amended and submitted to EPA in January 2000. The purpose of this action is (1) to amend the 2005 RPP, and (2) to amend the Phase II Attainment Demonstration, to reflect mobile emission budgets using the Mobile 6 emission model. No other changes to the plans are proposed.

Notice Of Public Comment:

A public hearing will be held on April 30, 2003 beginning at 6:00 PM in the Richardson and Robbins Auditorium, 89 Kings Highway, Dover, Delaware.

Prepared By:

Frank F. Gao, Project Leader, (302) 323-4542, March 11, 2000

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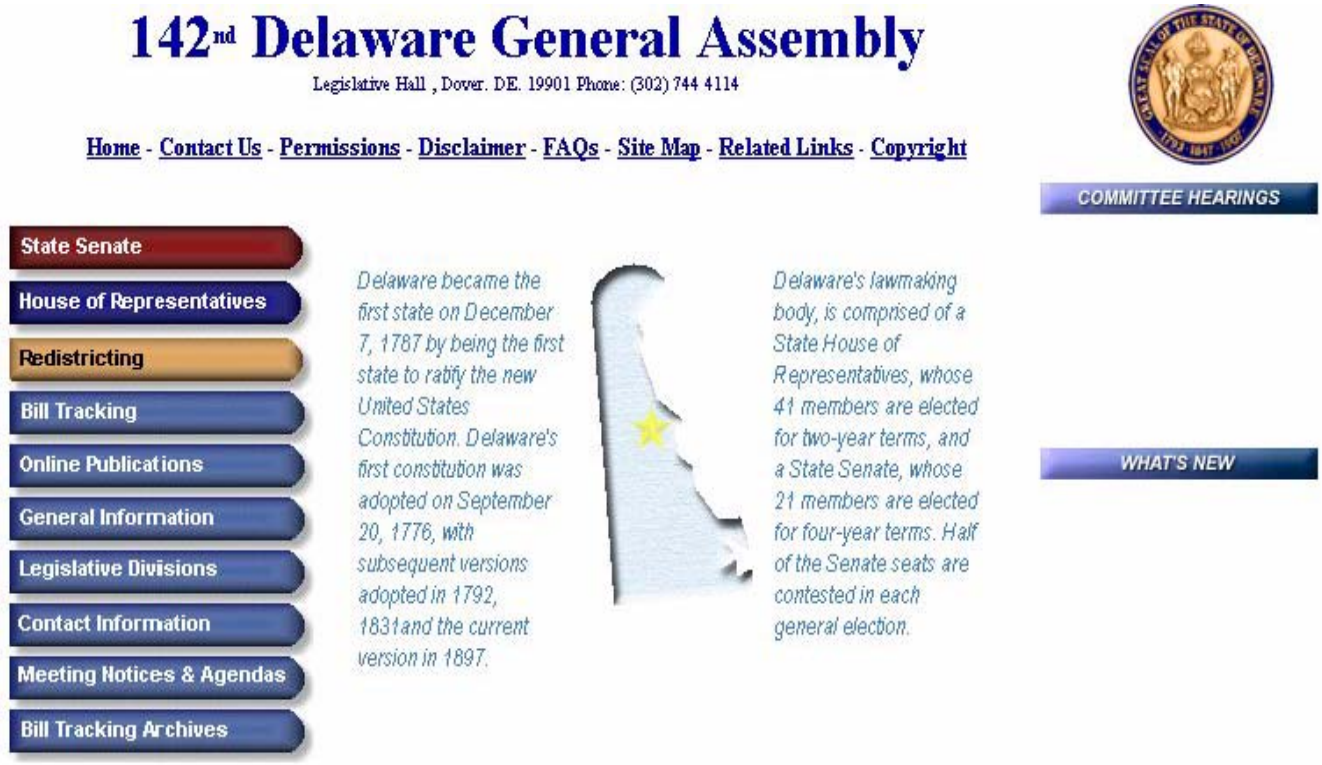

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