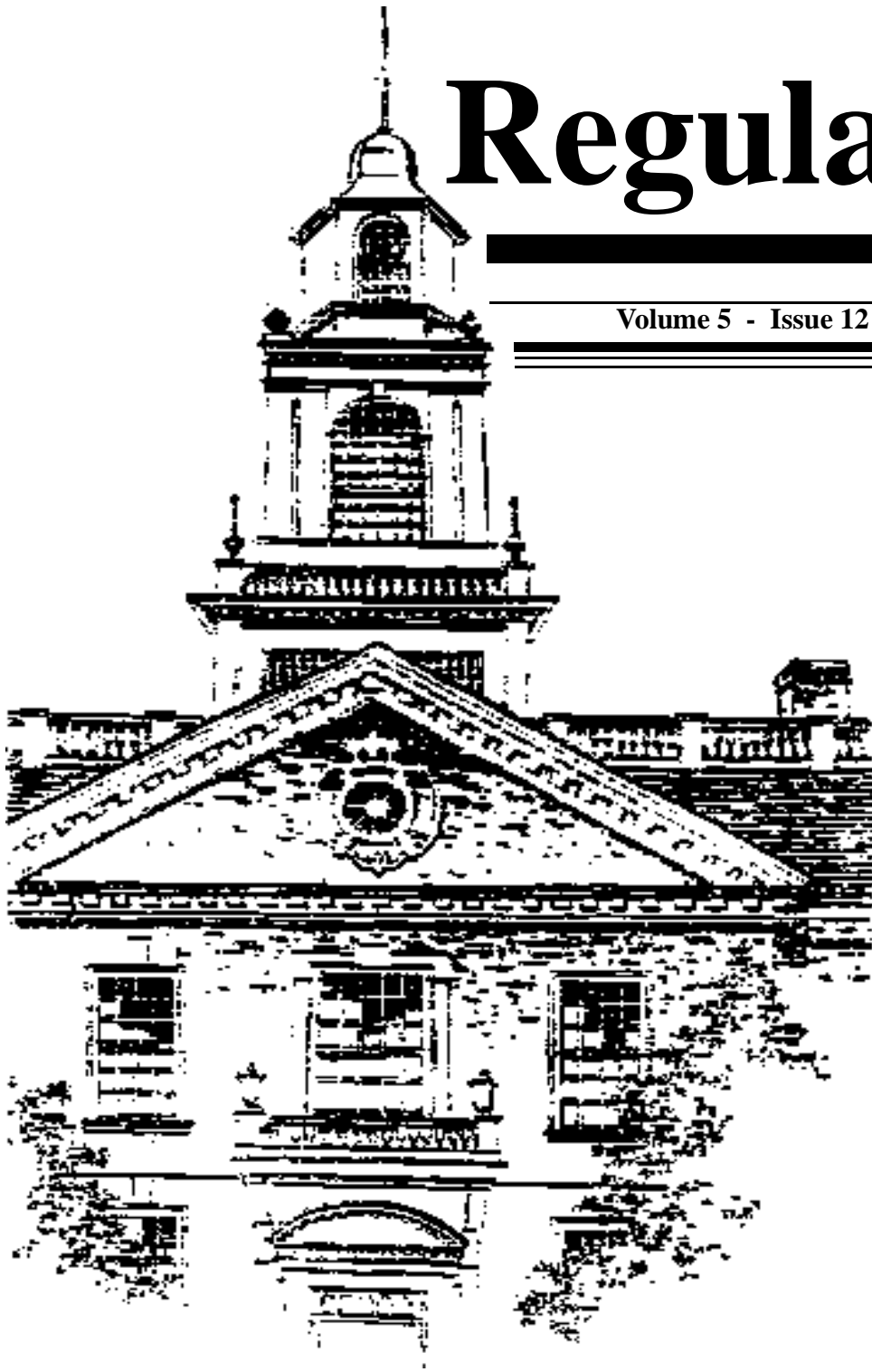

Delaware Register of Regulations



Issue Date: June 1, 2002

Volume 5 - Issue 12

Pages 2162 - 2322

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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 May 15, 2002.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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The Delaware Register will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

5 DE Reg. 1337 - 1339 (01/1/02)

Refers to Volume 5, pages 1337 - 1339 of the Delaware Register issued on January 1, 2002.

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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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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
JULY 1	JUNE 15	4:30 P.M.
AUGUST 1	JULY 15	4:30 P.M.
SEPTEMBER 1	AUGUST 15	4:30 P.M.
OCTOBER 1	SEPTEMBER 15	4:30 P.M.
NOVEMBER 1	OCTOBER 15	4:30 P.M.

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**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANGEMENT**

AIR QUALITY MANAGEMENT SECTION

Statutory Authority: 7 Delaware Code, Chapter 60
(7 Del.C. Ch. 60)

PLEASE NOTE: THE FOLLOWING FINAL REGULATION WAS PUBLISHED IN THE MAY 2002 REGISTER OF REGULATIONS. SEVERAL FORMATTING CHANGES WERE NOT INDICATED IN THE REGULATION AS PUBLISHED. THOSE CHANGES WERE TO DEFINITION (2) OF MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) FLOOR; PARAGRAPH 63.52(A)(1)(II); AND PARAGRAPHS 63.52(G). THE REGULATION IS BEING REPUBLISHED FOR CLARIFICATION PURPOSES. THERE IS NO CHANGE IN THE INDICATED EFFECTIVE DATE.

**Regulation No. 38
Emission Standards For Hazardous
Air Pollutants For Source Categories**

4/22/98 5/11/02

**Subpart B Requirements for Case-By-Case Control
Technology Determinations for Major Sources**

5/11/02

Overview Of Subpart B

Subpart B of Regulation No. 38 consists of two separate sets of requirements. One set of requirements, which are included in Sections 63.40 through 44, implement the section 112(g)(2)(B) provisions of the Clean Air Act. These requirements apply to owners or operators who construct or reconstruct a major source of hazardous air pollutants after June 29, 1998. The Department adopted these requirements into Regulation No. 38 in April 1998.

The other set of requirements, which are included Sections 63.50 through 56, implement the section 112(j) provisions of the Clean Air Act. These requirements apply to owners or operators of any collection of equipment defined in a section 112(c) source category for which the Administrator has failed to promulgate an emission standard by the section 112(j) deadline and the collection of equipment is located at a source that is subject to Regulation 30.

Sections 63.45 through 49 of this subpart have been reserved.

4/22/98

Section 112(g)(2)(B) Requirements

The provisions of Sections 63.40 through 63.44 in

Subpart B, of Title 40, Part 63 of the Code of Federal Regulations, dated July 1, 1997 are hereby adopted by reference with the following changes:

(a) "Regulation 30" shall replace "title V" wherever it appears.

(b) Paragraph 63.40(b) shall be replaced with the following language: "The requirements of Secs. 63.40 through 63.44 of this subpart apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998 unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) and incorporated in another subpart of part 63, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before June 29, 1998.

(c) The opening sentence of Section 63.41 shall be replaced with the following language: "Terms used in Secs. 63.40 through 63.44 that are not defined in this section have the meaning given to them in the Act and in subpart A of this regulation.

(d) The opening of the definition of Available information found in Section 63.41 shall be replaced with the following language: "*Available information* means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of issuance of the construction permit which incorporates the final and effective case-by-case MACT determination:".

(e) The following errata found in Section 63.41 as published in the Federal Register and Code of Federal Regulations shall be corrected as follows:

(i) "for" in definition (3) of Available information shall be replaced with "from";

(ii) HAP's" in definition of Construct a major source shall be replaced with "HAP";

(iii) "suite" in definition of Greenfield suite shall be replaced with "site";

(iv) "deduction" in definition of Maximum achievable control technology (MACT) emission limitation for new sources shall be replaced with "reduction"; and

(v) "that potential" in definition of Reconstruct a major source shall be replaced with "the potential".

(f) "Administrator" in the definition of Available information found in Section 63.41 shall be replaced with "Administrator or Department."

(g) Paragraph (2)(ii)(A) in the definition of Construct a major source found in Section 63.41 shall be replaced with the following language: "The permitting authority has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT) or lowest achievable

emission rate (LAER) under Regulation 25 of the State of Delaware "Regulations Governing the Control of Air Pollution" for those HAP to be emitted by the process or production unit; or".

(h) Paragraph (2)(ii)(B) in the definition of Construct a major source found in Section 63.41 shall be replaced with the following language: "The permitting authority determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT or LAER determination);".

(i) Paragraph (2)(iv) in the definition of Construct a major source found in Section 63.41 shall be replaced with the following language: "The permitting authority has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (2)(i), (2)(ii), and (2)(iii) of this definition apply and concerning the continued adequacy of any prior LAER or BACT determination;".

(j) Paragraph (2)(v) in the definition of Construct a major source found in Section 63.41 shall be replaced with the following language: "If any commenter has asserted that a prior LAER or BACT determination is no longer adequate, the permitting authority has determined that the level of control required by that prior determination remains adequate; and".

(k) Paragraph (2)(vi) in the definition of Construct a major source found in Section 63.41 shall be replaced with the following language: "Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations are made by the permitting authority are applicable requirements under section 504(a) of the Act and under Section 6 of Regulation 30 of the State of Delaware "Regulations Governing the Control of Air Pollution" and either have been incorporated into any existing Regulation 30 permit for the affected facility or will be incorporated into such permit upon issuance or revision."

(l) The definition of Construction permit is added to the list of definitions found in Section 63.41 with the following language: "*Construction permit* means a construction permit issued pursuant to Regulation 2 and/or 25 of the State of Delaware "Regulations Governing the Control of Air Pollution."

(m) The opening of the definition of Control technology found in Section 63.41 shall be replaced with the following language: "*Control technology* means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants in a way that would --".

(n) The definition of Effective date of section 112(g)(2)(B) in a State or local jurisdiction found in Section 63.41 shall be deleted.

(o) The definition of Electric utility steam generating unit found in Section 63.41 shall be replaced with the

following language: "*Electric utility steam generating unit* means any fossil fuel fired combustion unit that serves a generator with a nameplate capacity of more than 25 megawatts that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its nameplate electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit."

(p) The definition of HAP is added to the list of definitions found in Section 63.41 with the following language: "*HAP* means a hazardous air pollutant (i.e., any chemical listed in or pursuant to section 112(b) of the Act)."

(q) The definition of Notice of MACT Approval found in Section 63.41 shall be deleted.

(r) The definition of Permitting authority found in Section 63.41 shall be replaced with the following language: "*Permitting authority* means the Department of Natural Resources and Environmental Control as defined in Title 29, Delaware Code, Chapter 80, as amended."

(s) The entire content of Paragraph 63.42(a) as promulgated shall be deleted and its heading shall be replaced with the following language: "(a) [Reserved]."

(t) The entire content of Paragraph 63.42(b) as promulgated shall be deleted and its heading shall be replaced with the following language: "(b) [Reserved]."

(u) Paragraph 63.42(c) shall be replaced with the following language: "After June 29, 1998, no person may begin actual construction or reconstruction of a major source of HAP unless: ".

(v) The following errata published in the Federal Register and Code of Federal Regulations shall be corrected as follows:

(i) "owner and operator" in paragraph 63.42(c)(1) shall be replaced with "owner or operator";

(ii) "63" in paragraph 63.42(c)(1) shall be deleted; and

(iii) "the anticipated" in paragraph 63.43(e)(2)(v) shall be replaced with "The anticipated".

(w) Paragraph 63.42(c)(2) shall be replaced with the following language: "The permitting authority has issued a construction permit which incorporates a final and effective case-by-case determination pursuant to the provisions of Sec. 63.43; requiring the emissions from the constructed or reconstructed major source to be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources."

(x) Paragraph 63.43(b) shall be replaced with the following language: "When a case-by-case determination of MACT is required by Sec. 63.42(c), the owner and operator shall obtain from the permitting authority an approved MACT determination pursuant to paragraph (c) of this section."

(y) Paragraph 63.43(c)(1) shall be replaced with the

following language: “[Reserved].”

(z) Paragraph 63.43(c)(2) shall be replaced with the following language: “The owner or operator shall follow all procedures in Regulation 2 and/or 25, except that --”.

(aa) Paragraph 63.43(c)(2)(i) shall be replaced with the following language: “the provisions of Section 2.2 of Regulation 2 do not apply to any owner or operator that is subject to the requirements of Secs. 63.40 through 63.44 and”.

(bb) Paragraph 63.43(c)(2)(ii) shall be replaced with the following language: “in addition to the provisions of Section 11.10 of Regulation 2, the final MACT determination and the construction permit shall expire if construction or reconstruction has not commenced within 18 months of permit issuance. The owner or operator may request and the permitting authority may grant an extension which shall not exceed an additional 12 months.”

(cc) Paragraph 63.43(c)(3) shall be replaced with the following language: “When desiring alternative operating scenarios, an owner or operator may request approval of case-by-case MACT determinations for each alternative operating scenario. Approval of such determinations satisfies the requirements of section 112(g) for each such scenario.”

(dd) Paragraph 63.43(c)(4) shall be replaced with the following language: “The MACT emission limitation and requirements established in the approved construction permit shall be effective as required by paragraph (j) of this section, consistent with the principles established in paragraph (d) of this section, and supported by the information listed in paragraph (e) of this section. The owner or operator shall comply with the requirements in paragraphs (k) and (l) of this section, and with all applicable requirements in subpart A of this regulation.”

(ee) The opening to Paragraph 63.43(d) shall be replaced with the following language: “The following general principles shall govern preparation by the owner or operator of each construction permit application requesting a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the permitting authority:”.

(ff) Paragraph 63.43(e)(1) shall be replaced with the following language: “An application for a MACT determination shall be submitted at the same time as the construction permit application and shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in paragraph (d) of this section. At the time of submittal, the owner or operator shall request that the permit application be processed pursuant to Section 11.2 (i) or 11.2 (j) of Regulation 2, whichever is appropriate.”

(gg) The opening to Paragraph 63.43(e)(2) shall be

replaced with the following language: “In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain, independent of the permit application, the following information:”.

(hh) Paragraph 63.43(e)(2)(xiii) shall be replaced with the following language: “Any other relevant information required pursuant to subpart A of this regulation.”

(ii) The opening to Paragraph 63.43(e)(3) shall be replaced with the following language: “In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this subpart without a change in control technology, the application for a MACT determination shall contain, independent of the permit application, the following information:”.

(jj) The entire content of Paragraph 63.43(f) as promulgated shall be deleted and its heading shall be replaced with the following language: “(f) [Reserved].”

(kk) The entire content of Paragraph 63.43(g) as promulgated shall be deleted and its heading shall be replaced with the following language: “(g) [Reserved].”

(ll) The entire content of Paragraph 63.43(h) as promulgated shall be deleted and its heading shall be replaced with the following language: “(h) [Reserved].”

(mm) Paragraph 63.43(i) shall be replaced with the following language: “The permitting authority shall send notice of any approvals pursuant to paragraph (c)(2) of this section to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States.”

(nn) Paragraph 63.43(j) shall be replaced with the following language: “The effective date of a MACT determination shall be the date the permitting authority issues the construction permit which incorporates the final and effective MACT determination.”

(oo) Paragraph 63.43(l)(1) shall be replaced with the following language: “An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the issued construction permit, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.”

(pp) Paragraph 63.43(l)(2) shall be replaced with the following language: “An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with section 112(g)(2)(B) of the Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the issued construction permit. Any violation of such requirements by the owner or

operator shall be deemed by the permitting authority and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Act.”

(qq) Paragraph 63.43(m) shall be replaced with the following language: “Within 60 days of the issuance of a construction permit, the permitting authority shall provide a copy of such permit to the Administrator, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.”

(rr) The phrase “under any of the review options available” in paragraph 63.44(a) shall be deleted.

(ss) The phrase “40 CFR part 70 or part 71, whichever is relevant,” in 63.44(b) shall be replaced with the following language: “Regulation 30.”

Secs. 63.45 through 49 [Reserved].

5/11/02

Section 112(j) Provisions

Sec. 63.50 Applicability.

(a) General applicability.

(1) The requirements of Secs. 63.50 through 56 of this subpart implement section 112(j) of the Act.

(2) The requirements of Secs. 63.50 through 56 of this subpart apply to owners or operators of affected 112(j) sources that are located at a major source that is subject to Regulation 30 of the State of Delaware “Regulations Governing the Control of Air Pollution.”

(3) The requirements of Secs. 63.50 through 56 of this subpart do not apply to research or laboratory activities as defined in Sec. 63.51 of this subpart.

(b) Relationship to other State and Federal requirements.

The requirements of Secs. 63.50 through 56 of this subpart are additional to all other applicable State and Federal requirements.

Sec. 63.51 Definitions.

Terms used in Secs. 63.50 through 56 of this subpart that are not defined in this section have the meaning given to them in the Act or in subpart A of this regulation.

Affected 112(j) source means the collection of equipment, activities or both within a single contiguous area and under common control that is in a section 112(c) source category for which the Administrator has failed to promulgate an emission standard by the section 112(j) deadline.

Available information means, for purposes of conducting a MACT floor finding and identifying control technology options under Secs. 63.50 through 56 of this subpart, any information contained in the following

information sources as of issuance of a final and legally effective case-by-case MACT determination according to paragraph 63.55(a) of this subpart:

(1) A relevant proposed regulation, including all supporting information.

(2) Relevant background information documents for a draft or proposed regulation.

(3) Any relevant regulation, information or guidance collected by the Administrator establishing a MACT floor finding and/or MACT determination.

(4) Relevant data and information available from the Clean Air Technology Center developed according to section 112(l)(3) of the Act.

(5) Relevant data and information contained in the Aerometric Information Retrieval System (AIRS) including information in the MACT database.

(6) Any additional information that can be expeditiously provided by the Administrator or Department.

(7) Any information provided by applicants in an application for a permit, permit modification or administrative amendment according to the requirements of Secs. 63.50 through 56 of this subpart.

(8) Any additional relevant information provided by the applicant or others prior to or during the public comment period for a final and legally effective case-by-case MACT determination for an affected or a new affected 112(j) source.

Control technology means measures, processes, methods, systems or techniques to limit the emission of hazardous air pollutants which:

(1) Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

(2) Enclose systems or processes to eliminate emissions;

(3) Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(4) Are design, equipment, work practice or operational standards; or

(5) Are a combination of paragraphs (1) through (4) of this definition.

Equivalent emission limitation means an emission limitation, established under this subpart, which is equivalent to the MACT standard that the EPA would have promulgated under section 112(d) or (h) of the Act, had they done so by the section 112(j) deadline.

Existing source maximum achievable control technology (MACT) requirements means the requirements, which include, where feasible, an equivalent emission limitation, reflecting the maximum degree of reduction in emissions of hazardous air pollutants that the Department, taking into consideration the cost of achieving such emission reductions and any non-air quality health and environmental

impacts and energy requirements, determines is achievable by sources in the category to which such MACT standard applies. These requirements shall be based upon available information and shall not be less stringent than the MACT floor.

Maximum achievable control technology (MACT) floor means:

(1) For existing sources:

(i) The average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Department and/or Administrator has emissions information), excluding those sources that have, within 18 months before the Department issues a final and legally effective MACT determination under this subpart, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined in section 171 of the Act) applicable to the source category and prevailing at the time, in the category, for categories of stationary sources with 30 or more sources, or

(ii) The average emission limitation achieved by the best performing five sources (for which the Department and/or Administrator has emissions information) in the category, for categories with fewer than 30 sources.

(2) For new sources, the emission limitation achieved in practice by the best controlled source in the section 112(c) source category, where such source[s] is equipment or collection of equipment that, by virtue of its structure, operability, type of emissions and volume and concentration of emissions, is substantially equivalent to the new affected 112(j) source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected 112(j) source.

New affected 112(j) source means the collection of equipment, activities or both, that if constructed after the issuance of a final and legally effective case-by-case MACT determination according to paragraph 63.55(a) of this subpart, is subject to the applicable new source MACT requirements. According to paragraph 63.52(f)(3)(i) of this subpart, each permit shall define the term "new affected 112(j) source," which will be the same as the "affected 112(j) source" unless a different collection is warranted based on consideration of factors including:

(1) Emission reduction impacts of controlling individual sources versus groups of sources;

(2) Cost effectiveness of controlling individual equipment;

(3) Flexibility to accommodate common control strategies;

(4) Cost/benefits of emissions averaging;

(5) Incentives for pollution prevention;

(6) Feasibility and cost of controlling processes that share common equipment (e.g., product recovery devices);

(7) Feasibility and cost of monitoring; and

(8) Other relevant factors.

New source maximum achievable control technology (MACT) requirements means the requirements, which include, where feasible, an equivalent emission limitation, which shall be based upon available information and shall not be less stringent than the MACT floor and which reflects the maximum degree of reduction in emissions of hazardous air pollutants that the Department, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category to which such MACT standard applies.

Research or laboratory activities means activities whose primary purpose is to conduct research and development into new processes and products; where such activities are operated under the close supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner and where the source is not in a source category, specifically addressing research or laboratory activities, that is listed according to section 112(c)(7) of the Act.

Section 112(j) deadline means the date 18 months after the date for which a relevant standard is scheduled to be promulgated under 40 CFR part 63, except that for all major sources listed in those source categories scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996 and for all major sources listed in those source categories scheduled to be promulgated by November 15, 1997, the section 112(j) deadline is December 15, 1999.

Sec. 63.52 Approval process for new and existing affected 112(j) sources.

(a) Sources that are major affected 112(j) sources on the section 112(j) deadline.

(1) Except as provided for in 63.52(a)(2), the owner or operator of any source that is a major affected 112(j) source on the section 112(j) deadline shall comply with the following.

(i) Submit to the Department by the section 112(j) deadline:

(A) A Part 1 MACT application according to paragraph 63.53(a) of this subpart or

(B) If desired, a request for an applicability determination by the Department of whether a source is a major affected 112(j) source.

(ii) Submit to the Department a Part 2 MACT application according to paragraph 63.53(b) of this subpart not later than [6 24] months following:

(A) The submittal of the Part 1 MACT application or

(B) The receipt of the Department's positive applicability determination according to paragraph (d)(1) of this section.

(iii) If desired, include with the Part 2 MACT application submitted according to paragraph (a)(1)(ii) of this section, a Part 3 MACT application according to paragraph 63.53(c) of this subpart.

(2) The owner or operator of any source that has received a final and legally effective case-by-case MACT determination under Section 112(g) according to Sec. 63.43 of this subpart on or before the section 112(j) deadline shall submit a Part 1 MACT application to the Department by the section 112(j) deadline.

(b) Sources that become major affected 112(j) sources after the section 112(j) deadline and that do not have a permit addressing the section 112(j) requirements.

(1) The owner or operator of any source shall comply with the paragraphs (b)(2) and (3) of this section, when section 112(g) requirements are not invoked and when that source would become a major affected 112(j) source due to:

(i) Construction, reconstruction or modification;

(ii) Relaxation of any state or federally enforceable permit limitation; or

(iii) The Department, under subpart A of this regulation, or the Administrator, under section 112(a)(1) of the Act, establishes a lesser quantity emission threshold that results in an area affected 112(j) source becoming a major affected 112(j) source.

(2) The owner or operator of any source identified in paragraph (b)(1) or (c)(2)(i) of this section shall submit the following to the Department:

(i) Part 1, Part 2 and Part 3 MACT applications according to paragraphs 63.53(a) through (c) of this subpart.

(ii) One of the following requests, as appropriate.

(A) A request that any associated Regulation 2 construction permit be processed according to paragraph 11.2(j) of Regulation 2.

(B) A request that the relaxation of any existing permit limitation specified in a Regulation 30 permit be processed as a significant permit modification.

(C) A request that the relaxation of any existing permit limitation specified in a Regulation 2 operating permit, where there is an associated pending initial Regulation 30 permit, be processed according to paragraph 11.2(j) of Regulation 2.

(3) Where the relaxation of any existing permit limitation specified in a Regulation 2 operating permit is requested, and there is not an associated Regulation 30 or pending initial Regulation 30 permit, operation as a major

affected 112(j) source shall not commence until a Regulation 30 permit that addresses the section 112(j) requirements is issued by the Department.

(4) The owner or operator of any source that would become a major affected 112(j) source due to construction or reconstruction and section 112(g) requirements are invoked shall apply for and obtain a final and legally effective case-by-case MACT determination according to Sec. 63.43 of this subpart.

(c) Sources that have a permit addressing the section 112(j) requirements.

The requirements of paragraphs (c)(1) and (2) of this section apply to major affected 112(j) sources that have a permit addressing the section 112(j) requirements according to Secs. 63.50 through 56 of this subpart, but where changes to equipment, activities or both, subsequently, occur at the source.

(1) If the existing permit already provides the appropriate requirements that address the subsequent changes that are to occur under paragraph (c) of this section, then that source shall comply with the applicable new source MACT requirements, and the section 112(j) requirements are thus satisfied.

(2) If the existing permit does not provide the appropriate requirements that address the subsequent changes that are to occur under paragraph (c) of this section, the owner or operator shall comply with paragraph (c)(2)(i) or (ii) of this section, whichever appropriate.

(i) If section 112(g) requirements are not invoked, the owner or operator of that source shall comply with the provisions of paragraph (b)(2) of this section.

(ii) If section 112(g) requirements are invoked, the owner or operator of that source shall apply for and obtain a final and legally effective case-by-case MACT determination according to Sec. 63.43 of this subpart.

(d) Applicability and equivalency determinations.

(1) The Department shall review any request for an applicability determination when requested to do so according to paragraph (a)(1)(i)(B) of this section. If the Department's applicability determination is positive, the owner or operator shall comply with paragraphs (a)(1)(ii) and (iii) of this section. If the Department's applicability determination is negative, no further action by the owner or operator is necessary.

(2) For any Part 1 application received pursuant to paragraph (a)(2) of this section, the Department shall review the final and legally effective case-by-case MACT determination approved according to Sec. 63.43 of this subpart. If the Department determines that the emission limitations in that final and legally effective case-by-case MACT determination are substantially as effective as the emission limitations which the Department would otherwise adopt to effectuate section 112(j) for that source, then the Department shall retain the existing emission limitations in

the permit as the emission limitations to effectuate section 112(j) by reopening the Regulation 30 permit for cause or amending the Regulation 2 permit following the procedures in paragraphs 12.4 through 12.6 of Regulation 2, as applicable. If the Department determines that the emission limitations in that final and legally effective case-by-case MACT determination are not substantially as effective as the emission limitations which the Department would otherwise adopt to effectuate section 112(j) for that source, then the Department shall impose the requirements specified in paragraph (f)(3) of this section by reopening the Regulation 30 permit for cause or amending the Regulation 2 permit following the procedures in paragraphs 12.4 through 12.6 of Regulation 2, as applicable.

(3) In issuing any final and legally effective case-by-case MACT determination according to Sec. 63.43 of this subpart after the section 112(j) deadline (i.e., according to paragraph (b)(4) or (c)(2)(ii) of this section), the Department shall specify in that determination that the associated emission limitations effectuate both section 112(g) and section 112(j) requirements.

(e) Completion determination and application shield.

(1) Within 60 days of the receipt of the Part 2 and/or Part 3 MACT application(s), the Department shall notify the owner or operator in writing whether the application is complete or incomplete. The Part 2 and/or Part 3 MACT application(s) shall be deemed complete unless the Department notifies the owner or operator in writing within 60 days of the submittal that the application is incomplete.

(2) Following submittal of any application, the Department may request additional information from the owner or operator. The owner or operator shall respond to such requests in a timely manner.

(3) If the owner or operator has submitted [a] timely and complete application[(s)] as required by this section, any failure to have a Regulation 30 permit addressing the section 112(j) requirements shall not be a violation of section 112(j), unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application. Once [a] complete application[(s) are is] submitted, the owner or operator shall not be in violation of the requirement to have a Regulation 30 permit addressing the section 112(j) requirements.

(f) Permit issuance and content.

(1) For each Part 2 application received according to paragraph (a) of this section, the Department shall reopen the source's Regulation 30 permit for cause according to the requirements of Regulation 30 and shall impose the requirements in paragraph (f)(3) of this section, as appropriate, through the Regulation 30 permit. If the Department has not yet issued a Regulation 30 permit, the Department shall revise the applicable Regulation 2 operating permit(s) using the procedures in paragraphs 12.4

through 12.6 of Regulation 2.

(2) For each Part 2 application received according to paragraph (b) or (c) of this section, the Department shall issue a Regulation 2 construction or operating permit using the procedures of paragraph 11.2(j) of Regulation 2, shall reopen the source's Regulation 30 permit for cause, shall revise the source's Regulation 30 permit as a significant permit revision or shall issue a Regulation 30 permit, as applicable, to impose the requirements in paragraph (f)(3) of this section, as appropriate[†.]

(3) Permit requirements for affected 112(j) sources.

(i) Identification of the affected 112(j) source and the new affected 112(j) source.

(ii) An equivalent emission limitation established by the Department that reflects existing source MACT requirements, for the equipment and activities within the affected 112(j) source, based on the degree of emission reductions that can be achieved if the control technologies or work practices are installed, maintained and operated properly.

(iii) An equivalent emission limitation established by the Department that reflects new source MACT requirements for the equipment and activities within the affected 112(j) source, based on the degree of emission reductions that can be achieved if the control technologies or work practices are installed, maintained and operated properly.

(iv) In lieu of paragraphs (f)(ii) and (f)(iii) of this section, any specific design, equipment, work practice or operational standard or combination thereof, when the Administrator or Department determines that hazardous air pollutant cannot be emitted through a conveyance designed and constructed to capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State or local law, or the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.

(v) The appropriate provisions of subpart A of this regulation and the information specified in paragraphs (f)(3)(v)(A) through (C) of this section.

(A) Any additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure practicable enforceability of the MACT emission limitation.

(B) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with requirements established according to Regulation 30.

(C) Compliance dates by which the owner or operator shall be in compliance with the MACT emission limitation and all other applicable terms and conditions of the permit.

(I) The owner or operator of a major

affected 112(j) source subject to paragraphs (a), (b) or (c)(2) of this section shall comply with existing source MACT requirements by the date established in the source's Regulation 30 or Regulation 2 permit, as applicable. The compliance date shall not be later than 3 years after the issuance of the permit for that source, except where the Department issues a permit that grants an additional year to comply in accordance with section 112(i)(3)(B) of the Act or unless otherwise specified in section 112(i).

(II) The owner or operator of a new affected 112(j) source subject to paragraph (c)(1) of this section shall comply with new source MACT requirements immediately upon startup of the new affected 112(j) source.

(g) Permit issuance dates.

[The Department shall issue all permits that address the requirements of this subpart in accordance with the requirements of Regulation 2,25, and/or 30 of the State of Delaware "Regulations Governing the Control of Air Pollution", as is applicable.

~~(1) Except as specified in paragraph (g)(2) of this section, the Department shall issue a Regulation 30 or Regulation 2 permit, as applicable, addressing the requirements of this subpart within 24 months of the submittal of the Part 1 MACT application.~~

~~(2) The Department shall issue a Regulation 30 or Regulation 2 permit, as applicable, addressing the requirements of this subpart within 18 months of receipt of the complete Part 2 and/or Part 3 MACT application(s) from the owner or operator of an affected 112(j) source receiving a positive applicability determination or a negative equivalency determination under paragraph (d)(2) of this section.~~

(h) MACT emission limitations.

(1) Owners or operators of affected 112(j) sources subject to paragraph (a), (b) or (c)(2) of this section shall comply with all requirements of Secs. 63.50 through 56 of this subpart that are applicable to affected 112(j) sources, including the compliance date for affected 112(j) sources established in paragraph (f)(3)(v)(C)(I) of this section.

(2) Owners or operators of new affected 112(j) sources subject to paragraph (c)(1) of this section shall comply with all requirements of Secs. 63.50 through 56 of this subpart that are applicable to new affected 112(j) sources, including the compliance date for new affected 112(j) sources established in paragraph (f)(3)(v)(C)(II) of this section.

Sec. 63.53 Application content for case-by-case MACT determinations.

(a) Part 1 MACT Application.

The Part 1 application for a MACT determination shall contain the information in paragraphs (a)(1) through (4) of this section.

(1) The name and address (physical location) of the

major source.

(2) A brief description of the major source and an identification of the relevant source category.

(3) An identification of the types of sources belonging to the relevant source category.

(4) An identification of any affected 112(j) sources for which an application has been made for a final and legally effective case-by-case MACT determination under section 112(g) according to Secs. 63.40 through 44 of this subpart.

(b) Part 2 MACT Application.

The Part 2 application for a MACT determination shall contain the information in paragraphs (b)(1) through (5) of this section.

(1) For an affected 112(j) source subject to construction, reconstruction or modification, the expected commencement date of installation, the expected completion date of installation and the anticipated date of startup of the affected 112(j) source.

(2) The hazardous air pollutants emitted by each affected 112(j) source in the relevant source category and an estimated total uncontrolled and controlled emission rate for hazardous air pollutants from the affected 112(j) source.

(3) Any existing Federal, State or local limitations or requirements applicable to the affected 112(j) source.

(4) For each piece of equipment, activity or source, an identification of control technology in place.

(5) Information relevant to establishing the MACT floors.

(c) Part 3 MACT Application.

The Part 3 application for a MACT determination shall contain the information in paragraphs (c)(1) through (3) of this section.

(1) Recommended MACT floors, an emission standard or emission limitation that is equivalent to existing source MACT requirements and an emission standard or emission limitation that is equivalent to new source MACT requirements for the affected 112(j) source, and supporting information consistent with paragraph 63.52(f) of this subpart. The owner or operator may recommend a specific design, equipment, work practice, operational standard or combination thereof, as an emission limitation.

(2) Proposed control technology that, if properly operated and maintained, will meet, at minimum, the existing source and new source MACT requirements, including identification of the affected 112(j) sources to which the control technology shall be applied.

(3) Relevant parameters to be monitored and frequency of monitoring to demonstrate continuous compliance with the MACT emission limitation over the applicable reporting period.

Sec. 63.54 Pre-construction review procedures for affected 112(j) sources.

The owner or operator who constructs, reconstructs or modifies an affected 112(j) source after the section 112(j) deadline shall follow the procedures established under Regulations 2, 25 and/or 30 before commencing construction, reconstruction, or modification of the affected 112(j) source.

Sec. 63.55 Maximum achievable control technology (MACT) determinations for affected 112(j) sources subject to case-by-case determination of equivalent emission limitations.**(a) Determination of case-by-case MACT requirements.**

The Department shall issue final and legally effective case-by-case MACT determinations for affected 112(j) and new affected 112(j) sources that are consistent with the existing source MACT and the new source MACT requirements, as defined in Sec. 63.51 of this subpart.

(b) Reporting to the Administrator.

The owner or operator shall submit copies of the Part 1, Part 2 and Part 3 MACT applications to the Administrator at the same time these applications are submitted to the Department.

Sec. 63.56 Requirements for case-by-case determination of equivalent emission limitations after promulgation of subsequent MACT standard.

(a) If the Administrator promulgates a relevant emission standard that is applicable to one or more affected 112(j) sources that are located at a major source before the date that the Department has issued a final and legally effective case-by-case MACT determinations according to paragraph 63.55(a) of this subpart, the Regulation 30 permit shall contain the promulgated standard rather than the emission limitation determined under Sec. 63.52 of this subpart, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates a relevant emission standard that is applicable to one or more affected 112(j) sources that are located at a major source on or after the date that the Department has issued a final and legally effective case-by-case MACT determinations according to paragraph 63.55(a) of this subpart, the Department shall incorporate requirements of that standard in the Regulation 30 permit upon its next renewal. The Department shall establish a compliance date in the revised permit that assures that the owner or operator shall comply with the promulgated standard within a reasonable time, but not longer than 8 years after such standard is promulgated or 8 years after the issuance of the final and legally effective case-by-case MACT determinations according to paragraph 63.55(a) of this subpart, whichever is earlier. However, in no event shall

the period for compliance for existing sources be shorter than that provided for existing sources in the promulgated standard.

(c) Notwithstanding the requirements of paragraph (a) or (b) of this section, the requirements of paragraphs (c)(1) and (2) of this section shall apply.

(1) If the Administrator promulgates an emission standard under section 112(d) or (h) of the Act that is applicable to an affected 112(j) source after the date a final and legally effective case-by-case MACT determination is issued according to paragraph 63.55(a) of this subpart, the Department is not required to change the emission limitation in the permit to reflect the promulgated standard if the Department determines that the level of control required in that prior case-by-case MACT determinations is substantially as effective as that required by the promulgated standard according to Sec. 63.1(e) of subpart A [of this regulation].

(2) If the Administrator promulgates an emission standard under section 112(d) or (h) of the Act that is applicable to an affected 112(j) source after the date a final and legally effective case-by-case MACT determinations is issued according to paragraph 63.55(a) of this subpart and the level of control required by the promulgated emission standard is less stringent than the level of control required by that prior case-by-case MACT determination, the Department ~~shall not~~ may, but is not required to incorporate any less stringent emission limitation of the promulgated standard in the Regulation 30 permit applicable to such source(s) and shall consider any more stringent provisions of that prior case-by-case MACT determination to be applicable legal requirements when issuing or revising such a Regulation 30 permit.

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.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PILOT COMMISSIONERS
24 DE ADMIN. CODE 1000
Statutory Authority: 23 Delaware Code,
Section 102 (23 **Del.C.** 102)**

The **Board of Pilot Commissioners** will hold a public hearing on the following draft regulations at its regularly scheduled meeting on June 25, 2002 at 9:30 a.m. on the Conference Room, 2d Floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. In addition, written comments will be accepted up to the date of the hearing, if received by the Board by that date and time.

The Board recognizes that new, larger ships are using the Bay & River Delaware, and that their maneuvering and other characteristics require additional experience for pilots seeking a first class pilot license. The Board believes it would be in the public interest to have its licensed pilots be capable of service as offshore advisors for such vessels.

The Board recognizes that on occasion, pilot availability could affect the intent of 23 **Del.C.** Section 113 that a pilot serve for at least a year in each pilot class before being eligible for an upgrade in pilot class to the next level. The Board believes it would be in the public interest to define how the one-year service requirement shall operate if there are problems with pilot availability.

1.0 Delaware licensed Bay and River Pilots are required to be familiar with the Delaware Code, Title 23, Chapter 1.

Pilots-Section 100 through 138.

2.0 Original License

2.1 An examination shall be given to apprentices upon completion of their apprenticeship to determine their qualifications for licenses. The written examination shall be based on knowledge required to be learned by the apprentice during his/her apprenticeship.

2.2 No license shall be issued to any Pilot for any route for which he/she has not made required trips and passed required examination.

2.3 No original license will be issued for anything less than the route from entrance of Delaware Bay to Newbold Channel, and Chesapeake & Delaware Canal. All these licenses must be maintained through your pilot career.

2.4 The Board of Pilot Commissioners shall issue endorsements for any tributaries of the Bay and River Delaware to any Delaware licensed Pilot who has passed examination for same.

3.0 To Raise License

Fourth Class Pilots shall demonstrate their knowledge to the Commission of their thorough understanding of vessel "squat" and other deep vessel handling characteristics prior to being licensed as a Third Class Pilot.

4.0 Renewal of License

Pilot Licenses are to be issued on anniversary of their original date from October 24, 1967, to comply with Delaware law.

5.0 All Delaware Licensed Pilots must:

5.1 Maintain all licenses they have in hand as of 5 May

1986 throughout the remainder of their Pilot career.

5.2 Hold a valid radar certificate.

ARPA certification is also required.

5.3 Provide a copy of all licenses and certificates to the Commission Secretary.

5.4 Notify the Commission Secretary on the form provided each Pilot that the "Rules of the Nautical Road" have been read.

5.5 Any pilot who fails to exercise his or her profession for any consecutive 90-day period is forbidden from piloting vessels. Such pilot may resume piloting vessels only upon certification to the Board that he or she has made such refresher trips over the route as shall be deemed necessary by the Board to assure that he or she *is fully* familiar with conditions along the route. Refresher trips shall be made in the company of a first class pilot.

5.6 Attend at least (40) hours of approved education every five (5) years. The course or courses of study shall total not less than 40 hours of formal training on subjects relating to navigation and piloting. All such courses may be taken at an approved education facility. The Board of Pilot Commissioners shall approve all courses before enrollment.

5.6.1 The courses listed here are now approved by the Board and will continue to be approved until further notice:

Ship Handling, Port Revel
Centre De Port Revel
38136 St. Pierre de Bressieux
France

Maritime Institute of Technology
5700 Hammonds Ferry Road
Linthicum Heights, MD 21090

SCI Maritime Training
241 Water Street
New York, NY 1003 8

South Hampton Institute
Newtown Road, Warsash Hampshire
England

Tidewater Navigation
Norfolk, VA

5.7 Attend and complete at least once every three (3) years a Bridge Resource Management ("BRM") course recommended and approved by this Board or by the American Pilots Association. Classroom or simulator hours spent in attendance at a BRM course will count towards satisfaction of the requirement of subparagraph "E", above. All licensed pilots shall have passed and approved BRM course prior to I July 1997.

6.0 Pilots must pass a designated physical examination

every year within 120 days before their date of license renewal, results of the examination shall be reported on the form provided each Pilot. Examinations may also be ordered by the Board for any Pilot at any time for any cause.

7.0 In order to be granted a license renewal, any Pilot licensed by this Commission is and shall be required:

7.1 To have rendered pilotage service to not less than 52 vessels in the course of the year preceding the year for which the renewal of such license is sought; and

7.2 To furnish to this Commission, in writing, not later than the time when application is made to this Commission for the renewal of such license, a list of all pilotages, during the period of the license whose renewal is sought, giving:

7.2.1 The name of the vessel.

7.2.2 The date of pilotage.

7.3 Provided however, that this requirement shall be proportionally reduced in number, or eliminated, upon presentation of proof in form and substance satisfactory to the Commission, that during the year about to be concluded, the applicant for renewal was engaged in administrative duties connected with pilotage on the Bay and River Delaware, or was duly assigned and engaged in administrative assignments for the benefit of said pilotage, or was temporarily disabled from the performance of this duties as a Pilot or other reason deemed satisfactory to the Commission.

7.4 In the event that the requirement for 52 pilotages is reduced or eliminated to the satisfaction of the Commission, a number of refresher trips may be required before renewal is granted.

8.0 Docking, Undocking, and Anchoring of Vessels

8.1 When a vessel is docking or anchoring, a Delaware licensed pilot shall remain on the bridge, attentive to duty, until the vessel has at least one ship's line secure to the dock, or until the vessel is anchored properly and firmly within a designated anchorage area.

8.2 Nonetheless, nothing in these Rules shall prevent the Master of a vessel from employing the services of a docking master.

9.0 Casualty Reports

9.1 It shall be the personal responsibility of all Pilots licensed by this Commission to make reports of all casualties, collisions, groundings, etc. These reports shall be made to the Division of Professional Regulation's Chief Investigator, with a copy sent to the Commission's liaison to the Investigator. AU such reports must be made within five days of the occurrence, except that any marine casualty involving oil spillage, pollution, or death must also be reported by telephone, facsimile transmission, or telegram to the Investigator and Commission liaison within twenty-four hours of the occurrence, to be followed thereafter by the

written report. Failure to make such reports within the required time frame may result in disciplinary proceedings.

9.2 Pilots licensed by this Commission are also required to furnish the Investigator and Commission liaison with a copy of all written reports the pilot makes to the U.S. Coast Guard relating to any occurrence through the pilot's licensed route of all casualties, collisions, or groundings. These pilots must provide the Investigator and the Commission liaison with copies of any Coast Guard findings based on these reports.

10.0 Commission Recommendations

It is suggested that, in the event any of the Pilots licensed by this Commission consider it unwise for a ship which he has boarded to get under way or leave a dock either due to weather or tide conditions, and the master of the ship insists on getting under way, the Pilot should refuse to assume his duties until such a time as it is in his opinion safe to proceed.

11.0 Offshore Trip Experience Requirement for Second Class Pilots

11.1 Under the provisions of 23 Del.C. Section 113(b), no person shall be eligible for licensure as a first class pilot by this Board, until that person has served at least one year in each of the lower classes.

11.2 While holding a second or third class license, all pilots must make at least two inward bound trips on vessels rated over 100,000 summer deadweight tons, on the southeastern approach lane from "D" buoy to at least the Delaware Capes. Each such trip must be made while accompanied by a pilot holding a first class license for the Bay and River Delaware issued by either this Board or the Pennsylvania Navigation Commission. At least one of these trips must be made during darkness. Second class pilots must furnish proof of these trips to the Board at least thirty days prior to being granted their first class pilot license. Any pilots holding a first class pilot license as of the date of the adoption of this regulation shall also complete these two trips by the date of the renewal of their license in 2005.

12.0 Service Requirement for Advancement from License Class to a Higher License Class

12.1 Under 23 Del.C. Section 113(b), a licensed pilot must serve at least one year in each of the previous lower pilot license classifications before the pilot is entitled to a first class license, permitting the pilot to provide pilotage services for "ships or vessels of any practical draft of water." 23 Del.C. Section 112(1). Using the plain meaning rule of legislative interpretation, the term "serve" as used in Section 113(b) means to actively engage in the pilot profession during a full one-year term, and not merely to hold a current license for twelve months.

12.2 For example, if a pilot is unavailable for

pilotage assignments during a one-year term, the total time for which the pilot was unavailable shall not be counted toward the one-year requirement. This circumstance will then affect the pilot's license renewal date, at the completion of the total one-year term.

DIVISION OF PROFESSIONAL REGULATION BOARD OF PROFESSIONAL LAND SURVEYORS

24 DE ADMIN. CODE 2700

Statutory Authority: 24 Delaware Code,
Section 2706(a) (24 Del.C. 2706(a))

REGISTER NOTICE

PLEASE TAKE NOTICE, pursuant to 29 Del.C. Chapter 101 and 24 Del.C. Chapter 27, Section 2706(a)(1), the Delaware Board of Professional Land Surveyors proposes to revise its Rules and Regulations. The proposed Rules and Regulations are being updated to take into account the recent amendments to the law change in 2001, as well as address certain other issues.

A Public Hearing will be held on the proposed Rules and Regulations on Thursday, June 20, 2002 at 10:00 a.m. in Conference Room A, second floor, 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 Gayle Melvin 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 make comments at the Public Hearing should notify Gayle Melvin at the above address or by calling (302) 744-4518.

1.0	Authority
2.0	Purpose
3.0	Procedure and Standards
4.0	Definitions
5.0	Standards for Horizontal Control
6.0	Enforcement
7.0	Professional Development Requirements (Continuing Education)
8.0	Professional Seals, Rubber Stamps and Signatures
9.0	Model Minimum Standards for the Practice of Land Surveying
10.0	Classification of Surveys
11.0	Mortgage Inspection Plans (MIP)
12.0	Code of Ethics for Professional Land Surveyors

1.0 Authority:

24 Del.C. §2706.

2.0 Purpose:

The purpose of these standards is to establish minimum technical criteria to govern the performance of surveyors when more stringent specifications are not required by other agencies or by contract. Further, the purpose is to protect the inhabitants of this state and generally to promote the public welfare.

3.0 Procedure and Standards:

Whenever a surveyor conducts a boundary survey or an improvement location survey of properties, a plat showing the results shall be prepared and a copy furnished to the client unless deemed unnecessary by the client. Provisions of this paragraph do not apply to mortgage inspections. The plat shall conform to the following requirements and shall include the following information:

3.1 The plat shall be drawn on any reasonably stable and durable drawing paper, vellum or film of reproducible quality. No plat or map shall have dimensions of less than 8-1/2 x 11 inches.

3.2 The plat shall show the written scale, area and classifications of the survey (A, B, C, or D). These classifications are based upon both the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed by the client, in writing. This classification must be based on the criteria in Attachment A and the survey must meet the minimum specifications set forth in Attachment B. The scale shall be sufficient to show detail for the appropriate classification.

3.3 The horizontal direction of all boundary lines shall be shown in relationship to grid north, state coordinate system, or in lieu thereof, to true north or to such other established line or lines to which the survey is referenced. The horizontal direction of the boundary lines shall be by direct angles or bearings. A prominent north arrow shall be drawn on every sheet. The description of the bearing reference system shall be stated on the plat.

3.4 All monuments, natural and artificial (man-made), found or set shall be shown and described on the survey plat. The monuments shall be noted as found or set. All monuments set shall be ferrous metal, or contain ferrous metal, not less than 1/2 inch in diameter and not less than eighteen inches in length, except however, a corner which falls upon solid rock, concrete, or other like materials shall be marked in a permanent manner and clearly identified on the plat. Monuments shall be set at all corners of all surveys as required by these standards, with the exception of meanders such as meanders of streams, tidelands, wetlands, lakes, swamps and prescriptive road rights-of-way. Witness corners shall be set whenever a corner monument cannot be

set or is likely to be disturbed. Such witness corners shall be set as close as practical to the true corner. If only one (1) witness corner is set, it must be set on the actual boundary line or prolongation thereof.

Otherwise, at least two (2) witness corners shall be set and so noted on the plat of the survey. Monuments shall be identified, where possible, with a durable marker bearing the surveyor's registration number and/or name.

3.5 The plat of a metes and boundary survey must clearly describe the commencing point and show the point of beginning for the survey.

3.6 Notable discrepancies between the survey and the recorded description, and the source of information used in making the survey, shall be indicated. When an inconsistency is found, including a gap or overlap, excess or deficiency, erroneously located boundary lines or monuments, the nature of the inconsistency shall be indicated on the drawing.

3.7 In the judgement of the surveyor, description and location of any physical evidence found along a boundary line, including but not limited to fences, walls, buildings or monuments, shall be shown on the drawing.

3.8 The horizontal length (distance) and direction (bearing) of each line as determined in an actual survey process shall be shown on the drawing.

3.9 At least three (3) elements (including radius, arc and chord bearing and distance) of all circular curves, shall be shown.

3.10 Information used by the surveyor in the property description shall be clearly shown on the plat, including but not limited to, the point of beginning, course bearing, distance, monuments, etc.

3.11 The lot and block or tract numbers or other designations, including those of adjoining lots, if the survey is within a recorded subdivision. If the property is not within a recorded subdivision, then the name and deed record of all adjoining owners shall be shown.

3.12 Recorded public and private rights-of-way or easements which are discovered during the title search performed by others and supplied to the surveyor or graphically shown on the recorded plat, which includes the property, or which are known or observed adjoining or crossing the land surveyed, shall be shown.

3.13 Location of all permanent improvements pertinent to the survey, referenced radially and perpendicular to the nearest boundary, shall be shown.

3.14 Visible encroachments onto or from adjoining property or abutting streets with the extent of such encroachments, shall be shown.

3.15 A plat or survey shall bear the Company and individual name, address, date of survey and original signature and board-approved seal of the registered surveyor in responsible charge. This signature and seal is certification that the

survey meets minimum requirements of the Standards for Land Surveyors as adopted by the Delaware Board.

3.16 The following information shown on the plat must be included in a written description, if one is provided:

3.16.1 The commencing point and point of beginning.

3.16.2 Sufficient caption to connect the plat and description.

3.16.3 Length and direction of all lines.

3.16.4 Curve information as described in paragraph 1.

3.16.5 Type of monuments noted as found or set.

3.16.6 The area of the parcel.

3.16.7 Adjoining owners, subdivision name, etc.

4.0 Definitions:

4.1 Definitions will be listed in the current "Definitions of Surveying and Associated Terms", published by the American Congress on Surveying and Mapping, except as otherwise provided by Delaware law.

4.2 "Direct Supervision": The term "Direct Supervision" applies to one duly registered as a Professional Land Surveyor (PLS) or Professional Engineer (PE) in the State of Delaware and only a registrant may provide direct supervision. The physical presence of a PLS on every type of surveying project is not required. There are, however, times when a site visit is necessary to make important decisions involving boundary retracements, property line disputes, etc.

4.2.1 Direct supervision of a party chief and field crew would require daily contact to determine the need for the presence of a PLS on site. This need would be based upon the type of work to be performed and the professional judgement of the PLS in charge. Should it be determined that a site visit is not warranted, the PLS, at a minimum, should instruct the field crew as to the procedures to be used, the data to be gathered, the maps or plats to be relied upon and the scope of the work to be performed. At the end of the day, all work should be reviewed and checked by the PLS.

4.2.2 While it has been argued that a survey crew does not always have to be under the direct supervision of a PLS, it is the Board's opinion that only a PLS has the ability to make that determination. It is therefore necessary for the field crew to have daily contact with the PLS so that this decision can be made properly, in order to protect the public.

5.0 Standards for Horizontal Control:

5.1 Definitions for specific types of horizontal control surveys, along with standards and procedures, may be found in National Geodetic Survey (NGS) publications. All geodetic surveys, including determination and publication of horizontal and vertical values utilizing Global Positioning Systems, Ground Control Systems or any other system which relates to the practice

and profession of Land Surveying, shall be performed under the direct control and personal supervision of a licensed Professional Land Surveyor registered in the State of Delaware.

5.2 Control Surveys that are used to determine boundary lines, including developing coordinates for existing boundary corners, shall meet the Standards contained herein.

5.3 Land Information Systems/Geographic Information Systems (LIS/GIS) maps should be built on a foundation of coordinates obtained by an accurate survey. Creation of LIS/GIS maps and services should include a Professional Land Surveyor registered in the State of Delaware for coordination and input of their knowledge in these fields.

6.0 Enforcement:

Surveyors failing to meet these minimum standards will be subject to appropriate disciplinary action by the Delaware Board of Land Surveyors.

7.0 Professional Development Requirements (Continuing Education)

7.1 Biennium Requirements

7.1.1 Effective July 1, 1995, as a condition for renewal of a Certificate of Registration for the practice of land surveying, a Professional Land Surveyor shall be required to successfully complete 24 hours of professional development within the preceding biennium. Any registrant who completes in excess of 24 hours of professional development within the preceding biennium may have the excess, not to exceed 12 hours, applied to the requirements for the next biennium.

7.2 Sources of Credit

7.2.1 Professional development hours (PDHs) shall be credited based on the following list:

7.2.1.1 Serving as a member of a committee or a board or a commission, which has as its primary duty the preparation or grading of written tests which are given for the purpose of determining the proficiency of an applicant for registration, using accepted test development principles, shall be counted as 1 PDH per hour of attendance.

7.2.1.2 Attendance at workshops or seminars which are directly related to land surveying shall count as 1 PDH per actual hour of classroom attendance. Such sessions must be planned in advance, a record must be maintained describing the content and a record of attendance must be kept. This may include society meetings in which educational programs are presented.

7.2.1.3 The active teaching of land surveying at the college level, within the immediate preceding biennium, shall be counted as 8 PDHs per year. No more than 16 PDHs shall be issued for teaching at the college level in any renewal period. Credit Will Not Be Given to Full Time Educators.

7.2.1.4 Teaching a workshop or seminar which is directly related to land surveying or professional development shall be counted as 2 PDHs per actual hour of teaching time, not to include preparation. No more than 18 PDHs may be claimed in any 2-year period. Credit will be given for the initial presentation only.

7.2.1.5 College level courses directly related to land surveying or professional development shall be counted as 40 PDH per credit hour. Ten (10) PDHs will be counted for each CEU (continuing education unit) earned.

7.2.1.6 Presentation and/or publication of a professional paper will be counted as 10 PDHs. No more than 20 PDHs may be claimed in any biennium.

7.2.1.7 All sources of PDH credit are subject to prior Board approval.

7.3 Renewal Credit

7.3.1 Each registrant applying for renewal shall be required to submit a reporting form of his/her professional development hours obtained in the period defined in Section I of these rules. Should the registrant desire to have any excess PDHs applied to the requirement for the next biennium, it shall be so stated in the space provided on said form.

7.3.2 If the Board should, for any reason, deny or modify the registrant's request for carryover PDHs, the Board shall notify the registrant of such action on or before June 1 of the renewal year. The registrant's submittal shall be on a form provided by the Board and shall contain a statement signed and sealed by the registrant, which attests to the correctness thereof. Such statement shall accompany and be filed with the registrant's request for renewal. Registrants should retain their PDH files and records for at least five (5) years.

7.4 Pro-rated Credits for Renewal

7.4.1 An applicant for renewal shall follow the following schedule of reporting PDH credits: If, at the time of renewal, you have been registered for less than 1 year, NO continuing education is required; registered for more than 1 year, but less than 2 years, half (12 PDHs) is required; registered for 2 or more years, the full amount (24 PDHs) is required.

7.5 Renewal

7.5.1 Any registrant who has submitted a correctly completed statement as required in Section III and has met all other requirements shall be granted renewal.

7.6 Random Audit

7.6.1 Each biennium, the Board shall select from the list of potential renewal registrants a percentage, determined by the Board, which shall be selected by random method. The Board may also audit based on complaints or charges against an individual registrant, relative to compliance with continuing education requirements.

7.7 Documentation and Audit by the Board

7.7.1 When a registrant whose name or number

appears on the audit list applies for renewal, the Board shall obtain documentation from the registrant showing detailed accounting of the various PDHs claimed by the registrant. The Board shall attempt to verify the PDHs shown on the documentation provided by the registrant. The Board shall then review the documentation and verification. Upon completion of the review, the Board shall decide whether the registrant's PDHs meet the requirements of these rules and regulations.

7.8 Board Review

7.8.1 The Board shall review all documentation requested of any registrant shown on the audit list. If the Board determines the registrant has met the requirements, the registrant's certificate of registration shall remain in effect. If the Board initially determines the registrant has not met the requirements, the registrant shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered misconduct in the practice of land surveying, pursuant to 24 Del.C. §2730.

7.9 Noncompliance Extenuating Circumstances

7.9.1 A registrant applying for renewal may request an extension and be given an additional twelve (12) months to make up all outstanding required PDHs providing he/she can show good cause why he/she was unable to comply with such requirements at the same time he/she applies for renewal. The registrant must state the reason for such extension along with whatever documentation he/she feels is relevant. The Board shall consider requests such as extensive travel outside the United States, military service, extended illness of the registrant or his/her immediate family, or a death in the immediate family of the registrant. The written request for extension must accompany the renewal application. The Board shall issue an extension when it determines that one or more of these criteria have been met or if circumstances beyond the control of the registrant have rendered it impossible for the registrant to obtain the required PDHs. A registrant who has successfully applied for an extension under this paragraph shall make up all outstanding hours of professional development within twelve (12) months of the date of the Board decision.

7.10 Appeal

7.10.1 Any registrant denied renewal pursuant to these rules and regulations may contest such ruling by filing an appeal pursuant to the Administrative Procedures Act.

7.11 Retired Registrants

7.11.1 Registrants 62 years old and over who are retired (working less than 20 hours weekly) shall need only twelve (12) PDHs each biennium to satisfy the professional development requirements outlined herein.

7.12 Multiple State Registrants

7.12.1 Any registrant, who is not a Delaware resident and resides in another state or commonwealth, and is registered in that state or commonwealth having a comparable continuing education requirement, shall not be required to satisfy these requirements in addition to those of his/her home state, but will satisfy these requirements as a minimum. Any questions regarding compliance with this Section shall be resolved by the Board.

8.0 Professional Seals, Rubber Stamps and Signatures

8.1 A raised seal shall be used wherever possible (on some materials, impressions do not register well).

8.2 When a raised seal can not be used, a rubber seal may be used, but only with red ink so that the lettering will stand out.

8.3 The signature must be originally hand written.

8.4 The seal to be used by a Delaware registrant shall conform to the above regulation and have two concentric circles. The inner circle shall contain only the words "REGISTERED", "NO.", and "Delaware". The area between the two circles shall contain, at the bottom, the words "Professional Land Surveyor" reading counterclockwise and at the top, the name of the registrant as written below, reading clockwise.

8.5 The seal acceptable to the Board is the one recognized in the trade as the No. 1 official pocket size, which has an inner circle 1" in diameter and an outer circle 1 1/2" in diameter. A sample is below. Replace John Doe and No. 123 with your name and number.



9.0 Model Minimum Standards for the Practice of Land Surveying

9.1 Preamble

To comply with the purpose of Title 24, Chapter 27 of the Delaware Code, which is to safeguard life, health and property, to promote the public welfare and to maintain a high standard of integrity and practice, the Delaware Board of Land Surveyors has developed the following MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING. These Standards shall be binding on every person holding a certificate of registration to offer or to perform, land surveying services in this state. All persons registered under Chapter 27 of the Delaware Code are required to be familiar with, and adhere to, the registration statute and these Standards. The MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING delineate specific obligations the registrant must meet.

9.2 The practice of Professional Land Surveying is a

privilege, as opposed to a right. All registrants shall exercise their privilege of practicing by performing services only to the extent of their competence and only then by meeting or exceeding these technical standards.

9.3 The Minimum Standards for the Practice of Land Surveying as promulgated herein, are enforced under the powers vested in Delaware. In these standards, the "registrant" shall mean any person holding a license to practice Land Surveying issued by the Division of Professional Regulation.

10.0 Classification of Surveys

10.1 Urban Surveys: Surveys of land lying within or adjoining a city or town. This would also include the surveys of commercial and industrial properties, condominiums, townhouses, apartments and other high-density developments regardless of geographic location.

10.2 Suburban Surveys: Surveys of land lying outside urban areas. This land is used almost exclusively for single family residential use or residential subdivisions.

10.3 Rural Surveys: Surveys of land such as farms and other undeveloped land outside the suburban areas which may have a potential for future development.

10.4 Marshland Surveys: Surveys of lands which normally lie in remote areas with difficult terrain and usually have limited potential for development and cannot be classified as Class A, B or C surveys. This includes, but is not limited to, surveys of farmlands and rural areas.

EFFECTIVE APRIL 1996.

11.0 Mortgage Inspection Plans (MIP)

11.1 Purpose. The purpose of an MIP is to locate, describe and represent the positions of buildings or other visible improvements, or both, affecting the property being inspected.

11.2 Product. The results of the MIP shall be stated on a plot showing the property inspected and the location of the buildings or other visible improvements affecting the inspected property.

11.3 The Approval by the Consumer and Disclosures.

11.3.1 The surveyor shall not begin work for compensation pursuant to this regulation until the surveyor receives a signed approval form more particularly described below.

11.3.2 The approval form shall be sufficient if signed by one consumer, whether or not there are multiple consumers, or, if a consumer is not an individual, the consumer's duly authorized agent, with respect to the property for which services pursuant to this regulation are sought. The approval form shall at a minimum contain:

11.3.2.1 An approval by the signer of the requested services; and

11.3.2.2 An explanation of the differences between an MIP and a boundary survey which includes an

improvement location drawing.

11.3.3 The following approval form shall suffice for the purpose of complying with this regulation:

"Approval Form (on company letterhead, with name, address and telephone #)

In connection with the purchase or refinancing of the property located at _____, we have been requested to prepare an MIP. Since an MIP is not a boundary survey and does not identify property boundary lines, State regulations require us to have your approval. Therefore, please sign and return the original of this form promptly, by fax or mail, so that there will be no delay in settlement.

If you wish, we can perform a boundary survey which includes an Improvement Location Drawing (ILD). This survey will identify property boundary lines and will mark property boundary corners.

An MIP will cost approximately \$ _____. A boundary survey which includes an ILD will cost (approximately \$ _____ (between \$ _____ and \$ _____).

Very truly yours,

Check appropriate lines:

_____ We approve the preparation of an MIP. We have read and understand that, in the absence of any problem revealed by or during the preparation of this drawing, it may be all that is required of the land surveyor.

_____ We request a boundary survey that will include an ILD, and will identify property boundary lines and mark property boundary corners.

_____ (Signature) _____ (Signature)"

11.3.4 Upon receipt of an approval form which complies with this section, the surveyor shall perform the services approved by the consumer. If the consumer requests a boundary survey which includes an ILD, then the survey shall be consistent with the provisions set forth in The Minimum Model Standards adopted by the Board.

11.3.5 If the consumer approves the preparation of an MIP, the surveyor shall perform at least the following procedures:

11.3.5.1 Examine the current deed and/or plat to the subject parcel;

11.3.5.2 Take sufficient on-site measurements to enable the surveyor to perform the tasks called for by this regulation with regard to the:

11.3.5.2.1 locations of buildings and those other improvements pertinent to the MIP;

11.3.5.2.2 _____ locations of possible encroachments reasonably determined based on a visual

inspection;

11.3.5.2.3 easements; and

11.3.5.2.4 rights of way.

11.3.5.3 If the consumer has approved an MIP, then the following elements shall be shown:

11.3.5.3.1 significant buildings, structures and other improvements, and their relationship to the apparent property lines referenced radially and/or perpendicular to the nearest boundary, based on the field measurements taken by the surveyor, and any other evidence considered by the surveyor;

11.3.5.3.2 statement with regard to the level of accuracy and accuracy of apparent setback distances; (Refer to Table 1)

11.3.5.3.3 possible encroachments to the extent reasonably determined by a visual inspection of the property either way across property lines; and

11.3.5.3.4 minimum setback lines, as shown on plats;

11.3.5.3.5 a minimum of two control points and their relationship to each other and the subject property.

11.3.5.3.6 easements or rights of way as shown on plats or current deed of record for subject property.

11.3.6 If, in connection with the preparation of an MIP, a surveyor finds evidence to warrant, in the surveyor's professional opinion, the performance of a boundary survey, the surveyor shall so notify, in writing, the consumer or the consumer's representative.

11.3.7 If the consumer has approved the preparation of an MIP, then:

11.3.7.1 the MIP prepared by the surveyor shall prominently display, at a minimum, advice to the effect that:

11.3.7.1.1 the MIP is of benefit to a consumer only insofar as it is required by a lender, a title insurance company or its agent in connection with the contemplated transfer, financing, or refinancing; and

11.3.7.1.2 the MIP is not to be relied upon for the establishment or location of fences, garages, buildings or other existing or future improvements.

11.4 Plats

11.4.1 The original plat of an MIP shall be a reproducible drawing at a scale which clearly shows the results of the field work, computations, research and record information as compiled and checked.

11.4.2 The plat shall be prepared in accordance with the following procedures:

11.4.2.1 A reasonably stable and durable drawing paper, linen or film is considered a suitable material;

11.4.2.2 Plats may not be smaller than 8-1/2 x 11 inches;

11.4.2.3 The plat shall show the following:

11.4.2.3.1 Caption or title and address or lot number of the property;

11.4.2.3.2 Scale;

11.4.3.2.3 Date;

11.4.3.2.4 Name and address of the firm or surveyor; and

11.4.3.2.5 Original signature and board-approved seal of the registered surveyor in responsible charge;

11.4.3.2.6 Consumer's name;

11.4.3.2.7 Statement with regard to the level of accuracy and accuracy of apparent setback distances.

11.4.3 The surveyor shall make a reasonable effort to maintain records, including names or initials of all personnel, date of performance, reference to field data, such as book number, loose leaf pages and other relevant data.

11.5 All work shall be performed according to the minimum standards for the community in which the service is provided, as long as said standards meet or exceed the standards herein. (1) Current local standards shall take precedence over the MIP as to the manner in which mortgage or deed-related surveys or plans are prepared and as to the manner of field work and staking related to these surveys or plans, if those standards require more detailed or more accurate work to meet those local standards.

12.0 Code of Ethics for Professional Land Surveyors

12.1 Foreword. Honesty, justice and courtesy form a moral philosophy which, associated with mutual interest among men and women, constitutes the foundation of ethics. The surveyor should recognize such a standard, not in passive observance, but as a set of dynamic principles guiding his/her conduct and way of life. It is his/her duty to practice his/her profession according to this Code of Ethics.

12.1.1 As the keystone of professional conduct is integrity, the surveyor will discharge his/her duties with fidelity to the public, his/her employers and clients, and with fairness and impartiality to all. It is his/her duty to interest him/herself in the public welfare, and to be ready to apply his/her special knowledge for the benefit of mankind. He/she should uphold the honor and dignity of his/her profession and avoid association with any enterprise of questionable character. In his/her dealings with fellow surveyors he/she should be fair and tolerant.

12.2 Professional Life

12.2.1 The surveyor will cooperate in extending the effectiveness of the surveying profession by interchanging information and experience with other surveyors and students and by contributing to the work of surveying societies and associations, schools and the scientific and surveying press.

12.2.2 It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any surveyor to advertise his/her work in a false or deceptive manner that may mislead the public.

12.2.3 The surveyor will avoid all conduct or practice likely to discredit or do injury to the dignity and honor of his/her profession.

12.2.4 Because superior and distinct knowledge of surveying is essential to the profession, it is imperative for the surveyor to continue his/her education.

12.2.5 The surveyor shall not permit the use of his/her professional seal on any work over which he/she was not in responsible charge.

12.3 Relations with the Public

12.3.1 The surveyor will endeavor to extend public knowledge of surveying and Will discourage the spreading of untrue, unfair and exaggerated statements regarding surveying.

12.3.2 He/she will have due regard for the safety of

Table 1

CONDITION	MARSH	RURAL	SUBURBAN	URBAN	REMARKS AND FORMULA
Unadjusted closure	1:5,000	1:7,500	1:10,000	1:15,000	Loop or between monuments
Angular closure (minimum)	30" _N	20" _N	15" _N	10" _N	N=number of angles in traverse
Accuracy of distances	0.10 ft +200 ppm	0.07 ft +150 ppm	0.05 ft +100 ppm	0.03 ft +50 ppm	100 ppm = 1:10,000
Elevations for boundaries controlled by tides; contours, etc., accurate to:	+ or -.50 ft	+ or -.50 ft	+ or -.50 ft	+ or -.50 ft	Based on NGVD (1929) or NAVD 88
Location on subject property or pertinent improvements, structures, paving, etc.	+ or -2 ft	+ or -1 ft	+ or -0.1 ft	+ or -.10 ft	Any shown improvement within 75' of property must use these tolerances
Positional error in map plotting not to exceed: (applies to original map only)	1/40	1/20	1/20	1/40	National Map accuracy calls for 1/50th inch
Area	0.1 acre	0.1 acre	0.001 acre	+ or - nearest square foot - less than 1 acre; 0.0001 = greater than 1 acre	Areas involving water boundary. Left to discretion of practitioner

life and health of public and employees who may be affected by the work for which he/she is responsible.

12.3.3 He/she will express an opinion only when it is founded on adequate knowledge and honest conviction while he/she is serving as a witness before a court, commission or other tribunal.

12.4 Relations with Clients and Employers

12.4.1 The surveyor will act in fairness and in a professional manner toward each client or employer and produce a quality survey regardless of price.

12.4.2 He/she will engage, or advise his/her client or employer to engage, and he/she will cooperate with, other experts and specialists whenever the client's or employer's interests are best served by such service.

12.4.3 He/she will disclose no information concerning the business affairs or technical processes and data of clients or employers without their consent.

12.4.4 He/she will not undertake work which he/she believes will not be successful without first advising his/her client of his/her opinion.

12.4.5 He/she will promptly disclose to his/her client or employer and interest in a business which may compete with or affect the business of his/her client or employer. He/she will not allow an interest in any business to affect his/her decision regarding surveying work for which he/she is employed, or which he/she may be called upon to perform.

12.4.6 An employed surveyor will not solicit or accept other employment to the detriment of his/her regular work or the interests of his/her employer.

12.5 Relations with Surveyors

12.5.1 The surveyor will see that those licensed to survey are properly qualified by character, ability and training and those who prove unworthy of their privileges are disciplined.

12.5.2 He/she will uphold the principle of appropriate and adequate compensation for those engaged in surveying work, including those in subordinate capacities, as being in the public interest and maintaining the standards of the profession.

12.5.3 He/she will endeavor to provide opportunity for the professional development and advancement of surveyors in his/her employ.

12.5.4 He/she will not directly or indirectly injure the professional reputation, prospects or practice of another surveyor. However, if he/she discovers an error or disagrees with the work of another property surveyor, it is the duty of that surveyor to inform the other surveyor of such fact.

12.5.5 He/she will not review the work of another property surveyor or for the same client, except with the knowledge or consent of such property surveyor or unless the connection of such property surveyor with the work has been terminated.

12.5.6 He/she will not compete with another

surveyor on the basis of charges by reducing his/her normal fees after having been informed of the charges named by the other, or undertake any work at a price that will not permit a satisfactory professional performance. Any offer of professional service should be on the basis of his/her regular fees.

12.5.7 He/she will not use the advantages of a salaried position (public or private) to compete unfairly with another surveyor, or use the advantages of instruments and office facilities (public or private) to compete with other surveyors without charging for such instruments and facilities at current rates.

12.5.8 He/she will not attempt to practice in any field of surveying in which he/she is not proficient. He/she should call in special consulting services to supplement his/her own experience and that of his/her organization on problems outside of their usual field.

1.0 General Provisions

1.1 Pursuant to 24 Del.C. Chapter 27, the Delaware Board of Professional Land Surveyors ("the Board") is authorized to, and has adopted, these Rules and Regulations. The Rules and Regulations are applicable to all Professional Land Surveyors and applicants to the Board.

1.2 Information about the Board, including its meeting dates, may be obtained by contacting the Board's Administrative Assistant at the Division of Professional Regulation. Requests to the Board may be directed to the same office or visit our web site at www.professionallicensing.state.de.us.

1.3 The Board's President shall preside at all meetings of the Board and shall sign all official documents of the Board. In the President's absence, the Board's Secretary shall preside at meetings and perform the duties usually performed by the President.

1.4 The Board may seek counsel, advice and information from other governmental agencies and such other groups as it deems appropriate.

1.5 The Board may establish such subcommittees as it determines appropriate for the fair and efficient processing of the Board's duties.

1.6 The Board reserves the right to grant exceptions to the requirements of the Rules and Regulations upon a showing of good cause by the party requesting such exception, provided that the exception is not inconsistent with the requirements of 24 Del.C. Chapter 27.

1.7 Board members are subject to the provisions applying to "honorary state officials" in the "State Employees', Officers' and Officials' Code of Conduct," found at 29 Del.C. Chapter 58.

2.0 Definitions.

Definitions under Section 2 will be listed in the current "Definitions of Surveying and Associated Terms," published

by the American Congress on Surveying and Mapping, except as otherwise provided by Delaware law.

“Combined Office and Field Experience” - is defined as being multi-faceted experience in responsible charge of land surveying projects, performed under the direct supervision of a licensed land surveyor in the active practice of land surveying. The office aspect of this experience shall include the technology relevant to civil drafting, mathematical calculations necessary for subdivision, boundary and right-of-way determinations, road, design, stormwater, sediment and erosion control, and sewer design as well as the interpolation of field-run topographical data and the like. Office experience should also include applied familiarity with land development submittal and approval processes.

The subject field experience shall include time spent in responsible charge relevant to all aspects of on-site inspection, evaluation and field-gathered information as well as the supervision of crew personnel and communication and coordination with a licensed land surveyor and office staff.

“Direct Supervision” - applies to one duly licensed as a Professional Land Surveyor (PLS) and only a licensee may provide direct supervision. The physical presence of a PLS on every type of surveying project is not required. There are, however, times when a site visit is necessary to make important decisions involving boundary retracements, property line disputes, etc.

Direct supervision of a party chief and field crew would require daily contact to determine the need for the presence of a PLS on site. This need would be based upon the type of work to be performed and the professional judgement of the PLS in charge. Should it be determined that a site visit is not warranted, the PLS, at a minimum, should instruct the field crew as to the procedures to be used, the data to be gathered, the maps or plats to be relied upon and the scope of the work to be performed. At the end of the assignment, all work should be reviewed and checked by the PLS.

While it has been argued that a survey crew does not always have to be under the direct supervision of a PLS, it is the Board's opinion that only a PLS has the ability to make that determination. It is therefore necessary for the field crew to have daily contact with the PLS so that this decision can be made properly, in order to protect the public.

“Related Science Curriculum” – are those courses of study for which one-third of the required core courses are the same or similar as those required for a Baccalaureate Degree Program in Surveying. These core courses may include but are not limited to Algebra, Trigonometry, Analytical Geometry, Calculus, General Physics and Computer Programming.

Degrees in related fields of study may include but not be limited to Civil Engineering, Mathematics, Physics, Agricultural Engineering, Actuarial Studies, Statistics,

Geology and Forestry.

Because requirements for graduation differ from institution to institution, when considering these Related Science Curriculums attention will be given to the specific coursework completed. This examination of completed coursework may allow for greater flexibility of this definition. Section 2708(a).

“Surveying Curriculum” - For the purpose of these regulations, the term “Surveying Curriculum” will mean any approved curriculum for a Baccalaureate Degree in Surveying as it is accepted by the institution bestowing the said degree. This curriculum shall necessarily include but not be limited to courses in Surveying, Advanced Surveying, Legal Principles of Surveying, Data Adjustment, Subdivision Planning and Layout, Route and Construction Surveying, Engineering and Geodetic Astronomy, Topographic Surveying and Cartography and/or those other studies required by the institution where the degree is earned.

Independent study course work (which includes all correspondence, internet and distance-learning study) shall be considered only if those courses have been accepted by an Accreditation Board for Engineering and Technology (ABET) as part of the approved curriculum. Section 2708(a).

3.0 Meeting Schedule and Election of Officers

The Board shall meet at least once each quarter of the calendar year. At the first regularly scheduled meeting in the first quarter, the Board will elect from its members a chair, vice-chair, and secretary. Section 2704(b).

4.0 Periodic Review of Application Form

The Application Form for those seeking licensure under 24 Del.C. Chapter 27 shall be reviewed every five years. Section 2706 (a)(2).

5.0 Designation of the National Examination

For the required National Examination for licensure under 24 Del.C. Chapter 27, the Board adopts the two-part examination developed by the National Council of Examiners for Engineering and Surveying (NCEES), consisting of the Principles and Practice of Land Surveying Examination and the Fundamentals of Land Surveying Examination, as amended from time to time (then in effect at time of examination). Section 2706(a)(3).

6.0 Designation of the Drainage Examination/Delaware Law Examination

6.1 For the required drainage examination/Delaware law examination the Board adopts the bank of questions developed for this purpose and/or approved for this purpose by a recognized psychometrician or other authority whose services are acquired and approved by the Division of

Professional Regulation of the Delaware Department of Administrative Services. Section 2706(a)(4).

6.2 Exam review procedures.

6.2.1 An applicant may review only the questions answered incorrectly.

6.2.2 No other materials will be allowed into the room when reviewing the exam.

6.2.3 There will be a 30-minute time limit supervised by the Division of Professional Regulation.

6.2.4 The fee will be determined by the Division of Professional Regulation.

6.2.5 An applicant cannot review the exam within 90 days prior to the next exam date.

6.2.6 An exam review will be limited to only one review.

7.0 Adoption of Administration and Grading Procedures and Passing Scores for National Examination

The Board adopts the administration and grading procedures and the passing scores adopted by the NCEES for the two-part national examination, described in Section 5.0 of these regulations. Section 2706(a)(5).

8.0 Process for Evaluation of Applicants' Credentials and Experience for Licensure

See Attachment B.

9.0 Procedure for Granting Licenses and License Renewals

9.1 When an applicant is approved for licensure, the Division of Professional Regulation will send a letter to the applicant advising that person of the prorated license fee. Once the license fee is received by the Division, a license number is issued and mailed to the applicant.

9.2 The Division of Professional Regulation will send a renewal notice to the last known address for each licensee at least 30 days prior to renewal. Even if a licensee does not receive a renewal, it is his/her responsibility to renew their license.

10.0 Continuing Education

10.1 Biennium Requirements.

Effective July 1, 1995, as a condition for renewal of a Certificate of Registration for the practice of land surveying, a Professional Land Surveyor shall be required to successfully complete 24 hours of professional development within the preceding biennium. Any licensee who completes in excess of 24 hours of professional development within the preceding biennium may have the excess, not to exceed 12 hours, applied to the requirements for the next biennium.

10.2 A licensee shall complete at least two (2) hours on ethics and professionalism for each renewal period with no carry-over credit effective with the 7/1/03 through 6/30/

05 renewal period.

10.3 Sources of Credit. In reviewing and approving applications for PDHs, the Board shall take into consideration:

10.3.1 Program Content: Courses must cover land surveying topics and must directly contribute to accomplishment of the primary purpose of continuing education, which is to help assure that licensees possess the knowledge, skills and competence necessary to function in a manner that protects and serves the public interest. The knowledge or skills taught must enable licensees to better serve surveying clients and the subject matter must be directly related to the land surveying practice. All educational courses must be approved by the Board.

10.3.2 Instruction: Except as set forth below, the course must be one that will be conducted by a qualified instructor who will be able to interact directly either in person or by interactive television with all students at all times during the course. The course may be conducted through the use of interactive television or other media which permits continuous mutual communication between the instructor and all students, continuous observation of the instructor by all students, and continuous observation of all students by the instructor. Distance education courses may be acceptable when the sponsor gives the licensee a final exam and sends verification to the Board that the licensee has completed the course with a passing grade.

10.3.2.1 Distance education courses are defined as programs whereby instruction does not take place in a traditional classroom setting but rather through other media where teacher and student are apart. Distance education may not be utilized with the exceptions of interactive television and verified courses described above.

10.3.3 Examples of topics that are acceptable, but not limited to:

ALTA/ACSM land title surveys
GPS (survey related)
GIS (survey related)
Delaware land use laws
Case law
Boundary laws and regulations
Research
Evidence
Boundary determination
Unwritten rights
Conflict resolution; i.e. boundary line agreements
Adverse possession
Highway surveys
Railroad surveys
Easements and rights of way
Geodesy
Highway design/Highway safety
Surveyor in court/Expert testimony

State and international boundaries
Water boundaries
Technical writing related to deed descriptions and survey reports
Mathematics and computer applications of land surveying
Measurement and analysis
Photogrammetry and aerial photo interpretation
Survey standards
Survey instrumentation
Business management and professional development related to the land surveying practice; i.e. surveying contracts, communicating with clients, good business planning and management, quality assurance
Ethics and professionalism
Liability for land surveyors
Drainage design
Sediment and erosion control
First aid/CPR

10.3.4 Serving as a member of a committee or a board or a commission, which has as its primary duty the preparation or grading of written tests which are given for the purpose of determining the proficiency of an applicant for registration, using accepted test development principles, shall be counted as one (1) PDH per hour of attendance.

10.3.5 Attendance at workshops or seminars, which are directly related to land surveying, shall count as one (1) PDH per actual hour of classroom attendance. Such sessions must be planned in advance, a record must be maintained describing the content and a record of attendance must be kept. This may include society meetings in which educational programs are presented.

10.3.6 The active teaching of land surveying at the college level, within the immediate preceding biennium, shall be counted as eight (8) PDHs per year. No more than sixteen (16) PDHs shall be issued for teaching at the college level in any renewal period. CREDIT WILL NOT BE GIVEN TO FULL TIME EDUCATORS.

10.3.7 Teaching a workshop or seminar, which is directly related to land surveying or professional development, shall be counted as two (2) PDHs per actual hour of teaching time, not to include preparation. No more than eighteen (18) PDHs may be claimed in any 2-year period. CREDIT WILL BE GIVEN FOR ONLY ONE PRESENTATION IN A TWO-YEAR PERIOD.

10.3.8 College level courses directly related to land surveying or professional development shall be counted as 40 PDH per credit hour. Ten (10) PDHs will be counted for each CEU (continuing education unit) earned.

10.3.9 Presentation and/or publication of a professional paper will be counted as 10 PDHs. No more

than 20 PDHs may be claimed in any biennium renewal.

10.4 Renewal Credit.

10.4.1 Each licensee applying for renewal shall be required to submit on the Board approved form of his/her professional development hours obtained in the period defined in Section 10.1.1 of these rules. Should the licensee desire to have any excess PDHs applied to the requirement for the next biennium, it shall be so stated in the space provided on said form.

10.4.2 If the Board should, for any reason, deny or modify the licensee's request for carryover PDHs, the Board shall notify the licensee of such action after the next Board meeting. The licensee's submittal shall be on a form provided by the Board and shall contain a statement signed and sealed by the licensee, which attests to the correctness thereof. Such statement shall accompany and be filed with the licensee's request for renewal. Licensees should retain their PDH files and records for at least five (5) years.

10.5 Pro-Rated Credits for Renewal. A licensee for renewal shall follow the following schedule of reporting PDH credits: if, at the time of renewal, you have been licensed for less than one year, NO continuing education is required; licensed for more than one year, but less than two years, half (12 PDHs) is required; licensed for two or more years, the full amount (24 PDHs) is required.

10.6 Renewal. Any licensee who has submitted a correctly completed form as required in Section 10.3 and has met all other requirements shall be granted renewal.

10.7 Audit. Each biennium, the Division of Professional Regulation shall select from the list of potential renewal licensees a percentage, determined by the Board, which shall be selected by random method. The Board may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements.

10.8 Documentation & Audit by the Board. When a licensee whose name or number appears on the audit list applies for renewal, the Board shall obtain documentation from the licensee showing detailed accounting of the various PDHs claimed by the licensee. The Board shall attempt to verify the PDHs shown on the documentation provided by the licensee. The Board shall then review the documentation and verification. Upon completion of the review, the Board shall decide whether the licensee's PDHs meet the requirements of these rules and regulations.

10.9 Board Review. The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's certificate of registration shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating

circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered misconduct in the practice of land surveying, pursuant to 24 **Del.C.** §2712.

10.10 Noncompliance – Extenuating Circumstances. A licensee applying for renewal may request an extension and be given up to an additional twelve (12) months to make up all outstanding required PDHs providing he/she can show good cause why he/she was unable to comply with such requirements at the same time he/she applies for renewal. The licensee must state the reason for such extension along with whatever documentation he/she feels is relevant. The Board shall consider requests such as extensive travel outside the United States, military service, extended illness of the licensee or his/her immediate family, or a death in the immediate family of the licensee. The written request for extension must accompany the renewal application. The Board shall issue an extension when it determines that one or more of these criteria have been met or if circumstances beyond the control of the licensee have rendered it impossible for the licensee to obtain the required PDHs. A licensee who has successfully applied for an extension under this paragraph shall make up all outstanding hours of professional development within the extension period approved by the Board.

10.11 Appeal. Any licensee denied renewal pursuant to these rules and regulations may contest such ruling by filing an appeal pursuant to the Administrative Procedures Act.

10.12 Retired Licensees. Licensees 62 years old and over who are retired (working less than 20 hours weekly) shall need only twelve (12) PDHs, including one ethics PDH, each biennium to satisfy the professional development requirements outlined herein.

10.13 Multiple State Licensees. Any licensee, who is not a Delaware resident and resides in another state or commonwealth, and is licensed in that state or commonwealth having a comparable continuing education requirement, shall not be required to satisfy these requirements in addition to those of his/her home state, but will satisfy these requirements as a minimum. Any questions regarding compliance with this Section shall be resolved by the Board.

11.0 Investigations and Designation of Board Member for Contact with Division of Professional Regulation.

Upon notice to the Board that a disciplinary investigation of a licensee is underway by the Division of Professional Regulation, the Board shall designate a Board member to assist the investigator. Whenever feasible, the Board member designated for this purpose should not reside in the county where the licensee under investigation resides or maintains his or her dominant area of practice. Section 2706(a)(10).

12.0 Minimum Technical Standards for Licences.

12.1 The Board is required under Sections 2701 and 2112(a)(9) to establish minimum technical standards for licensees. The purpose of these standards is to establish minimum technical criteria to govern the performance of surveys when more stringent specifications are not required by other agencies or by contract. Further, the purpose is to protect the inhabitants of this state and generally to promote the public welfare. The Board also established minimum standards for Mortgage Inspection Plans (MIPs), and other types of work, frequently performed by licensees in portions of the state.

12.2 Procedure and Standards. Whenever a surveyor conducts a boundary survey or an improvement location survey of properties, a plat showing the results shall be prepared and a copy furnished to the client unless deemed unnecessary by the client. The plat shall conform to the following requirements and shall include the following information:

12.2.1 The plat shall be drawn on any reasonably stable and durable drawing paper, vellum or film of reproducible quality. No plat or map shall have dimensions of less than 8 ½ x 11 inches.

12.2.2 The plat shall show the written scale, area and classifications of the survey. These classifications (suburban, urban, rural, and marshland) are based upon both the purposes for which the property is being used at the time the survey is performed and any proposed developments, which are disclosed by the client, in writing. This classification must be based on the criteria in Section 12.4 and the survey must meet the minimum specifications set forth in Attachment A. The scale shall be sufficient to show detail for the appropriate classification.

12.2.3 The horizontal direction of all boundary lines shall be shown in relationship to grid north, magnetic, or in lieu thereof, to true north or to such other established line or lines to which the survey is referenced. The horizontal direction of the boundary lines shall be by direct angles or bearings. A prominent north arrow shall be drawn on every sheet. The description of the bearing reference system shall be stated on the plat.

12.2.4 All monuments, natural and artificial (man-made), found or set, used in the survey, shall be shown and described on the survey plat. The monuments shall be noted as found or set. All monuments set shall be ferrous metal, or contain ferrous metal, not less than ½ inch in diameter and not less than 18 inches in length, except however, a corner which falls upon solid rock, concrete, or other like materials shall be marked in a permanent manner and clearly identified on the plat. Monuments shall be set at all corners of all surveys as required by these standards, with the exception of meanders such as meanders of streams, tidelands, wetlands, lakes, swamps and prescriptive road rights-of-way. Witness monument shall be set or referenced

whenever a corner monument cannot be set or is likely to be disturbed. Such witness monument shall be set as close as practical to the true corner. If only one (1) witness monument is set, it must be set on the actual boundary line or prolongation thereof. Otherwise, at least two (2) witness monuments shall be set and so noted on the plat of the survey. Monuments shall be identified, where possible, with a durable marker bearing the surveyor's registration number and/or name.

12.2.5 The plat of a metes and boundary survey must clearly describe the commencing point and label the point of beginning for the survey.

12.2.6 Notable discrepancies between the survey and the recorded description, and the source of information used in making the survey, shall be indicated. When an inconsistency is found, including a gap or overlap, excess or deficiency, erroneously located boundary lines or monuments, the nature of the inconsistency shall be indicated on the drawing.

12.2.7 In the judgment of the surveyor, the description and location of any physical evidence found along a boundary line, including but not limited to fences, walls, buildings or monuments, shall be shown on the drawing.

12.2.8 The horizontal length (distance) and direction (bearing) of each line as determined in an actual survey process shall be shown on the drawing.

12.2.9 At least three (3) elements (including radius, arc and chord bearing and distance) of all circular curves, shall be shown.

12.2.10 Information used by the surveyor in the property description shall be clearly shown on the plat, including but not limited to, the point of beginning, course bearing, distance, monuments, etc.

12.2.11 The lot and block or tract numbers or other designations, including those of adjoining lots, if the survey is within a recorded subdivision. If the property is not within a recorded subdivision, then the name and deed record of all adjoining owners shall be shown.

12.2.12 Recorded public and private rights-of-way or easements which are discovered during the title search performed by others and supplied to the surveyor or graphically shown on the recorded plat, which includes the property, or which are known or observed adjoining or crossing the land surveyed, shall be shown.

12.2.13 Location of all permanent improvements pertinent to the survey, referenced radially and perpendicular to the nearest boundary, shall be shown.

12.2.14 Visible or suspected encroachments onto or from adjoining property or abutting streets, with the extent of such encroachments, shall be shown.

12.2.15 A plat or survey shall bear the Company and individual name, address, and date of survey and original signature and board-approved seal of the licensed

surveyor in responsible charge. This signature and seal is certification that the survey meets minimum requirements of the Standards for Land Surveyors as adopted by the Delaware Board.

12.2.16 The following information shown on the plat must be included in a written description, if one is provided:

12.2.16.1 The commencing point and point of beginning.

12.2.16.2 Sufficient caption to connect the plat and description.

12.2.16.3 Length and direction of all lines.

12.2.16.4 Curve information as described in paragraph 12.2.9.

12.2.16.5 Type of monuments noted as found or set.

12.2.16.6 The area of the parcel.

12.2.16.7 Adjoining owners, subdivision name, etc.

12.3 Standards for Horizontal Control.

12.3.1 Definitions for specific types of horizontal control surveys, along with standards and procedures, may be found in National Geodetic Survey (NGS) or successor publications. All geodetic surveys, including determination and publication of horizontal and vertical values utilizing Global Positioning Systems, Ground Control Systems or any other system which relates to the practice and profession of Land Surveying, shall be performed under the direct control and personal supervision of a licensed Professional Land Surveyor licensed in the State of Delaware.

12.3.2 Control Surveys that are used to determine boundary lines, including developing coordinates for existing boundary corners, shall meet the Standards contained herein.

12.3.3 Land Information Systems/Geographic Information Systems (LIS/GIS) maps should be built on a foundation of coordinates obtained by an accurate survey. Creation of LIS/GIS maps and services should include a Professional Land Surveyor licensed in the State of Delaware for coordination and input of their knowledge in these fields.

12.4 Classification of Surveys.

12.4.1 Urban Surveys - Surveys of land lying within or adjoining a city or town. This would also include the surveys of commercial and industrial properties, condominiums, townhouses, apartments and other high-density developments regardless of geographic location.

12.4.2 Suburban Surveys - Surveys of land lying outside urban areas. This land is used almost exclusively for single family residential use or residential subdivisions.

12.4.3 Rural Surveys - Surveys of land such as farms and other undeveloped land outside the suburban areas which may have a potential for future development.

12.4.4 Marshland Surveys - Surveys of land

which normally lie in remote areas with difficult terrain and usually have limited potential for development and cannot be classified as urban, suburban, rural, and marshland surveys. This includes, but is not limited to, surveys of farmlands and rural areas.

12.5 ALTA/ACSM Land Title Survey. The current published standard as amended from time to time.

12.6 Mortgage Inspection Plans (MIP)

12.6.1 Purpose. The purpose of an MIP is to locate, describe and represent the positions of buildings or other visible improvements, or both, affecting the property being inspected.

12.6.2 Product. The results of the MIP shall be stated on a plat showing the property inspected and the location of the buildings or other visible improvements affecting the inspected property.

12.7 The Approval by the Consumer and Disclosures.

12.7.1 The surveyor shall not begin work for compensation pursuant to this regulation until the surveyor receives a signed approval form more particularly described below.

12.7.2 The approval form or its equivalent shall be sufficient if signed by one consumer, whether or not there are multiple consumers, or, if a consumer is not an individual, the consumer's duly authorized agent, with respect to the property for which services pursuant to this regulation are sought. The approval form shall at a minimum contain:

12.7.2.1 An approval by the signer of the requested services; and

12.7.2.2 An explanation of the differences between an MIP and a boundary survey which includes an improvement location drawing.

12.7.2.3 The following approval form or its equivalent shall suffice for the purpose of complying with this regulation: "Approval Form (on company letterhead, with name, address and telephone number)

In connection with the purchase or refinancing of the property located at _____, we have been requested to prepare an MIP.

Since an MIP is not a boundary survey and does not identify property boundary lines, State regulations require us to have your approval. Therefore, please sign and return the original of this form promptly, by fax or mail, so that there will be no delay in settlement.

If you wish, we can perform a boundary survey, which includes an Improvement Location Drawing (ILD). This survey will

identify property boundary lines and will mark property boundary corners.

An MIP will cost approximately \$ _____.

A boundary survey which includes an ILD will cost (approximately \$ _____) (between \$ _____ and \$ _____).

Very truly yours,

Check appropriate lines:

_____ We approve the preparation of an MIP. We have read and understand that, in the absence of any problem revealed by or during the preparation of this drawing, it may be all that is required of the land surveyor.

_____ We request a boundary survey that will include an ILD, and will identify property boundary lines and mark property boundary corners.

_____ (Signature)

_____ (Signature)

12.7.3 Upon receipt of an approval form, which complies with this section, the surveyor shall perform the services approved by the consumer. If the consumer requests a boundary survey which includes an ILD, then the survey shall be consistent with the provisions set forth in The Minimum Model Standards adopted by the Board.

12.8 Minimum Procedures. If the consumer approves the preparation of an MIP, the surveyor shall perform at least the following procedures:

12.8.1 Examine the current deed and/or plat for the subject parcel and review the most current tax assessment map for inconsistencies with deed or plat.

12.8.2 Take sufficient on-site measurements to enable the surveyor to perform the tasks called for by this regulation with regard to the:

12.8.2.1 Locations of buildings and those other improvements pertinent to the MIP;

12.8.2.2 Locations of possible encroachments reasonably determined based on a visual inspection;

12.8.2.3 Easements; and

12.8.2.4 Rights-of-way.

12.8.3 If the consumer has approved an MIP, then the following elements shall be shown:

12.8.3.1 Significant buildings, structures and other improvements, and their relationship to the apparent property lines referenced radially and/or perpendicular to the nearest boundary, based on the field measurements taken by the surveyor, and any other evidence considered by the

surveyor;

12.8.3.2 Statement with regard to the level of accuracy and accuracy of apparent setback distances; (REFER TO ATTACHMENT A)

12.8.3.3 Possible encroachments to the extent reasonably determined by a visual inspection of the property either way across property lines; and

12.8.3.4 Minimum setback lines, as shown on plats,

12.8.3.5 A minimum of two control points and their relationship to each other and the subject property.

12.8.3.6 Easements or rights-of-way as shown on plats or current deed of record for subject property.

12.8.4 If, in connection with the preparation of an MIP, a surveyor finds evidence to warrant, in the surveyor's professional opinion, the performance of a boundary survey, the surveyor shall so notify, in writing, the consumer or the consumer's representative.

12.8.5 If the consumer has approved the preparation of an MIP, then:

12.8.5.1 The MIP prepared by the surveyor shall prominently display, at a minimum, advice to the effect that:

12.8.5.1.1 The MIP is of benefit to a consumer only insofar as it is required by a lender, a title insurance company or its agent in connection with the contemplated transfer, financing, or refinancing; and

12.8.5.1.2 The MIP is not to be relied upon for the establishment or location of fences, garages, buildings or other existing or future improvements.

12.9 Plats.

12.9.1 The original plat of an MIP shall be a reproducible drawing at a scale which clearly shows the results of the field work, computations, research and record information as compiled and checked.

12.9.2 The plat shall be prepared in accordance with the following procedures:

12.9.2.1 A reasonably stable and durable drawing paper, linen or film is considered a suitable material;

12.9.2.2 Plats may not be smaller than 8 ½ x 11 inches;

12.9.2.3 The plat shall show the following:

12.9.2.3.1 Caption or title and address or lot number of the property,

12.9.2.3.2 Scale,

12.9.2.3.3 Date,

12.9.2.3.4 Name and address of the firm or surveyor; and

12.9.2.3.5 Original signature and board-approved seal of the licensed surveyor in responsible charge,

12.9.2.3.6 Consumer's name,

12.9.2.3.7 Statement with regard to the

level of accuracy and accuracy of apparent setback distances; (REFER TO ATTACHMENT A)

12.10 Maintenance of Records.

12.10.1 The surveyor shall make a reasonable effort to maintain records, including names or initials of all personnel, date of performance, reference to field data, such as book number, loose leaf pages and other relevant data.

12.11 Local Standards.

12.11.1 All work shall be performed according to the minimum standards for the community in which the service is provided, as long as said standards meet or exceed the standards herein. (1) Current local standards shall take precedence over the MIP as to the manner in which mortgage or deed-related surveys or plans are prepared and as to the manner of field work and staking related to these surveys or plans, if those standards require more detailed or more accurate work to meet those local standards.

13.0 Professional Conduct - Code of Ethics

13.1 Foreword. Honesty, justice and courtesy form a moral philosophy which, associated with mutual interest among men and women, constitutes the foundation of ethics. The surveyor should recognize such a standard, not in a passive observance, but as a set of dynamic principles guiding his/her conduct and way of life. It is his/her duty to practice his/her profession according to this Code of Ethics.

As the keystone of professional conduct is integrity, the surveyor will discharge his/her duties with fidelity to the public, his/her employers and clients, and with fairness and impartiality to all. It is his/her duty to interest his/herself in the public welfare, and to be ready to apply his/her special knowledge for the benefit of mankind. He/she should uphold the honor and dignity of his/her profession and avoid association with any enterprise of questionable character. In his/her dealings with fellow surveyors he/she should be fair and tolerant.

13.2 Professional Life.

13.2.1 The surveyor will cooperate in extending the effectiveness of the surveying profession by interchanging information and experience with other surveyors and students and by contributing to the work of surveying societies and associations, schools and the scientific and surveying press.

13.2.2 It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any surveyor to advertise his/her work in a false or deceptive manner that may mislead the public.

13.2.3 The surveyor will avoid all conduct or practice likely to discredit or do injury to the dignity and honor of his/her profession.

13.2.4 Because superior and distinct knowledge of surveying is essential to the profession, it is imperative for the surveyor to continue his/her education.

13.2.5 The surveyor shall not permit the use of

his/her professional seal on any work over which he/she was not in responsible charge.

13.3 Relations With The Public.

13.3.1 The surveyor will endeavor to extend public knowledge of surveying and will discourage the spreading of untrue, unfair and exaggerated statements regarding surveying.

13.3.2 He/she will have due regard for the safety of life and health of public and employees who may be affected by the work for which he/she is responsible.

13.3.3 He/she will express an opinion only when it is founded on adequate knowledge and honest conviction while he/she is serving as a witness before a court, commission or other tribunal.

13.4 Relations With Clients and Employers.

13.4.1 The surveyor will act in fairness and in a professional manner toward each client or employer and produce a quality survey regardless of price.

13.4.2 He/she will engage, or advise his/her client or employer to engage, and he/she will cooperate with, other experts and specialists whenever the client's or employer's interests are best served by such service.

13.4.3 He/she will disclose no information concerning the business affairs or technical processes and data of clients or employers without their consent.

13.4.4 He/she will not undertake work which he/she believes will not be successful without first advising his/her client of his/her opinion.

13.4.5 He/she will promptly disclose to his/her client or employer any interest in a business which may compete with or affect the business of his/her client or employer. He/she will not allow an interest in any business to affect his/her decision regarding surveying work for which he/she is employed, or which he/she may be called upon to perform.

13.4.6 An employed surveyor will not solicit or accept other employment to the detriment of his/her regular work or the interests of his/her employer.

13.5 Relations With Surveyors.

13.5.1 The surveyor will see that those licensed to survey are properly qualified by character, ability and training and those who prove unworthy of their privileges are disciplined.

13.5.2 He/she will uphold the principle of appropriate and adequate compensation for those engaged in surveying work, including those in subordinate capacities, as being in the public interest and maintaining the standards of the profession.

13.5.3 He/she will endeavor to provide opportunity for the professional development and advancement of surveyors in his/her employ.

13.5.4 He/she will not directly or indirectly injure the professional reputation, prospects or practice of another surveyor. However, if he/she discovers an error or disagrees

with the work of another surveyor, it is the duty of that surveyor to inform the other surveyor of such fact.

13.5.5 He/she will not review the work of another surveyor for the same client, except with the knowledge or consent of such surveyor or unless the connection of such surveyor with the work has been terminated.

13.5.6 He/she will not compete with another surveyor on the basis of charges by reducing his/her normal fees after having been informed of the charges named by the other, or undertake any work at a price that will not permit a satisfactory professional performance. Any offer of professional service should be on the basis of his/her regular fees.

13.5.7 He/she will not use the advantages of a salaried position (public or private) to compete unfairly with another surveyor, or use the advantages of instruments and office facilities (public or private) to compete with other surveyors without charging for such instruments and facilities at current rates.

13.5.8 He/she will not attempt to practice in any field of surveying in which he/she is not proficient. He/she should call in special consulting services to supplement his/her own experience and that of his/her organization on problems outside of their usual field.

14.0 Criminal History Reviews of Licensee Applicants.

Part of the licensure process for applicants under 24 Del.C. Chapter 27 includes a requirement that the applicant not have a criminal conviction record, nor pending criminal charges relating to an offense, the circumstances of which substantially relate to the practice of land surveying. The Board shall review the information provided on the Application Form relating to this issue to determine if the applicant's criminal history record is substantially related to the practice of land surveying. Section 2708(a)(6).

15.0 Reciprocity Eligibility.

15.1 Section 2709, Title 24 of the Delaware Code requires the Board to grant reciprocal licenses to applicants presenting proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States, whose standards for licensure are "substantially similar" to Delaware standards.

15.2 All states that are contiguous to Delaware are considered to have "substantially similar" standards to the Delaware standards. In determining whether other jurisdiction's standards are substantially similar, the Board will consider the evidence presented by the applicant intended to show this similarity.

16.0 Renewal of Lapsed Licenses.

A licensee may renew a license that has lapsed after the renewal date, by payment of the late fee penalty and proof of

PROPOSED REGULATIONS

the required PDHs to the Division of Professional Regulation, if the licensee files for renewal within two calendar years of the most recent renewal date. A licensee who does not file for renewal within that period must re-apply for a new license. Section 2711.

17.0 Replacement of Lost, Destroyed or Mutilated Licenses.

Lost, destroyed, or mutilated licenses may be replaced by payment of the appropriate fee to the Division of Professional Regulation. Section 2716(c).

18.0 Professional Seals, Rubber Stamps and Signatures.

18.1 A raised seal shall be used wherever possible.

18.2 When a raised seal cannot be used, a rubber seal may be used, but only with red ink so that the lettering will stand out.

18.3 The signature must be originally hand written.

18.4 The seal to be used by a Delaware licensee shall conform to the above regulation and have two concentric circles. The inner circle shall contain only the

words "REGISTERED," "NO.," and "DELAWARE." The area between the two circles shall contain, at the bottom, the words "PROFESSIONAL LAND SURVEYOR" reading counterclockwise and at the top, the name of the licensee as written below, reading clockwise.

18.5 The seal acceptable to the Board is the one recognized in the trade as the No. 1 official pocket size, which has an inner circle 1" in diameter and an outer circle 1 1/2" in diameter. A sample is below. Replace JOHN DOE AND No. 123 with your name and number.

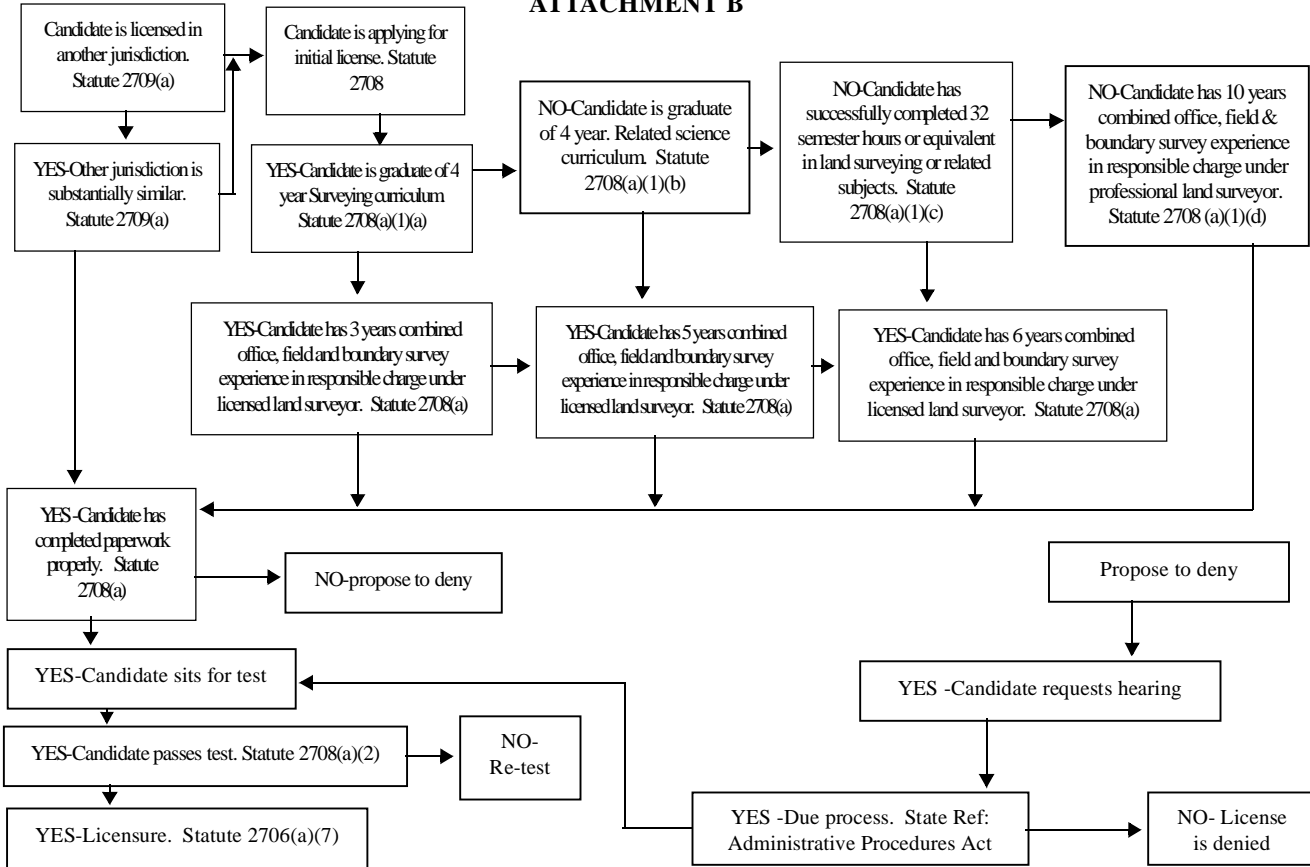


ATTACHMENT A

<u>CONDITION</u>	<u>MARSH</u>	<u>RURAL</u>	<u>SUBURBAN</u>	<u>URBAN</u>	<u>REMARKS AND FORMULA</u>
Unadjusted closure	1:5,000	1:7,500	1:10,000	1:15,000	Loop or between monuments
Angular closure (minimum)	30" N	20" N	15" N	10" N	N=number of angles in traverse
Accuracy of distances	0.10 ft +200 ppm	0.07 ft +150 ppm	0.05 ft +100 ppm	0.03 ft +50 ppm	100 ppm = 1:10,000
Elevations for boundaries controlled by tides, contours, etc., accurate to:	+ or - .50 ft	+ or - .50 ft	+ or - .50 ft	+ or - .50 ft	Based on NGVD (1929) or NAVD 88
Location on subject property or pertinent improvements, structures, paving, etc.	+ or - 2 ft	+ or - 1 ft	+ or - 0.1 ft	+ or - .10 ft	Any shown improvement within 75' of property must use these tolerances
Positional error in map plotting not to exceed: (applies to original map only)	1/10	1/20	1/20	1/40	National Map accuracy calls for 1/50th inch
Area	0.1 acre	0.1 acre	0.001 acre	+ or - nearest square foot = less than 1 acre; 0.0001 = greater than 1 acre	Areas involving water boundary. Left to discretion of practitioner

EVALUATION OF APPLICANTS CREDENTIALS FOR LICENSURE

ATTACHMENT B



DEPARTMENT OF EDUCATION

14 DE Admin. Code 1050 - 1052
 Statutory Authority: 14 Delaware Code,
 Section 122(d) (14 Del.C. §122(d))

**EDUCATIONAL IMPACT ANALYSIS PURSUANT
 TO 14 DEL.C. SECTION 122(d)**

- 1050 DSSAA SPORTSMANSHIP**
- 1051 DSSAA SENIOR HIGH SCHOOL
 INTERSCHOLASTIC ATHLETICS**
- 1052 DSSAA JUNIOR HIGH/MIDDLE SCHOOL
 INTERSCHOLASTIC ATHLETICS**

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 the following Regulations of the Delaware Secondary School Athletic Association:

1050 DSSAA Sportsmanship,

- 1051 DSSAA Senior High School Interscholastic Athletics
- 1052 Junior High/Middle School Interscholastic Athletics.

The most significant changes to the regulations include the following:

Reinstating the “continuous enrollment” requirement which penalizes a student for failing to complete a semester or being absent for one or more semesters for reasons other than injury or illness. (Reg. 1051, 1.2.7 and Reg. 1052, 1.2.6)

Deleting the “developmental sport” category and as a result, eliminating DSSAA’s regulation of sports in which fewer than 12 high schools or 7 middle schools are participating.(Reg. 1051, 20.3 and Reg. 1052, 20.3)

Creating a 6-week “window” from June 15 to August 1 during which coaches are permitted to have instructional contact with returning members of their school team. (Reg. 1051, 23.10 and Reg. 1052, 22.10)

Increasing the permissible number of baseball and softball teams from 18 to 20 games per season for senior high school athletes. (Reg. 1051, 24.1

only)

The remaining proposals represent editorial changes or minor modifications to a particular section of the regulations. All of the proposed revisions have been reviewed by the Constitution and Bylaws Committee, discussed by the membership at the annual meeting and have received two affirmative votes from the DSSAA Board of Directors.

C. IMPACT CRITERIA

1. Will the amended regulations help improve student achievement as measured against state achievement standards? The amended regulations address academic issues that are a part of interscholastic athletics.

2. Will the amended regulations help ensure that all students receive an equitable education? The amended regulations address the equity issues that are a part of interscholastic athletics.

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

4. Will the amended regulations help to ensure that all students' legal rights are respected? The amended regulations address the students' legal rights that are a part of interscholastic athletics..

5. Will the amended regulations preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations 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 regulations 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 regulations 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? The statute requires that regulations be developed for DSSAA therefore changes must be made through changes to the regulations.

10. What is the cost to the state and to the local school boards of compliance with the amended regulations? The amended regulations will not increase the costs to the state or to the local school boards.

1050 DSSAA Sportsmanship

1.0 Member schools are required to conduct all of their athletic affairs with other schools in a spirit of good sportsmanship. Acts which are prima facie evidence of a failure to abide by this rule are those which are noted below and others of a similar nature which transgress the usually accepted code for good sportsmanship.

1.1 Failure to provide for proper control of spectators at a contest. When the number of spectators is expected to be large in relation to the seating capacity of the facility, uniformed state, county, or local police shall be provided for crowd control. The host school is expected to take reasonable and proper steps to assure crowd control under any foreseeable conditions.

1.2 Failure of a team or competitor to stay in a contest until its normal end when failure to do so is related to dissatisfaction with the officiating of the contest, unless the physical safety of the team or competitor would have been endangered by continuing the contest.

1.3 Harassment of game officials by a coach. Going onto the playing surface to interrupt a contest in protest of a decision by an official; conduct by a coach, team member, or any individual in the official party which invokes a penalty against the team; continued and visible actions by a coach which indicate to the team and/or to the spectators that the coach believes the game is being improperly officiated; public demonstrations with game officials which indicate to others extreme dissatisfaction with the officiating; and such related actions when exhibited in aggravated form are evidence of poor sportsmanship.

1.4 Failure of a school to use every means at its disposal to impress upon its faculty, student body, team members, coaching staff, and spectators the importance of good sportsmanship before, during, and after athletic contests. The host school is encouraged to read a brief statement concerning sportsmanship prior to the start of each athletic contest.

1.5 Failure of an administrator, athletic director, coach, athlete, official, or spectator to comply with the directions stipulated in the following Code of Interscholastic Athletics:

1.5.1 The School Administrator and Athletic Director shall:

1.5.1.1 Encourage and promote friendly relations and good sportsmanship throughout the school by

requiring courtesy and proper decorum at all times, by familiarizing students and others in the community with the ideals of good sportsmanship, and by publicizing these concepts and attitudes so that all members of the school community understand and appreciate their meaning.

1.5.1.2 Review the Sportsmanship Rule with all athletic staff.

1.5.1.3 Insist upon strict compliance with all DSSAA rules and regulations.

1.5.1.4 Insist upon adequate safety provisions for both participants and spectators in all activities.

1.5.1.5 Encourage all to judge the success of the interscholastic athletic program based on the attitude of the participants and spectators rather than on the number of games won or lost.

1.5.1.6 Insist that all participants adhere to the highest standards of good sportsmanship as a means of ensuring desirable spectator attitudes.

1.5.1.7 Provide sanitary and attractive facilities for the dressing and housing of visiting teams and officials.

1.5.2 The Coach shall:

1.5.2.1 Demonstrate high ideals, good habits, and desirable attitudes in his/ her personal and professional behavior and demand the same of his/her players.

1.5.2.2 Recognize that the purpose of competition is to promote the physical, mental, social, and emotional well-being of the individual players and that the most important values of competition are derived from playing the game fairly.

1.5.2.3 Be a modest winner and a gracious loser.

1.5.2.4 Maintain self-control at all times and accept adverse decisions without public display of emotion or dissatisfaction with the officials. Register disagreement through proper channels.

1.5.2.5 Employ accepted educational methods in coaching and give his/her players an opportunity to develop and use initiative, leadership, and judgement.

1.5.2.6 Pay close attention to the physical well-being of his/her players, refusing to jeopardize the health of an individual for the sake of improving his/her team's chances to win.

1.5.2.7 Teach athletes that it is better to lose fairly than to win unfairly.

1.5.2.8 Discourage gambling, profanity, abusive language, and similar violations of the true sportsman's or sportswoman's code.

1.5.2.9 Refuse to disparage an opponent, an official, or others associated with interscholastic athletics and discourage gossip and rumors about them.

1.5.2.10 Properly supervise the athletes under his/her immediate care.

1.5.3 The Participant (athletes and cheerleaders)

shall:

1.5.3.1 Be responsible for the perpetuation of interscholastic athletics. Strive to enhance the image of athletics not only as a member of a team but also as a member of your school and community.

1.5.3.2 Be courteous to the visiting team. Your opponents wish to excel as much as you do. Respect their efforts.

1.5.3.3 Play hard to the limit of your ability regardless of discouragement. The true athlete does not give up, quarrel, cheat, bet, or grandstand.

1.5.3.4 Be modest when successful and be gracious in defeat. A true sportsman or sportswoman does not offer excuses for failure.

1.5.3.5 Understand and observe the playing rules of the game and the standards of eligibility.

1.5.3.6 Respect the integrity and judgement of the officials and accept their decisions without complaint.

1.5.3.7 Respect the facilities of the host school and do not violate the trust entailed in being a guest.

1.5.4 The Official shall:

1.5.4.1 Know the rules and interpretations and be thoroughly trained to administer them.

1.5.4.2 Maintain self-control in all situations.

1.5.4.3 When enforcing the rules, do not make gestures or comments that will embarrass the players or coaches.

1.5.4.4 Be impartial and fair, yet firm, in all decisions. A good official will not attempt to compensate later for an unpopular decision.

1.5.4.5 Refrain from commenting upon or discussing a team, player, or game situation with those not immediately concerned.

1.5.4.6 Conduct the game so as to enlist the cooperation of the players, coaches, and spectators in promoting good sportsmanship.

1.5.5 The Spectator shall:

1.5.5.1 Realize that he/she represents the school just as definitely as does a member of the team, and that he/she has an obligation to be a true sportsman or sportswoman and to encourage through his/her behavior the practice of good sportsmanship by others.

1.5.5.2 Recognize that good sportsmanship is more important than victory by approving and applauding good team play, individual skill, and outstanding examples of sportsmanship and fair play exhibited by either team. The following are some examples of poor sportsmanship which shall not be tolerated:

1.5.5.2.1 Profanity, vulgarity, obscene gestures, abusive language, and/or derogatory remarks.

1.5.5.2.2 Throwing objects.

1.5.5.2.3 Going onto the playing surface and interrupting a contest.

1.5.5.2.4 Use of alcohol or other

controlled substances.

1.5.5.3 Respect the judgement and integrity of the officials, recognizing that their decisions are based upon game conditions as they observe them.

1.5.5.4 Treat visiting teams and officials as guests extending to them every courtesy.

1.5.5.5 Be modest in victory and gracious in defeat.

2.0 Processing Violations

2.1 Procedures

2.1.1 The Executive Director is specifically authorized to pursue any matter which, on the surface, has indications of being a sportsmanship violation.

2.1.2 Within twenty (20) calendar days of the incident, an alleged sportsmanship violation must be reported in writing to the Executive Director by the administrative head of a member school or by the Executive Board of an officials' association.

2.1.3 The Executive Director shall transmit a copy of the report to the principal of the school(s) involved.

2.1.4 Each principal concerned shall investigate and provide such information or answers to the report as are appropriate.

2.1.5 The Executive Director shall provide member schools and officials' associations with a specially designed form to facilitate the proper reporting of sportsmanship related incidents.

2.1.6 Upon receipt of all reports, the Executive Director shall review the documents and inform the school(s) involved of ~~any recommendations~~ his/her disposition of the matter. The Executive Director may, in turn, refer the matter to the Sportsmanship Committee to investigate and adjudicate what appears to be a violation of the Sportsmanship Rule.

2.1.7 The Sportsmanship Committee shall review such available evidence as it deems necessary to reach a conclusion. Actions such as requesting reports and conducting interviews should not be interpreted as casting aspersions on a school adhering to DSSAA regulations, but as an effort to keep all parties properly informed. Penalties up to and including suspensions of member schools may be imposed by the Sportsmanship Committee.

2.1.8 A copy of the Sportsmanship Committee's action shall be filed with the Executive Director and the administrative head of the school(s) involved.

2.2 Policies

2.2.1 The basis for the following policy statement is that a member school shall not be represented by individuals whose conduct reflects discredit upon the school. Insofar as unsportsmanlike actions by participants and spectators are concerned, the Sportsmanship Committee shall refer to the items previously identified in the Code of Interscholastic Athletics as well as the following guidelines:

2.2.1.1 The school whose administrator or athletic director behaves in a manner likely to have an adverse influence on the attitudes of the players or spectators may be provided with a choice of:

2.2.1.1.1 Reprimanding its administrator or athletic director and providing written documentation to the Executive Director, or

2.2.1.1.2 Suspending its administrator or athletic director from representing the school in athletic events for a specified period of time not to exceed 180 school days, or

2.2.1.1.3 Having the entire school disciplined by DSSAA.

2.2.1.2 An athlete shall not strike an official, opponent, coach, or spectator or display gross misconduct before, during, or after an athletic event. The athlete, depending on the seriousness of the act, may be declared ineligible by the principal, Executive Director, or Sportsmanship Committee for a specified period of time not to exceed 180 school days.

2.2.1.3 In the case of spectators physically assaulting an official, coach, or player, the school may be given the option of either taking ~~legal~~ punitive action against the offender or accepting discipline from DSSAA.

2.2.1.4 Schools that do not fully cooperate in promoting the spirit of the Sportsmanship Rule may be disciplined by DSSAA.

2.2.1.5 The school whose coach behaves in a manner likely to have an adverse influence on the attitudes of the players or spectators may be provided with a choice of:

2.2.1.5.1 Reprimanding its coach and providing written documentation to the Executive Director, or

2.2.1.5.2 Suspending its coach from representing the school in athletic events for a specified period of time not to exceed 180 school days, or

2.2.1.5.3 Having the entire school disciplined by DSSAA.

2.2.1.6 An administrator, athletic director, or coach may be considered as having committed an unsportsmanlike act if:

2.2.1.6.1 He/she makes disparaging remarks about the officials during or after a game either on the field of play, from the bench, or through any public news media, or

2.2.1.6.2 He/she argues with the official or indicates with gestures or other physical actions his/her dislike for a decision, or

2.2.1.6.3 He/she detains the official on the field of play following a game to request a ruling or explanation of some phase of the game, or

2.2.1.6.4 He/she makes disparaging or unprofessional remarks about another school's personnel.

2.2.1.7 All actions by a member school resulting from an investigation relative to the above policies shall be subject to approval by the Executive Director and/or the Sportsmanship Committee.

2.3 Penalties

2.3.1 Game Ejection

2.3.1.1 A player or coach disqualified before, during, or after a contest for unsportsmanlike and flagrant verbal or physical misconduct shall be suspended from the next ~~regularly scheduled~~ complete (a winner is determined or a tie is declared) contest at that level of competition and all other complete or suspended contests in the interim at any level of competition in addition to any other penalties which DSSAA or a conference may impose.

2.3.1.1.1 A player who leaves the team bench area and enters the playing field, court, or mat during a fight or other physical confrontation shall be ejected from the contest. A player who commits such an offense and is ejected by the game officials shall also be suspended from the next ~~regularly scheduled~~ complete contest at that level of competition and all other complete or suspended contests at any level of competition in the interim. Additional penalties may be imposed if a player leaving the bench area becomes involved in the altercation.

2.3.1.2 A disqualified player or coach may not be physically present at any contest in that sport during his/her suspension.

2.3.1.3 If a coach is disqualified from the final contest of the season, his/her suspension shall carry over to the next year in that sport. In the case of an athlete, the same penalty shall apply if said athlete retains eligibility in that sport.

2.3.1.3.1 Coaches who do not fulfill their penalty in the same sport shall be disqualified for the appropriate length of time in their subsequent coaching assignment.

2.3.1.3.2 Seniors shall fulfill their penalty in the post-season all-star game in that sport. If not chosen to participate in the all-star game, they shall fulfill their penalty in another sport during the same season or another sport during a subsequent season. When a senior is disqualified from the last game of his/her high school career, the member school is requested to take appropriate administrative action to discipline the offending student.

2.3.1.4 A player or coach ejected for a second time during the same season shall be subjected to a two-game suspension and meet, in a timely fashion, with the Sportsmanship Committee accompanied by his/her principal or designee and, in the case of an athlete, by his/her coach.

2.3.2 The following penalties represent degrees of discipline in enforcing the Sportsmanship Rule:

2.3.2.1 Reprimand - a reprimand may be given by the Executive Director or the Sportsmanship Committee. It is official notice that an unethical or unsportsmanlike

action has occurred, is a matter of record and that such an occurrence must not be repeated.

2.3.2.2 Probation - probation is a more severe penalty and may be imposed by the Executive Director or the Sportsmanship Committee on a member school, a particular team of a member school, a particular coach or athlete of a member school, or an official. Probation may be expressed in one of the following ways:

2.3.2.2.1 Conditional probation wherein the offending party may participate in regular season contests, sanctioned events, and conference and state championships provided he/she/the school files with DSSAA a plan indicating the measures that shall be taken to alleviate the problem which caused him/her/the school to be placed on probation, or

2.3.2.2.2 Restrictive probation wherein a member school or a particular team of a member school may engage in its regular season schedule but may not enter any sanctioned events, participate in any playoff toward a conference or state championship, or be awarded a conference or state championship.

2.3.2.3 Suspension - a member school, a particular team of a member school, a particular coach or athlete of a member school, or an official may not participate in any DSSAA sanctioned interscholastic competition.

2.4 Appeals

2.4.1 Decisions of the Executive Director or Sportsmanship Committee may be appealed to the DSSAA Board of Directors in accordance with the procedure found in Regulation 1055 DSSAA Appeal Procedure. However, Notice of Appeal shall be served by certified mail within ten (10) calendar days after receipt by the appellant of written notice of the action of the Executive Director or Sportsmanship Committee.

See 3 DE Reg. 436 (9/1/99)

1051 DSSAA Senior High School Interscholastic Athletics

1.0 Eligibility

No student shall represent a school in an interscholastic scrimmage or contest if he/she does not meet the following requirements:

1.1 Age

1.1.1 Students who become 19 years of age on or after June 15 shall be eligible for all sports during the school year provided all other eligibility requirements are met. Students who have attained the age of 19 prior to June 15 shall be ineligible for all sports.

1.1.2 In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

1.1.3 Requests for waiver of the age requirement

shall be considered only for participation on an unofficial, non-scoring basis in non-contact or non-collision sports.

1.2 Enrollment and Attendance

1.2.1 A student must be legally enrolled in the high school which he/she represents ~~and must be in regular attendance prior to the 11th school day of the academic year in order to participate in practice scrimmage or contest.~~

1.2.2 A student must be in regular attendance prior to the 11th school day of the academic year.

~~1.2.1.1~~ 1.2.2.1 A student who enters school on or after the 11th school day of the academic year shall not be eligible to participate for ninety (90) school days.

~~1.2.2~~ 1.2.3 A shared-time student who attends two (2) different schools during the regular school day shall be eligible to participate only at his/her home school.

~~1.2.2.1~~ 1.2.3.1 A student's home school shall be the school at which he/she is receiving instruction in the core academic areas and at which he/she is satisfying the majority of his/her graduation requirements.

~~1.2.2.2~~ 1.2.3.2 A shared-time student shall not be eligible to participate at the school at which he/she is receiving only specialized educational instruction; e.g., vocational training.

~~1.2.3~~ 1.2.4 A student who is participating in the Delaware School Choice Program, as authorized by 14 *Del. C.*, Ch. 4, is obligated to attend the "choice school" for a minimum of two (2) years unless the student's custodial parent(s) or legal guardian(s) relocate to a different school district or the student fails to meet the academic requirements of the "choice school". If a student attends a "choice school" for less than two (2) years and subsequently returns to his/her home school, the student must receive a release from the "choice district" in order to legally enroll at his/her home school. Without a release, the student would not be eligible legally enrolled and consequently would be ineligible to participate in interscholastic athletics (see 1.4.11).

~~1.2.4~~ 1.2.5 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in-school or out-of-school, is in effect or during the time he/she is assigned to an alternative school for disciplinary reasons.

~~1.2.5~~ 1.2.6 A student must be legally in attendance at school in order to participate in a practice, scrimmage, or contest except when excused by proper school authorities.

~~1.2.5.1~~ 1.2.6.1 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

1.2.7 Failure to complete a semester or absence for one or more semesters for reasons other than personal illness or injury shall render a student ineligible for ninety (90) school days from the date of his/her reentry to school.

~~1.2.6~~ 1.2.8 An ineligible student who practices in

violation of ~~1.2.4~~ 1.2.1 or ~~1.2.5~~ 1.2.6 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

1.3 Residence

1.3.1 A student must be living with his/her custodial parent(s) or court appointed legal guardian(s) in the attendance zone of the school which he/she attends in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court action.

1.3.1.1 Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.

1.3.1.2 A student who, pursuant to established school board policy or administrative procedure, remains in a school he/she has been attending after his/her legal residence changes to the attendance zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at his/her current school and thereby not lose athletic eligibility.

1.3.1.2.1 However, if a student chooses to remain at his/her current school and then transfers to the school in his/her new attendance zone on or after the first official student day of the subsequent academic year, he/she shall be ineligible, for ninety (90) school days.

1.3.1.3 If a student changes residence to a different attendance zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, is granted permission to continue attending his/her present school, the student shall retain his/her athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

1.3.1.4 A student shall be permitted to complete his/her senior year at the school he/she is attending and remain eligible even though a change of legal residence to the attendance zone of another school has occurred. This provision shall refer to any change of legal residence that occurs after the completion of the student's junior year.

1.3.1.5 A student may be residing outside of the attendance zone of the school which he/she attends if the student is participating in the Delaware School Choice Program as authorized by 14 *Del. C.*, Ch. 4.

1.3.1.6 A student who is a non-resident of Delaware shall be eligible at a public, vocational-technical, or charter school if, in accordance with 14 *Del. C.*, § 607, his/her custodial parent or court appointed legal guardian is a full-time employee of that district.

1.3.1.7 Notwithstanding 1.3.1, a student shall be eligible at a public or vocational-technical school if he/she enrolls in accordance with 14 *Del.C.* §202(f), the

Caregivers' School Authorization.

1.3.1.7.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers' School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

1.3.2 Notwithstanding 1.4, a student who reaches the age of majority (18), leaves his/her parents' place of residency and jurisdiction thereof, and moves to another attendance zone to continue his/her high school education shall be ineligible to participate in athletics for 90 school days commencing with the first day of official attendance. This provision shall not apply to a student participating in the Delaware School Choice Program, as authorized by 14 Del. C., Ch. 4, provided the student's choice application was properly submitted prior to the his/her change of residence.

1.4 Transfer

1.4.1 A student who has not previously participated in interscholastic athletics (previous participation is defined as having practiced, scrimmaged, or competed in grades 9 through 12 except as specified in 5.2) is released by a proper school authority from a sending school, has completed the registration process at the receiving school, and is pursuing an approved course of study shall be eligible immediately upon registration provided he/she meets all other DSSAA eligibility requirements.

1.4.2 If a student has previously participated in interscholastic athletics, he/she shall be ineligible for a period of ninety (90) school days commencing with the first day of official attendance in the receiving school unless one of the following exceptions applies:

1.4.2.1 The transfer is within a school district and is approved by the district's superintendent pursuant to established school board policy or administrative procedure. This provision shall not apply to a student who transfers to his/her home school from a "choice school" within the district and who has not completed the two-year attendance requirement unless he/she satisfies the conditions stipulated in 1.4.2.5.1 through 1.4.2.5.4. This provision shall also not apply to a student who transfers from a "choice school" to another "choice school" within the district (see 1.4.7.1).

1.4.2.2 The transfer is caused by court action, court action being an order from a court of law affecting legally committed students.

1.4.2.2.1 In the case of a transfer of guardianship/custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of

guardianship/custody, an affidavit, (except as permitted by 1.4.2.3), or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.

1.4.2.3 The transfer is in accordance with 14 Del. C. §202(f), the Caregivers School Authorization.

1.4.2.3.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers' School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

1.4.2.4 The transfer is the result of a change in residence by the custodial parent(s) or court appointed legal guardian(s) from the attendance zone of the sending school to the attendance zone of the receiving school. A change in residence has occurred when all occupancy of the previous residence has ended.

1.4.2.4.1 A student who transfers from a public, private, vocational-technical, charter, or choice school to another public, private, vocational-technical, charter, or choice school shall be eligible in the receiving school immediately, except as prohibited by 1.4.10.1, when the custodial parent(s) or court appointed legal guardian(s) has established a new legal residence in another public school attendance zone different from the one in which the custodial parent(s) or court appointed legal guardian(s) resided for attendance in the sending school. In the case of a transfer to a public or vocational-technical school, the new legal residence must be in the attendance zone of the receiving school.

1.4.2.5 The transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year provided:

1.4.2.5.1 The student has completed the registration process at the receiving school prior to the first official student day of the academic year. The first official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.

1.4.2.5.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the sending school since the close of the previous academic year.

1.4.2.5.3 The student's legal residence is located in the attendance zone of the receiving school.

1.4.2.5.4 All other DSSAA eligibility requirements have been met.

1.4.3 Promotion or administrative assignment to the ninth grade from a school whose terminal point is the eighth grade, or to the tenth grade from a junior high school whose terminal point is the ninth grade, shall not constitute a transfer. Students so promoted or administratively assigned shall be eligible.

1.4.4 If a waiver of the ninety (90) school day ineligibility clause is requested due to a desired change in the program of study or financial hardship, the parent(s) or court appointed legal guardian(s) is responsible for providing documentation to the DSSAA Board of Directors to support the request. Documentation should include the following:

1.4.4.1 Change in program of study (a multi-year, hierarchical sequence of courses with a common theme or subject matter leading to a specific outcome).

1.4.4.1.1 Student schedule card.

1.4.4.1.2 Student transcript.

1.4.4.1.3 Current course descriptions from both the sending and receiving schools.

1.4.4.1.4 Statement from the principal of the sending school indicating that a significant part of the student's desired program of study will not be offered and that it will place the student at a definite disadvantage to delay transfer until the end of the current school year.

1.4.4.1.5 Statement from the principal of both the sending and receiving schools that the student is not transferring primarily for athletic advantage as defined in 1.4.6.1 through 1.4.6.4.

1.4.4.2 Financial hardship

1.4.4.2.1 Proof of extreme financial hardship caused by significant and unexpected reduction in income and/or increase in expenses.

1.4.4.2.2 Statement from the principal of both the sending and receiving schools that the student is not transferring primarily for athletic advantage as defined in 1.4.6.1 through 1.4.6.4.

1.4.5 In cases of joint custody when a primary residence is established, a change in a student's primary residence without court action subjects the student to the ninety (90) school day ineligibility clause.

1.4.6 A change of custody or guardianship for athletic advantage shall render a student ineligible under the ninety (90) school day ineligibility clause if the primary reason for his/her transfer is one of the following:

1.4.6.1 To seek a superior team.

1.4.6.2 To seek a team more compatible with his/her abilities.

1.4.6.3 Dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics.

1.4.6.4 To avoid disciplinary action imposed by the sending school related to or affecting interscholastic athletic participation.

1.4.7 A student who transfers from a public, private,

vocational-technical, or charter school to a school of choice, as authorized by 14 *Del. C.*, Ch. 4, shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year and the student satisfies the conditions stipulated in 1.4.2.5.1, 1.4.2.5.2, and 1.4.2.5.4.

1.4.7.1 A student who transfers from a school of choice to another school of choice shall be ineligible to participate in interscholastic athletics during his/ her first year of attendance at the receiving school unless the receiving school sponsors a sport(s) not sponsored by the sending school in which case the student shall be eligible to participate in that sport(s) only.

1.4.8 A student who transfers from a school of choice to either a private school or, after completing his/her two-year commitment, to a public, vocational technical, or charter school shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year and the student satisfies the conditions stipulated in 1.4.2.5.1 through 1.4.2.5.4.

1.4.9 If a student transfers with fewer than ninety (90) school days left in the academic year, he/she shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided he/she is in compliance with all other eligibility requirements.

1.5 Amateur

1.5.1 A student may not participate in an interscholastic sport unless he/she is considered an amateur in that sport. A student forfeits his/her amateur status if he/she does any of the following:

1.5.1.1 Knowingly plays on or against a professional team.

1.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

1.5.1.3 Enters competition under an assumed name. The surname and given name used by any player in his/her first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the principal of the school.

1.5.1.4 Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

1.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 26.5) or a merchandise discount, (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of his/her participation in an organized competition or instructional camp/clinic.

1.5.1.5.1 Accepting an event program and/or a complimentary item(s) (t-shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$50.00, and is provided to all of the participants, shall not jeopardize his/her amateur status.

1.5.1.6 Sells or pawns awards received.

1.5.1.7 Uses his/her athletic status to promote or endorse a commercial product or service in a newspaper, radio, or television advertisement or personal appearance.

1.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize his/her amateur status.

1.5.3 A student who forfeits his/her amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. He/she may be reinstated after a period of up to 180 school days provided that during the suspension, he/she complies with all of the provisions of this rule. The suspension shall date from the time of the last offense.

See 3 DE Reg. 437 (9/1/99)

See 3 DE Reg 525 (10/1/99)

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

2.0 Use of Influence for Athletic Purposes

2.1 The use of influence by a person(s) employed by or representing a member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes shall render the student ineligible for up to 180 school days from the date the charge is substantiated. In addition, the offending school shall be placed on probation, as determined by the DSSAA Board of Directors, and the offending employee, if a coach, shall be suspended for up to 180 school days from the date the charge is substantiated.

2.2 The use of influence for athletic purposes shall include, but not be limited to, the following:

2.2.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or his/her parent(s) or court appointed legal guardian(s).

2.2.2 Offer of waiver/reduction of tuition or financial aid if based, even partially, on athletic considerations.

2.2.3 Preference in job assignments or offer of

compensation for work performed in excess of what is customarily paid for such services.

2.2.4 Offer of special privileges not accorded to other students.

2.2.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or his/her parent(s) or court appointed legal guardian(s) to change residence.

2.3 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or his/her parent(s) or court appointed legal guardian(s) in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.

2.3.1 If a coach or athletic director is contacted by a prospective athlete or his/her parent(s) or court appointed legal guardian(s), the former must refer the individual(s) to the principal or school personnel responsible for admissions.

2.3.2 A school employee or Board approved volunteer may discuss the athletic program with a prospective student or his/her parent(s) or court appointed legal guardian(s) during an open house or approved visit initiated by the parent(s) or court appointed legal guardian(s).

2.3.2.1 A school employee or Board approved volunteer may provide information concerning sports offered, facilities, conference affiliation, and general athletic policies. However, he/she is not permitted to state or imply in any way that his/her athletic program is superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at his/her school.

2.3.3 A school employee or Board approved volunteer may conduct an informational presentation at a feeder school provided he/she observes the restrictions specified in 2.3.2.1.

2.4 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.

3.0 Non-School Competition (participants competing "unattached" and not representing their schools)

3.1 A student may participate on a non-school team or in a non-school individual event both during and out of the designated sport season. However, the student owes his/her primary loyalty and allegiance to the school team of which he/she is a member. A school shall have the authority to require attendance at practices and contests and students not in compliance shall be subject to disciplinary action as determined by the school.

3.2 Participation on a non-school team or in a non-school individual event shall be subject to the following conditions:

3.2.1 With the exception of organized intramurals, the student may not wear school uniforms.

3.2.2 With the exception of organized intramurals, the student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

3.2.3 The school or a school affiliated support group may not provide transportation.

3.2.4 The school or a school affiliated support group may not pay entry fees or provide any form of financial assistance.

3.2.5 The school coach may not require his/her athletes to participate in non-school competition or provide instruction to his/her athletes in non-school competition.

3.3 14 Del. C. §122(b)(15) requires written parental permission prior to participation on a similar team during the designated sport season. Written authorization must be on file in the student's school prior to engaging in a tryout, practice, or contest with a similar team. Consent forms shall be available in all member schools.

3.3.1 Similar teams shall include organized intramural teams as well as non-school teams in that sport.

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

4.0 Passing Work

4.1 In order to be eligible for participation in interscholastic athletics, including practices, a student must pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least five (5) credits. Two (2) of those credits must be in the separate areas of English, Mathematics, Science, or Social Studies.

4.1.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the principal if he/she is making satisfactory progress in accordance with the requirements of his/her individualized education plan (IEP).

4.2 In the case of a student in the twelfth grade, he/she must be passing all courses necessary for graduation from high school in order to be eligible for participation. A course necessary for graduation shall be any course, whether taken during or outside the regular school day, that satisfies an unmet graduation requirement.

4.3 A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in interscholastic athletics, including practices, for the next marking period.

4.3.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.

4.3.2 The final accumulation of credits shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required credit(s) during the summer, he/she shall become eligible provided he/she successfully completes the course work prior to the first official student day of the school year.

4.3.2.1 Written verification of the successful completion of a correspondence course must be received before a student shall regain his/her eligibility.

4.4 A student forfeits or regains his/her eligibility, in accordance with the provisions of this rule, on the day report cards are issued.

4.5 Local school boards and non-public schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.

4.6 An ineligible student who practices in violation of 4.1, 4.2, or 4.3 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

See 3 DE Reg 437 (9/1/99)

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

5.0 Participation

5.1 No student shall represent a school in athletics after four (4) consecutive years from the date of his/her first entrance into the ninth grade unless a waiver is granted for hardship reasons.

5.1.1 No student shall have more than four (4) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

5.1.2 "Hardship" shall be defined as extenuating circumstances which are unusual, extraordinary and beyond the control of the student or his/her parent(s) or court appointed legal guardian(s); preclude him/her from completing the academic requirements for graduation within the normal period of eligibility; and deprive him/her of all or part of one of his/her opportunities to participate in a particular sports season.

5.1.2.1 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for graduation within the normal period of eligibility and the loss of all or part of one of his/her opportunities to participate in a particular sports season.

5.1.2.2 The burden of proof rests with the student in conjunction with the waiver/appeal process as described in 1053 Waiver Procedure and 1055 Appeal Procedure. Claims of extended illness, debilitating injury, emotional stress, etc., must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or his/her parent(s) or court appointed legal guardian(s) sought assistance to ameliorate the effects of the

hardship condition.

5.1.3 Satisfactory completion of studies in accordance with promotion policies established by the local governing body shall determine when a student is beyond the eighth grade.

5.2 If the eighth grade is part of the same administrative unit as grades 9 through 12, participation on the part of an eighth-grade student toward five (5) years of eligibility shall be at the discretion of the individual school.

5.2.1 Seventh-grade students shall not be permitted to participate on senior high school interscholastic teams.

5.3 Participation shall be defined as taking part in a school sponsored practice (see 25.3), scrimmage, or contest on or after the first allowable date for practice in that sport.

See 3 DE Reg 437 (9/1/99)

6.0 Postgraduates/Higher Institutions

6.1 Postgraduates shall not be eligible to participate in interscholastic athletics.

6.1.1 All graduates of recognized senior high schools shall be considered postgraduates.

6.2 Students whose commencement exercises are prior to the completion of the school's regular season schedule and/or the state tournament shall be eligible to compete.

6.3 A regularly enrolled student taking courses in an institution of higher education shall be eligible provided he/she meets all other DSSAA requirements.

7.0 Foreign Exchange Students/Foreign Students

7.1 Notwithstanding 1.2, 1.3, and 1.4, foreign students may be eligible to participate in interscholastic athletics upon arrival at their host school provided they have not attained the age of 19 prior to June 15 and are enrolled as participants in a recognized foreign exchange program.

7.1.1 All foreign exchange programs which are included on the Advisory List of International Educational Travel and Exchange Programs of the Council on Standards for International Educational Travel (CSIET) and are two (2) semesters in length shall be considered as recognized.

7.1.2 Students participating in programs not included on the CSIET list shall be required to present evidence that the program is a bona fide educational exchange program before it shall be considered as recognized.

7.2 Foreign students who are not participating in a foreign exchange program are considered to be transfer students and are ineligible to compete in interscholastic athletics unless they are in compliance with all DSSAA eligibility requirements including 1.3.1.

7.2.1 With the exception of a boarding school student, a foreign student who is attending a private or parochial school must be residing with his/her court appointed legal guardian in order to be eligible to participate in interscholastic athletics.

7.3 Once enrolled, foreign exchange and other foreign students must comply with all DSSAA eligibility rules.

7.4 Athletic recruitment of foreign exchange students or other foreign students by a member school or any other entity is prohibited, and any such students recruited shall be adjudged ineligible.

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

8.0 Examinations

8.1 A student shall not be eligible to practice, scrimmage, or compete in an interscholastic contest unless he/she has been adequately examined by a licensed physician (M.D. or D.O.), a certified nurse practitioner, or a certified physician's assistant on or after June 1 and before beginning such athletic activity for the current school year.

8.1.1 A certificate to that effect, as well as the parent's or court appointed legal guardian's consent, shall be on file with the administrative head of the school prior to the student participating in a practice, scrimmage, or game.

8.2 For any subsequent sports season in the school year, a limited reexamination shall be performed under the following circumstances:

8.2.1 If the athlete has been treated for an injury during the preceding sports season.

8.2.2 If the athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset.

8.2.3 If an operation has been performed on the athlete during the preceding sports season.

8.2.4 If the athlete has a remedial defect.

8.3 The medical history of the student should be available at the time of each examination.

8.4 A player who is properly certified to participate in interscholastic athletics but is physically unable to participate for five (5) consecutive days on which a practice, scrimmage, or contest is held due to illness or injury, must present to the administrative head of the school a statement from a qualified physician that he/she is again physically able to participate.

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

9.0 Clarifying Eligibility

9.1 In cases of uncertainty or disagreement, the eligibility of a student shall be determined initially by the Executive Director. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.

9.2 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DSSAA Board of Directors in accordance with the procedure described in 1055 DSSAA Appeal Procedure.

9.3 Decisions of the DSSAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the

Executive Director may be appealed to the State Board of Education in accordance with the procedure described in 1055 DSSAA Appeal Procedure.

10.0 Eligibility Lists

10.1 Member schools shall use eligibility forms approved by the Executive Director.

10.2 A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$15.00 fine against the school.

10.3 In the case of a student who met all DSSAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, he/ she shall be adjudged eligible and the school assessed a \$10.00 fine.

See 3 DE Reg. 437 (9/1/99)

11.0 Contracts Interchanged

11.1 Contracts between DSSAA member schools or between DSSAA member schools and full member schools of comparable state associations are encouraged but not required.

11.1.1 Conference master contracts are approved substitutes for individual contracts.

11.1.2 In the case of a dispute and provided either a signed individual contract or conference master contract ~~is in place~~, was received in the DSSAA office or postmarked prior to the contest in question, appeal may be made to the Executive Director or the DSSAA Board of Directors which, after review of the circumstances, may assign an appropriate penalty.

11.1.2.1 Without a signed individual contract or conference master contract, a member school has no right of appeal to the Executive Director or the DSSAA Board of Directors.

11.2 Contracts between DSSAA member schools and non-member or associate member schools of comparable state associations are required.

11.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DSSAA member school being assessed a \$15.00 fine.

11.2.2 In the case of a dispute, a member school has no right of appeal to the Executive Director or the DSSAA Board of Directors unless a signed individual contract is in place.

11.3 Contracts shall be interchanged according to the following provisions:

11.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.

11.3.2 Contracts shall be drawn up by the faculty manager or other designated staff member of the home school of the earlier varsity contest.

11.3.3 A signed contract or any part thereof may not be nullified or modified except by mutual agreement of both schools involved.

11.4 If a game is not played, it shall be considered "no contest" unless a signed individual contract or conference master contract was ~~in place~~ received in the DSSAA office or postmarked prior to the contest in question and one of the participating schools breached the agreement in which case appeal may be made to the Executive Director or the DSSAA Board of Directors.

11.4.1 If a game is not played because an out of state opponent qualifies for its state championship series and the date of the playoff game conflicts with the date of the regular season game, a forfeit shall not be awarded.

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

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 featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule.

13.0 Licensed Physician

13.1 Provision shall be made for a licensed physician, a NATA certified athletic trainer, or a registered nurse to be present at all interscholastic football games in which a member school participates. The host school shall provide this service.

13.2 Failure by the host school to provide this service shall result in the school being assessed a \$100.00 fine.

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

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 DSSAA 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.

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 DSSAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DSSAA, 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 DSSAA

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 DSSAA member school for up to 180 school days from the date the charge is substantiated.

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

15.0 Reporting Violations

15.1 If a school violates a provision of the DSSAA Constitution and Bylaws, the administrative head or his/her designee shall notify the Executive Director in writing of the violation.

15.2 If a school uses an ineligible athlete, the administrative head or his/her designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es), and/or point(s) won.

15.3 All violations will be reviewed by the DSSAA Board of Directors which may impose additional penalties in accordance with 38.0.

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

16.0 Equivalent Rules

16.1 A member school shall not participate in a scrimmage or contest with ~~any an in-state~~ school that is not a member in good standing of DSSAA ~~or a state association comparable to DSSAA.~~

~~16.1.1~~ 16.2 A full member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.

~~16.1.1.1~~ 16.2.1 Postgraduate students shall not be allowed to participate.

~~16.1.2~~ 16.3 An associate member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school complies with the conditions specified in ~~16.1.1~~ 16.2. However, the opposing school shall be exempt from those rules which DSSAA has waived for its associate member school.

~~16.1.2.1~~ 16.3.1 Postgraduate students shall not be allowed to participate.

~~16.2~~ 16.4 Member schools shall not participate in a practice, scrimmage, or contest with a non-school sponsored team.

~~16.3~~ 16.5 Member schools shall not participate in a practice, scrimmage, or contest with college students.

~~16.3.1~~ 16.5.1 This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.

~~16.4~~ 16.6 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$100.00 fine.

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

17.0 Codes

17.1 DSSAA is affiliated with the National Federation of State High School Associations (NFHS). The playing codes, sanctions, and other rules of the NFHS are adopted except as modified by the DSSAA Board of Directors.

17.2 The playing rules of the United States Tennis Association, the United States Golf Association, and the United States Lacrosse Association are adopted for the sports of tennis, golf, and girls' lacrosse respectively except as modified by the DSSAA Board of Directors.

18.0 Conferences

18.1 Member schools may establish voluntary conference organizations according to the following rules:

18.1.1 Any such organization may be composed of public and non-public schools.

18.1.2 Any conference so formed must submit its proposed membership and its constitution and bylaws to the DSSAA Board of Directors and they must be approved before the schools may enter into any contractual agreements.

18.1.2.1 All subsequent amendments to the constitution and bylaws of the conference must be ~~approved by the DSSAA Board of Directors~~ compatible with all provisions of the DSSAA Constitution and Bylaws; interpretations and rulings of the Executive Director, Sportsmanship Committee, and Board of Directors; state tournament regulations; and DSSAA approved playing codes.

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

19.0 All-Star Contests

19.1 An all-star contest shall be defined as an organized competition in which the participants are selected by the sponsoring organization or its designee on the basis of their performance during the interscholastic season in that sport.

19.2 Students who have completed their eligibility in a sport may participate in one all-star contest in that sport, if approved by DSSAA, prior to graduation from high school.

19.3 Member schools shall not make their facilities, equipment, or uniforms available to the sponsoring organization or the participants unless the all-star contest is approved by DSSAA.

19.4 The all-star contest must be approved by DSSAA in accordance with the following criteria:

19.4.1 The contest shall not be for determining a

regional or national champion.

19.4.2 The contest shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.

19.4.3 The awards given shall be in compliance with 1.5.

19.4.4 Exceptions to the adopted rules code for the sport, including uniform regulations, shall require the approval of DSSAA.

19.4.5 A full financial report must be filed with the Executive Director within thirty (30) days of the contest. Failure to submit a financial report within the specified period of time shall result in the sponsoring organization being assessed a \$50.00 fine.

19.4.6 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

19.5 A student who participates in more than one all-star game or in a non-approved all-star game shall forfeit his/her eligibility for 90 school days.

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

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

20.0 Sponsoring Interscholastic Teams

20.1 Definition of Interscholastic Athletics

20.1.1 Interscholastic competition is defined as any athletic contest between students representing two (2) or more schools. Students are considered to be representing a school if the school does any of the following:

20.1.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).

20.1.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.

20.1.1.3 Permits the students to compete under the name of the school.

20.1.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.

20.1.1.5 Presents or displays individual/ team awards.

20.1.2 Members of school clubs who participate in non-competitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition.

20.2 Sponsorship of Teams

20.2.1 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:

20.2.1.1 The governing body of the participating district or non-public school approves

participation in the sport. The administrative head of the school shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.

20.2.1.2 The governing body of the participating district or non-public school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgment that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the administrative head of the school.

20.2.1.3 The participating schools agree to comply with all applicable DSSAA rules and regulations as stated in the current DSSAA Official Handbook.

20.3 Levels of Participation

20.3.1 Level 1 or developmental sport - less than twelve (12) participating schools at the varsity level.

20.3.1.1 ~~All~~ DSSAA rules and regulations shall not be in effect ~~except 23.0, 24.0, and 32.0.~~

~~20.3.1.2 Schools shall not be permitted to scrimmage or compete against a non-school sponsored team.~~

20.3.2 Level 2 or recognized sport - twelve (12) or more participating schools at the varsity level.

20.3.2.1 Participating schools must petition the DSSAA Board of Directors for official recognition of the sport.

~~20.3.2.1~~ 20.3.2.2 At the time of official recognition, DSSAA shall provide rules publications to the participating schools, designate an approved officials' association, conduct an annual or biannual rules clinic for coaches and officials, establish a maximum game schedule, and form a committee to promote the continued development of the sport and prepare for a future state championship.

~~20.3.2.2~~ 20.3.2.3 All DSSAA rules and regulations shall be in effect.

20.3.3 Level 3 or championship sport - sixteen (16) or more participating schools at the varsity level.

20.3.3.1 Upon petition by the sport committee and adoption of a tournament proposal, DSSAA shall establish a state championship.

20.3.4 Withdrawal of level 2 or level 3 status.

20.3.4.1 If, for two (2) consecutive years, less than the required number of schools participate in a sport, DSSAA may withdraw official recognition or suspend the state tournament/meet for a period of time as determined by the Board of Directors.

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

21.0 State Championships

21.1 The minimum number of high schools which must

sponsor a sport at the varsity level in order for DSSAA to approve a state championship shall be sixteen (16).

21.2 State championship play shall be permitted at the varsity level only in football, basketball, indoor and outdoor track, cross country, swimming, wrestling, golf, baseball, soccer, tennis, field hockey, softball, girls' volleyball, and lacrosse provided such tournament or meet is under the direct control and supervision of and/or has the approval of DSSAA.

21.3 All state championships shall be managed by committees established in accordance with Sections 11. and 12. of Article IV of the DSSAA Constitution.

21.3.1 Each tournament format, as well as the criteria and procedures for selecting and seeding the participating teams, must be approved by the Board of Directors and any subsequent changes must also be approved by the Board. The Executive Director shall advise the committees as to which proposed changes must be presented to the Board. If the Executive Director and the committee cannot agree, the proposed change must be presented to the DSSAA Board of Directors for approval.

21.3.2 All financial arrangements, including the collection of monies and expenditures, must be approved by the Executive Director

21.4 Championship play in other sports must be confined to the individual conferences and conducted in accordance with the rules of the conference as approved by the DSSAA Board of Directors.

21.5 No member school shall participate in a post-season contest.

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

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

22.0 Certified Coaches

22.1 Only those professional employees certified by the Department of Education and whose salary is paid by the State and/or local Board of Education, or in the case of charter and non-public schools by a similar governing body, if acceptable as a coach by the governing body, shall coach, assist in coaching, or direct member school teams in any district.

22.1.1 The terms of employment must be for the regular school year and the professional assignment shall be no less than 1/2 of the school day, exclusive of coaching duties.

22.2 Emergency coaches

22.2.1 An emergency coach shall be defined as an individual who is either not certified by the Department of Education, or is certified by the Department of Education but is not employed for the regular school year or whose professional assignment is less than 1/2 of the school day.

22.2.2 An individual who meets the requirements of a certified coach as specified in 22.1 but whose professional assignment is located in a different school or

district than his/her coaching assignment shall not be considered an emergency coach by DSSAA.

22.2.3 Member schools shall be required to annually reopen all positions that are held by emergency coaches.

22.2.4 Emergency coaches may be employed provided the local governing body adheres to the following procedures:

22.2.4.1 The employing Board of Education must attempt to locate an acceptable, certified professional staff member by advertising the coaching vacancy in the district for as many days as are required by the district's collective bargaining agreement.

22.2.4.2 If an acceptable, certified professional staff member is not available, an individual who is acceptable to the employing Board of Education may be hired as an emergency coach.

22.2.4.3 Any individual employed as a coach under the emergency provision must comply with the following regulations:

22.2.4.3.1 He/she must be officially appointed by the local Board of Education. The superintendent or his/her designee may temporarily appoint an individual if a coaching vacancy arises and the sport season begins during the interim between meetings of the local Board of Education.

22.2.4.3.2 His/her coaching salary must be paid exclusively by the local Board of Education.

22.3 Students who are practice teaching in a member school shall be permitted to assist in all professional activities during their practice teaching period.

22.4 In addition to the members of the school's regular coaching staff, who must come from 22.1 through 22.3, the local governing body may supplement a school's coaching staff with volunteer coaches. Volunteer coaches are individuals who donate their services to a school and who have been approved by that school's local governing body. A current list of approved volunteer coaches shall be on file in the school's administrative office before any coaching duties are assumed.

22.5 All varsity head coaches (junior varsity if the school does not sponsor a varsity team) shall be required to attend the DSSAA rules clinic for their sport or, if applicable, pass an open book rules examination supplied by the DSSAA office.

22.5.1 A school shall be assessed a \$50.00 fine and the head coach shall be placed on probation if he/ she fails to attend the DSSAA rules clinic or pass the open book rules examination in his/her sport. Failure to comply for a second consecutive year shall result in the school being assessed a \$50.00 fine and the coach being suspended for up to five contests as determined by the Executive Director.

22.6 Beginning with the 2001-02 school year, certified and emergency head coaches at all levels of competition

shall be required to hold a current certification in adult CPR.

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

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

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 ~~A~~ From August 2nd through June 14th, 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 DSSAA 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. He/she shall also be permitted to coach rising ninth graders (eighth if eighth grade is part of the same administrative unit as 9-12) who participated in his/her assigned sport at a feeder school. Instructional contact with the aforementioned students 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.

23.10.2 A coaching staff may provide instruction to a maximum of two returning school team members per day in an informal setting.

23.10.2.1 Instructional time shall not exceed two hours per day per student.

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

24.0 Maximum Game Schedules and Designated Sport Season

24.1 The maximum number of regularly scheduled interscholastic contests/competition dates for each team and individual in the recognized sports and their designated season shall be as follows:

*** PLEASE NOTE: THE TABLE IN THE REGULATION IS NOT BEING CHANGED AND IS NOT REPRODUCED HERE.**

24.2 Participation in any part of a quarter/half shall count as a quarter/half toward the weekly and daily limitations in that sport. However, in the case of football, participation on a free kick or a play from a scrimmage kick formation shall not count as a quarter. Overtime periods shall be considered as part of the fourth quarter or second half.

24.3 A week shall be designated as starting on Monday and ending on Sunday for all sports except football. A football week shall begin the day of the varsity game and end the day preceding the next varsity game or the following Friday.

24.4 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than four (4) contests/competition dates in a week.

24.5 The maximum number of regularly scheduled contests for each of the recognized sports, except football, shall be exclusive of conference championships, playoffs to determine tournament state berths, and the state tournament/meet. The maximum number of regularly scheduled football contests shall be exclusive of the state tournament.

24.5.1 Any playoffs to determine state tournament berths shall be under the control and supervision of the DSSAA tournament committee.

24.6 A student shall participate in a particular sport for only one season during each academic year.

24.7 A school which participates in more than the allowable number of contests in a season shall be suspended from the state playoffs or, if a non-qualifying team, fined \$200.00.

24.8 A school which exceeds the weekly contest limitation shall be required to forfeit the contest and be assessed a \$100.00 fine.

24.9 A student who exceeds the weekly or daily contest

limitation shall be considered an ineligible athlete and the school subject to the penalties stipulated in 14.0.

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

25.0 Practice Sessions

25.1 Member schools shall conduct a minimum of three (3) weeks of practice under the supervision of the school's coaching staff prior to the first scheduled contest in all sports.

25.1.1 Practicing on holidays and weekends shall be left to the discretion of the individual schools and conferences.

25.2 A student shall be required to practice for a period of at least seven (7) calendar days prior to participating in a contest. However, if a student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven (7) calendar days before his/her team's first contest, he/she shall be exempt from this requirement.

25.3 A practice session shall be defined as any instructional activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, blackboard sessions, warmup and cool down exercises, drills, mandatory strength training, etc.

25.3.1 All activities shall be under the supervision of a certified, emergency, or approved volunteer coach.

25.4 Practice sessions shall be limited to two (2) hours on official school days.

25.4.1 Split sessions may be conducted but practice time shall not exceed two hours for any individual athlete.

25.4.2 The two-hour practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.

25.5 A school which deliberately exceeds the two-hour practice limitation shall be assessed a \$100.00 fine.

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

26.0 Awards

26.1 A member school and/or support group affiliated with a member school, such as an alumni association or booster club, shall be allowed to present recognition awards for team and/or individual accomplishments.

26.1.1 The awards, including artwork and lettering, shall require the approval of the administrative head of the school and their value shall be mostly symbolic.

26.1.2 Permissible awards include trophies, plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms, and similar items if properly inscribed (reference to the team or individual athletic accomplishment) are also acceptable.

26.1.3 Member schools and such support groups shall also be permitted to sponsor banquets and present post-secondary scholarships.

26.2 A non-profit group such as a coaches association, booster club not affiliated with a member school, or community service organization shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school.

26.2.1 With the exception of post-secondary scholarships, the awards shall have symbolic value only. Awards with utilitarian value are prohibited.

26.2.2 Non-profit groups shall also be permitted to sponsor banquets.

26.3 Non-profit organizations co-sponsoring a tournament shall be allowed to give post-secondary scholarships to participating schools provided they are not awarded on the basis of team or individual performance in the tournament. Scholarship monies shall be administered in accordance with DSSAA and NCAA regulations.

26.4 Commercial organizations shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school.

26.4.1 With the exception of post-secondary scholarships, the awards shall have symbolic value only. Awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$50.00 per team or per recipient.

26.5 Non-symbolic competition awards (based on team's or individual's place finish), regardless of sponsor, shall have an aggregate retail value not to exceed \$50.00 per recipient and shall require the prior approval of the Executive Director.

See 3 DE Reg. 440 (9/1/99)

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

27.0 Boxing

Member schools shall not participate in interscholastic boxing.

28.0 Protests and Complaints

All protests and complaints brought before DSSAA shall be in writing and shall be acted on only after the administrative head of the school involved has been given an opportunity to appear before the Board of Directors.

29.0 Wrestling Weight Control Code

29.1 Each year, prior to January 15, 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.

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

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

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

30.2.1 Failure on the part of an official to attend the DSSAA 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 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 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 If, for a legitimate reason which is documented by the president of his/her association, an official is unable to attend the DSSAA rules interpretation clinic, he/she may view a videotape of the DSSAA 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 No later than the day of the DSSAA 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 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 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 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 non-approved official.

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

31.0 Out of Season Athletic Camp and Clinic Sponsorship

31.1 DSSAA 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)

32.0 Sanctions - School Team Competition

32.1 Member schools may participate in tournaments/meets involving four (4) or more schools only if the event has been sanctioned by DSSAA and, if applicable, by the NFHS. Tournaments/meets shall be sanctioned in accordance with the following criteria:

32.1.1 The event shall not be for determining a regional or national champion.

32.1.2 The event shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.

32.1.3 Nonsymbolic competition awards shall have an aggregate retail value of not more than \$50.00 per recipient and shall require the prior approval of the Executive Director.

32.1.4 Non-school event organizers shall submit a full financial report to the DSSAA office within ninety (90) calendar days of the completion of the event.

32.1.5 The event organizer shall submit a list of out-of-state schools which have been invited to participate and such schools shall be subject to approval by the Executive Director.

32.1.6 Out-of-state schools which are not members of their state athletic association shall verify in writing that their participating athletes are in compliance with their state athletic association's eligibility rules and regulations.

32.1.7 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

32.1.8 The event organizer shall comply with all applicable NFHS sanctioning requirements.

32.2 Participation in a non-sanctioned event shall result in the offending school being assessed a \$25.00 fine. A second offense shall result in a \$50.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the sport season. A third offense shall result in a \$100.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the school year.

See 3 DE Reg. 525 (10/1/99)

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

33.0 Coed Teams

33.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams

compete during different seasons.

33.2 If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team.

33.2.1 Coed teams shall participate only in the boys' state championship tournament/meet.

33.3 If a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team.

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

34.0 Non-School Instructional Camps and Clinics

34.1 A student may participate in a commercial camp or clinic, including private lessons, both during and out of the designated sport season provided the following conditions are observed:

34.1.1 The student must participate unattached and may not wear school uniforms.

34.1.2 The student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

34.1.3 The school may not provide transportation or pay fees.

34.1.4 The school coach may not require his/her athletes to participate in a camp or clinic or provide instruction to his/her returning athletes in a camp or clinic.

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

35.0 Open Gym Programs

35.1 A member school may open its gymnasium or other facility for informal, recreational activities in accordance with the following provisions:

35.1.1 The open gym must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

35.1.2 Student participation must be voluntary and the open gym must not be a prerequisite for trying out for a particular team.

35.1.3 The activities must be unstructured and student-generated. Organized drills in the skills or techniques of a particular sport are prohibited. Organized competition with fixed team rosters is also prohibited.

35.1.3.1 A coach may not predetermine that the open gym will include only his/her sport and publicize the open gym as being restricted to that sport. It is the responsibility of the adult supervisor to permit as many different activities as the facility can effectively and safely accommodate.

35.1.4 A coach may open the facility and distribute playing equipment but may not instruct, officiate, participate, organize the activities, or choose teams in his/her assigned sport.

35.1.5 Playing equipment is restricted to that which is customarily used in a contest in a particular sport. Playing

equipment which is only used in a practice session is prohibited.

35.1.6 The participants must provide their own workout clothing.

See 3 DE Reg. 440 (9/1/99)

36.0 Conditioning Programs

36.1 A member school may conduct a conditioning program in accordance with the following provisions:

36.1.1 The conditioning program must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

36.1.2 Student participation must be voluntary. The conditioning program must not be a prerequisite for trying out for a particular team.

36.1.3 Permissible activities include stretching, lifting weights, jumping rope, running, calisthenics, aerobics, and similar generic conditioning activities. Organized drills in the skills or techniques of a particular sport are prohibited.

36.1.4 A coach may not provide instruction in sport specific skills or techniques.

36.1.5 Sport specific equipment is prohibited.

36.1.6 The participants must provide their own workout clothing.

37.0 Non-Payment of Fines

A school which does not pay, by July 1, all fines incurred during the school year shall be ineligible to participate in a state championship event in any sport during the following school year until such time as all fines are paid.

38.0 Additional Penalties

Additional penalties may be imposed by the Executive Director or the DSSAA Board of Directors for repeat offenses or as deemed necessary to ensure the proper conduct of interscholastic competition.

1052. DSSAA Junior High/Middle School Interscholastic Athletics

1.0 Eligibility

No student shall represent a school in an interscholastic scrimmage or contest if he/she does not meet the following requirements:

1.1 Age

1.1.1 Eighth-grade students who become 15 years of age on or after June 15 in a school terminating in the eighth grade shall be eligible for all sports during the current school year provided all other eligibility requirements are met.

1.1.1.1 Permission shall be granted for 15-year old eighth-grade students in a school terminating in the

eighth grade who are ineligible for junior high/middle school competition to participate in the district high school athletic program provided they meet all other eligibility requirements.

1.1.2 In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

1.1.3 Requests for waiver of the age requirement shall be considered only for participation on an unofficial, non-scoring basis in non-contact sports.

1.2 Enrollment and Attendance

1.2.1 A student must be legally enrolled in the junior high/middle school which he/she represents ~~and must be in regular attendance prior to the 11th school day of the academic year~~ in order to participate in a practice, scrimmage, or contest.

1.2.1.1 A student must be in regular attendance prior to the 11th school day of the academic year.

~~1.2.1.1~~ 1.2.1.2 A student who enters school on or after the 11th school day of the academic year shall not be eligible to participate for ninety (90) school days.

1.2.2 A student who is participating in the Delaware School Choice Program, as authorized by 14 *Del.*, C., Ch. 4, is obligated to attend the "choice school" for a minimum of two (2) years unless the student's custodial parent(s) or court appointed legal guardian(s) relocate to a different school district or the student fails to meet the academic requirements of the "choice school". If a student attends a "choice school" for less than two (2) years and subsequently returns to his/her home school, the student must receive a release from the "choice district" in order to legally enroll at his/her home school. Without a release, the student would not be ~~eligible to participate in interscholastic athletics (see 1.4.9)~~ legally enrolled and consequently would be ineligible to participate in interscholastic athletics (see 1.4.8).

1.2.3 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in-school or out-of-school, is in effect or during the time he/she is assigned to an alternative school for disciplinary reasons.

1.2.4 A student must be legally in attendance at school in order to participate in a practice, scrimmage, or contest except when excused by proper school authorities.

1.2.4.1 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

1.2.5 Failure to complete a semester or absence for one or more semesters for reasons other than personal illness or injury shall render a student ineligible for ninety (90) school days from his/her reentry to school.

~~1.2.5~~ 1.2.6 An ineligible student who practices in violation of ~~1.2.3 or 1.2.4~~ 1.2.3, 1.2.4, or 1.2.5 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

1.3 Residence

1.3.1 A student must be living with his/her custodial parent(s) or court appointed legal guardian(s) in the attendance zone of the school which he/she attends in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court action.

1.3.1.1 Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.

1.3.1.2 A student who, pursuant to established school board policy or administrative procedure, remains in a school he/she has been attending after his/her legal residence changes to the attendance zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at his/her current school and thereby not lose athletic eligibility.

1.3.1.2.1 However, if a student chooses to remain at his/her current school and then transfers to the school in his/her new attendance zone on or after the first official student day of the subsequent academic year, he/she shall be ineligible for ninety (90) school days.

1.3.1.3 If a student changes residence to a different attendance zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, is granted permission to continue attending his/her present school, the student shall retain his/her athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

1.3.1.4 A student may be residing outside of the attendance zone of the school which he/she attends if the student is participating in the Delaware School Choice Program as authorized by 14 Del.C., Ch. 4.

1.3.1.5 A student who is a non-resident of Delaware shall be eligible at a public or charter school if, in accordance with 14 Del. C., § 607, his/her custodial parent or court appointed legal guardian is a full-time employee of that district.

1.3.1.6 Notwithstanding 1.3.1, a student shall be eligible at a public or vocational-technical school if he/she enrolls in accordance with 14 Del.C. §202(f), the Caregivers School Authorization.

1.3.1.6.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers' School Authorization (proof of relation and proof of full-time care) but is permitted to

register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

1.4 Transfer

1.4.1 A student who has not previously participated in interscholastic athletics (previous participation is defined as having practiced, scrimmaged or competed in grades 6 through 8), is released by a proper school authority from a sending school, has completed the registration process at the receiving school, and is pursuing an approved course of study shall be eligible immediately upon registration provided he/she meets all other DSSAA eligibility requirements.

1.4.2 If a student has previously participated in interscholastic athletics, he/she shall be ineligible for a period of ninety (90) school days commencing with the first day of official attendance in the receiving school unless one of the following exceptions applies:

1.4.2.1 The transfer is within a school district and is approved by the district's superintendent pursuant to established school board policy or administrative procedure. This provision shall not apply to a student who transfers to his/her home school from a "choice school" within the district and who has not completed the two-year attendance requirement unless he/she satisfies the conditions stipulated in 1.4.2.5.1 through 1.4.2.5.4. This provision shall also not apply to a student who transfers from a "choice school" to another "choice school" within the district (see 1.4.6.1).

1.4.2.2 The transfer is caused by court action, court action being an order from a court of law affecting legally committed students.

1.4.2.2.1 In the case of a transfer of guardianship/custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship/custody, an affidavit, (except as permitted by 1.4.2.3) or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.

1.4.2.3 The transfer is in accordance with 14 Del. C. §202(f), the Caregivers School Authorization.

1.4.2.3.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has

received a signed court order designating him/her as the student's legal guardian.

1.4.2.4 The transfer is the result of a change in residence by the custodial parent(s) or court appointed legal guardian(s) from the attendance zone of the sending school to the attendance zone of the receiving school. A change in residence has occurred when all occupancy of the previous residence has ended.

1.4.2.4.1 A student who transfers from a public, private, charter or choice school to another public, private, charter, or choice school, except as prohibited by 1.4.7.1, shall be eligible in the receiving school immediately when the custodial parent(s) or court appointed legal guardian(s) has established a new legal residence in another public school attendance zone different from the one in which the custodial parent(s) or court appointed legal guardian(s) resided for attendance in the sending school. In the case of a transfer to a public school, the new legal residence must be in the attendance zone of the receiving school.

1.4.2.5 The transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year provided:

1.4.2.5.1 The student has completed the registration process at the receiving school prior to the first official student day of the academic year. The first official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.

1.4.2.5.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the sending school since the close of the previous academic year.

1.4.2.5.3 The student's legal residence is located in the attendance zone of the receiving school.

1.4.2.5.4 All other DSSAA eligibility requirements have been met.

1.4.3 If a waiver of the ninety (90) school day ineligibility clause is requested due to a desired change in the program of study or financial hardship, the parent(s) or court appointed legal guardian(s) is responsible for providing documentation to the DSSAA Board of Directors to support the request. Documentation should include the following:

1.4.3.1 Change in program of study (a multi-year hierarchical sequence of courses with a common theme or subject matter leading to a specific outcome).

1.4.3.1.1 Student schedule card.

1.4.3.1.2 Student transcript.

1.4.3.1.3 Current course descriptions from both the sending and receiving schools.

1.4.3.1.4 Statement from the principal of the sending school indicating that a significant part of the student's desired program of study will not be offered and

that it will place the student at a definite disadvantage to delay transfer until the end of the current school year.

1.4.3.1.5 Statement from the principal of both the sending and receiving school that the student is not transferring primarily for athletic advantage as described in 1.4.5.1 through 1.4.5.4.

1.4.3.2 Financial hardship

1.4.3.2.1 Proof of extreme financial hardship caused by significant loss of income and/or increased expenses.

1.4.3.2.2 Statement from the principal of both the sending and receiving schools that the student is not transferring primarily for athletic advantage as defined in 1.4.5.1 through 1.4.5.4.

1.4.4 In cases of joint custody when a primary residence is established, a change in a student's primary residence without court action subjects the student to the ninety (90) school-day ineligibility clause.

1.4.5 A change of custody or guardianship for athletic advantage shall render a student ineligible under the ninety (90) school-day ineligibility clause if the primary reason for his/her transfer is one of the following:

1.4.5.1 To seek a superior team.

1.4.5.2 To seek a team more compatible with his/her abilities.

1.4.5.3 Dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics.

1.4.5.4 To avoid disciplinary action imposed by the sending school related to or affecting interscholastic athletic participation.

1.4.6 A student who transfers from a public, private, or charter school to a school of choice, as authorized by 14 Del. C., Chapter 4 shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year and the student satisfies the conditions stipulated in 1.4.2.5.1, 1.4.2.5.2, and 1.4.2.5.4.

1.4.6.1 A student who transfers from a school of choice to another school of choice shall be ineligible to participate in interscholastic athletics during his/ her first year of attendance at the receiving school unless the receiving school sponsors a sport(s) not sponsored by the sending school in which case the student shall be eligible to participate in that sport(s) only.

1.4.7 A student who transfers from a school of choice to a public, private, or charter school shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year and the student satisfies the conditions stipulated in 1.4.2.5.1 through 1.4.2.5.4.

1.4.8. If a student transfers with fewer than ninety

(90) school days left in the academic year, he/she shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided he/she is in compliance with all other eligibility requirements.

1.5 Amateur

1.5.1 A student may not participate in an interscholastic sport unless he/she is considered an amateur in that sport. A student forfeits his/her amateur status if he/she does any of the following:

1.5.1.1 Knowingly plays on or against a professional team.

1.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

1.5.1.3 Enters competition under an assumed name. The surname and given name used by any player in the first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the principal of the school.

1.5.1.4 Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp/clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

1.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 25.4) or a merchandise discount (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of his/her participation in an organized competition or instructional camp/clinic.

1.5.1.5.1 Accepting an event program and/or a complimentary item(s) (t-shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$50.00, and is provided to all of the participants, shall not jeopardize his/her amateur status.

1.5.1.6 Sells or pawns awards received.

1.5.1.7 Uses his/her athletic status to promote or endorse a commercial product or service in a newsprint, radio, or television advertisement or personal appearance.

1.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize his/her amateur status.

1.5.3 A student who forfeits his/her amateur status under the provisions of this rule is ineligible to participate at

the interscholastic level in the sport in which the violation occurred. He/she may be reinstated after a period of up to 180 school days provided that during the suspension, he/she complies with all of the provisions of this rule. The suspension shall date from the time of the last offense.

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

2.0 Use of Influence for Athletic Purposes

2.1 The use of influence by a person(s) employed by or representing a member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes shall render the student ineligible for up to 180 school days from the date the charge is substantiated. In addition, the offending school shall be placed on probation, as determined by the DSSAA Board of Directors, and the offending employee, if a coach, shall be suspended for up to 180 school days from the date the charge is substantiated.

2.2 The use of influence for athletic purposes shall include, but not be limited to, the following:

2.2.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or his/her parent(s) or court appointed legal guardian(s).

2.2.2 Offer of waiver/reduction of tuition or financial aid if based, even partially, on athletic considerations.

2.2.3 Preference in job assignments or offer of compensation for work performed in excess of what is customarily paid for such services.

2.2.4 Offer of special privileges not accorded to other students.

2.2.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or his/her parent(s) or court appointed legal guardian(s) to change residence.

2.3 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or his/her parent(s) or court appointed legal guardian(s) in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.

2.3.1 If a coach or athletic director is contacted by a prospective athlete or his/her parent(s) or court appointed legal guardian(s), the former must refer the individual(s) to the principal or school personnel responsible for admissions.

2.3.2 A school employee or Board approved volunteer may discuss the athletic program with a prospective student or his/her parent(s) or court appointed legal guardian(s) during an open house or approved visit

initiated by the parent(s) or court appointed legal guardian(s).

2.3.2.1 A school employee or Board approved volunteer may provide information concerning sports offered, facilities, conference affiliation, and general athletic policies. However, he/she is not permitted to state or imply in any way that his/her athletic program is superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at his/her school.

2.4 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.

3.0 Non-school Competition (participants competing “unattached” and not representing their schools)

3.1 A student may participate on a non-school team or in a non-school individual event both during and out of the designated sport season. However, the student owes his/her primary loyalty and allegiance to the school team of which he/she is a member. A school shall have the authority to require attendance at practices and contests and students not in compliance shall be subject to disciplinary action as determined by the school.

3.2 Participation on a non-school team or in a non-school individual event shall be subject to the following conditions:

3.2.1 With the exception of organized intramurals, the student may not wear school uniforms.

3.2.2 With the exception of organized intramurals, the student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

3.2.3 The school or a school affiliated support group may not provide transportation.

3.2.4 The school or a school affiliated support group may not pay entry fees or provide any form of financial assistance.

3.2.5 The school coach may not require his/her athletes to participate in non-school competition or provide instruction to his/her athletes in non-school competition.

3.3 14 Del.C., § 122 (15) requires written parental permission prior to participation on a similar team during the designated sport season. Written authorization must be on file in the student's school prior to engaging in a tryout, practice, or contest with a similar team. Consent forms shall be available in all member schools.

3.3.1 Similar teams shall include organized intramural teams as well as non-school teams in that sport.

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

4.0 Passing Work

4.1 In order to be eligible for participation in interscholastic athletics, including practices, a student must

pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least four (4) credits. Two (2) of those credits must be in the separate areas of English, Mathematics, Science, or Social Studies.

4.1.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the principal if he/she is making satisfactory progress in accordance with the requirements of his/her individualized education plan (IEP).

4.2 A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in interscholastic athletics, including practices, for the next marking period.

4.2.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.

4.2.2 The final accumulation of credits shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required credit(s) during the summer, he/she shall become eligible provided he/she successfully completes the course work prior to the first official student day of the school year.

4.2.2.1 Written verification of the successful completion of a correspondence course must be received before a student shall regain his/her eligibility.

4.3 A student forfeits or regains his/her eligibility, in accordance with the provisions of this rule, on the day report cards are issued.

4.4 Local school boards and non-public schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.

4.5 An ineligible student who practices in violation of 4.1 or 4.2 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

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

5.0 Participation

5.1 During the 2001-02 and 2002-03 school years, the following provisions shall be in effect:

5.1.1 No student shall represent a school in athletics after six (6) consecutive semesters from the date of his/her first entrance into the seventh grade in schools with grades 7 through 8, inclusive.

5.1.2 No student shall represent a school in athletics after eight (8) consecutive semesters from the date of his/her first entrance into the sixth grade in schools with grades 6 through 8, inclusive.

5.1.2.1 Participation on the part of a sixth grade student shall be at the discretion of the individual

school.

5.1.2.2 Sixth-grade students shall not be permitted to participate in football unless the conference develops a classification system that is approved by the DSSAA Board of Directors.

5.2 Beginning with the 2003-2004 school year, the following provisions shall be in effect:

5.2.1 No student shall represent a school in athletics after four (4) consecutive semesters from the date of his/her first entrance into the seventh grade in schools which restrict participation in interscholastic athletics to students in grades 7 and 8 unless a waiver is granted for hardship reasons.

5.2.1.1 No student shall have more than two (2) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

5.2.1.2 "Hardship" shall be defined as extenuating circumstances which are unusual, extraordinary and beyond the control of the student or his/her parent(s) or court appointed legal guardian(s); preclude him/her from completing the academic requirements for promotion within the normal period of eligibility; and deprive him/her of all or part of one of his/her opportunities to participate in a particular sports season.

5.2.1.2.1 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for promotion within the normal period of eligibility and the loss of all or part of one of his/her opportunities to participate in a particular sports season.

5.2.1.2.2 The burden of proof rests with the student in conjunction with the waiver/appeal process as described in 1053 Waiver Procedure and 1055 Appeal Procedure. Claims of extended illness, debilitating injury, emotional stress, etc., must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or his/her parent(s) or court appointed legal guardian(s) sought assistance to ameliorate the effects of the hardship condition.

5.2.2 No student shall represent a school in athletics after six (6) consecutive semesters from the date of his/her first entrance into the sixth grade in schools which permit students in grades 6, 7 and 8 to participate in interscholastic athletics unless a waiver is granted for hardship reasons as specified in 5.2.1.2.

5.2.2.1 No student shall have more than three (3) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

5.2.2.2 Participation on the part of a sixth-grade student shall be at the discretion of the individual school.

5.2.2.3 Sixth-grade students shall not be

permitted to participate in football unless the conference develops a classification system that is approved by the DSSAA Board of Directors.

5.3 Students below the sixth grade shall not be permitted to practice, scrimmage, or compete on junior high/middle school interscholastic teams.

5.4 Participation shall be defined as taking part in a school sponsored practice, (see 24.3), scrimmage, or contest on or after the first allowable date for practice in that sport.

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

6.0 Grades

The junior high/middle school interscholastic athletic program shall include grades 6 through 8, inclusive.

7.0 Junior High/Middle School and Senior High School Competition

7.1 No junior high/middle school student who has completed a season at the junior high/middle school level shall compete in the same sport at the senior high school level during the same school year.

7.2 A junior high/middle school student who participates in a varsity or subvarsity game at the high school level shall be ineligible to participate at the junior high/middle school level in the same sport.

8.0 Examinations

8.1 A student shall not be eligible to practice, scrimmage, or compete in an interscholastic contest unless he/she has been adequately examined by a licensed physician (M.D. or D.O.), a certified nurse practitioner, or a certified physician's assistant on or after June 1 and before beginning such athletic activity for the current school year.

8.1.1 A certificate to that effect, as well as the parent's or court appointed legal guardian's consent, shall be on file with the administrative head of the school prior to the student participating in a practice, scrimmage, or game.

8.2 For any subsequent sports season in the school year, a limited reexamination shall be performed under the following circumstances:

8.2.1 If the athlete has been treated for an injury during the preceding sports season.

8.2.2 If the athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset.

8.2.3 If an operation has been performed on the athlete during the preceding term.

8.2.4 If the student has a remedial defect.

8.3 The medical history of the student should be available at the time of each examination.

8.4 A player who is properly certified to participate in interscholastic athletics but is physically unable to participate for five (5) consecutive days on which a practice, scrimmage, or contest is held due to illness or injury, must

present to the administrative head of the school a statement from a qualified physician that he/she is again physically able to participate.

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

9.0 Clarifying Eligibility

9.1 In cases of uncertainty or disagreement, the eligibility of a student shall be determined initially by the Executive Director. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.

9.2 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DSSAA Board of Directors in accordance with the procedure described in 1055 Appeal Procedure.

9.3 Decisions of the DSSAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the Executive Director may be appealed to the State Board of Education in accordance with the procedure described in 1055 Appeal Procedure.

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

10.0 Eligibility Lists

10.1 Member schools shall use eligibility forms approved by the Executive Director.

10.2 A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$15.00 fine against the school.

10.3 In the case of a student who met all DSSAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, he/she shall be adjudged eligible and the school assessed a \$10.00 fine.

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

11.0 Contracts Interchanged

11.1 Contracts between DSSAA member schools or between DSSAA member schools and full member schools of comparable state associations are encouraged but not required.

11.1.1 Conference master contracts are approved substitutes for individual contracts.

11.1.2 In the case of a dispute and provided either a signed individual contract or conference master contract ~~is in place~~, was received in the DSSAA office or postmarked prior to the contest in question appeal may be made to the Executive Director or the DSSAA Board of Directors which, after review of the circumstances, may assign an appropriate penalty.

11.1.2.1 Without a signed individual contract or conference master contract, a member school has no right

of appeal to the Executive Director or the DSSAA Board of Directors.

11.2 Contracts between DSSAA member schools and non-member or associate member schools of comparable state associations are required.

11.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DSSAA member school being assessed a \$15.00 fine.

11.2.2 In the case of a dispute, a member school has no right of appeal to the Executive Director or the DSSAA Board of Directors unless a signed individual contract is in place.

11.3 Contracts shall be interchanged according to the following provisions:

11.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.

11.3.2 Contracts shall be drawn up by the faculty manager or other designated staff member of the home school of the earlier contest.

11.3.3 A signed contract or any part thereof may not be nullified or modified except by mutual agreement of both schools involved.

11.4 If a game is not played, it shall be considered "no contest" unless a signed individual contract or conference master contract was ~~in place~~ received in the DSSAA office or postmarked prior to the contest in question and one of the participating schools breached the agreement in which case appeal may be made to the Executive Director or the DSSAA Board of Directors.

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

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 featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule.

13.0 Licensed Physician

13.1 Provision shall be made for a licensed physician, a NATA certified athletic trainer, or a registered nurse to be present at all interscholastic football games in which a member school participates. The host school shall provide this service.

13.2 Failure by the host school to provide this service shall result in the school being assessed a \$100.00 fine.

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 DSSAA 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.

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 DSSAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DSSAA, 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 DSSAA 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 DSSAA member school for up to 180 school days from the date the charge is substantiated.

15.0 Reporting Violations

15.1 If a school violates a provision of the DSSAA Constitution and Bylaws, the administrative head or his/her designee shall notify the Executive Director in writing of the violation.

15.2 If a school uses an ineligible athlete, the administrative head or his/her designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es), and/or point(s) won.

15.3 All violations will be reviewed by the DSSAA Board of Directors which may impose additional penalties in accordance with 36.0.

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

16.0 Equivalent Rules

16.1 A full member school shall not participate in a scrimmage or contest with an instate school that is not a member in good standing of DSSAA ~~unless the opposing school, as part of a written contract, certifies that its contestants are eligible under DSSAA rules.~~

16.2 A full member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.

16.3 An associate member school shall not participate in a scrimmage or contest with an in-state school that is not a member in good standing of DSSAA unless the opposing school complies with the conditions specified in ~~16.1~~ 16.2.

However, the opposing school shall be exempt from those rules which DSSAA has waived for its associate member school.

16.4 An associate member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school complies with the conditions specified in 16.2. However, the opposing school shall be exempt from those rules which DSSAA has waived for its associate member school.

16.5 Member schools shall not participate in a practice, scrimmage, or contest with a non-school sponsored team.

16.6 Member schools shall not participate in a practice, scrimmage, or contest with college students.

16.6.1 This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.

16.7 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$100.00 fine.

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

17.0 Codes

17.1 DSSAA is affiliated with the National Federation of State High School Associations (NFHS). The playing codes, sanctions, and other rules of the NFHS are adopted except as modified by the DSSAA Board of Directors.

17.2 The playing rules of the United States Tennis Association, the United States Golf Association and the United States Lacrosse Association are adopted for the sports of tennis, golf and girls' lacrosse respectively except as modified by the DSSAA Board of Directors.

18.0 Conferences

18.1 Member schools may establish voluntary conference organizations according to the following rules:

18.1.1 Any such organization may be composed of public and non-public schools.

18.1.2 Any conference so formed must submit its proposed membership and its constitution and bylaws to the DSSAA Board of Directors and they must be approved before the schools may enter into any contractual agreements.

18.1.2.1 All subsequent amendments to the constitution and bylaws of the conference must be ~~approved by the DSSAA Board of Directors~~ compatible with all provisions of the DSSAA Constitution and Bylaws; interpretations and rulings of the Executive Director, Sportsmanship Committee, and Board of Directors; state tournament regulations; and DSSAA approved playing codes.

19.0 All-Star Contests

19.1 Junior high/middle school students shall not

participate in an all-star event until they have completed their high school eligibility in that sport.

20.0 Sponsoring Interscholastic Teams

20.1 Definition of Interscholastic Athletics

20.1.1 Interscholastic competition is defined as any athletic contest between students representing two (2) or more schools. Students are considered to be representing a school if the school does any of the following:

20.1.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).

20.1.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.

20.1.1.3 Permits the students to compete under the name of the school.

20.1.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.

20.1.1.5 Presents or displays individual/ team awards.

20.1.2 Members of school clubs who participate in non-competitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition.

20.2 Sponsorship of Teams

20.2.1 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:

20.2.1.1 The governing body of the participating district or non-public school approves participation in the sport. The administrative head of the school shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.

20.2.1.2 The governing body of the participating district or non-public school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgement that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the administrative head of the school.

20.2.1.3 The participating schools agree to comply with all applicable DSSAA rules and regulations as stated in the current DSSAA Official Handbook.

20.3 Levels of Participation

20.3.1 Level 1 or developmental sport - less than seven (7) participating schools.

20.3.1.1 All DSSAA rules and regulations shall not be in effect ~~except 22.0, 23.0, and 29.0.~~

~~20.3.1.2 Schools shall not be permitted to scrimmage or compete against a non-school sponsored team.~~

20.3.2 Level 2 or recognized sport - seven (7) or more participating schools.

20.3.2.1 Participating schools must petition the DSSAA Board of Directors for official recognition of the sport.

~~20.3.2.1~~ 20.3.2.2 At the time of official recognition, DSSAA shall provide rules publications to the participating schools, designate an approved officials' association, conduct an annual or biannual rules clinic for coaches and officials, and establish a maximum game schedule.

~~20.3.2.2~~ 20.3.2.3 All DSSAA rules and regulations shall be in effect.

20.3.3 Withdrawal of level 2 status

20.3.3.1 If, for two (2) consecutive years, less than the required number of schools participate in a sport, DSSAA may withdraw official recognition for a period of time as determined by the Board of Directors.

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

21.0 Certified Coaches

21.1 Only those professional employees certified by the Department of Education and whose salary is paid by the State and/or local Board of Education, or in the case of charter and non-public schools by a similar governing body, if acceptable as a coach by the governing body, shall coach, assist in coaching, or direct member school teams in any district.

21.1.1 The terms of employment must be for the regular school year and the professional assignment shall be no less than 1/2 of the school day, exclusive of coaching duties.

21.2 Emergency coaches

21.2.1 An emergency coach shall be defined as an individual who is either not certified by the Department of Education, or is certified by the Department of Education but is not employed for the school year or whose professional assignment is less than 1/2 of the school day.

21.2.2 An individual who meets the requirements of a certified coach as specified in 21.1, but whose professional assignment is located in a different school or district than his/her coaching assignment shall not be considered an emergency coach by DSSAA.

21.2.3 Member schools shall be required to annually reopen all positions that are held by emergency coaches.

21.2.4 Emergency coaches may be employed provided the local governing body adheres to the following procedures:

21.2.4.1 The employing Board of Education

must attempt to locate an acceptable, certified professional staff member by advertising the coaching vacancy in the district for as many days as are required by the district's collective bargaining agreement.

21.2.4.2 If an acceptable, certified professional staff member is not available, an individual who is acceptable to the employing Board of Education may be hired as an emergency coach.

21.2.4.3 Any individual employed as a coach under the emergency provision must comply with the following regulations:

21.2.4.3.1 He/she must be officially appointed by the local Board of Education. The superintendent or his/her designee may temporarily appoint an individual if a coaching vacancy arises and the sport season begins during the interim between meetings of the local Board of Education.

21.2.4.3.2 His/her coaching salary must be paid exclusively by the local Board of Education.

21.3 Students who are practice teaching in a member school shall be permitted to assist in all professional activities during their practice teaching period.

21.4 In addition to the members of the school's regular coaching staff, who must come from 21.1 through 21.3, the local governing body may supplement a school's coaching staff with volunteer coaches. Volunteer coaches are individuals who donate their services to a school and who have been approved by that school's local governing body. A current list of approved volunteer coaches shall be on file in the school's administrative office before any coaching duties are assumed.

21.5 All head coaches shall be required to attend the DSSAA rules clinic for their sport or, if applicable, pass an open book rules examination supplied by the DSSAA office.

21.5.1 A school shall be assessed a \$50.00 fine and the head coach shall be placed on probation if he/ she fails to attend the DSSAA rules clinic or pass the open book rules examination in his/her sport. Failure to comply for a second consecutive year shall result in the school being assessed a \$50.00 fine and the coach being suspended for up to five contests as determined by the Executive Director.

21.6 Beginning with the 2001-02 school year, certified and emergency coaches at all levels of competition shall be required to hold a current certification in adult CPR.

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

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 ~~A~~ From August 2nd through June 14th, 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 DSSAA 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. He/she shall also be permitted to coach rising ninth graders (eighth if eighth grade is part of the same administrative unit as 9-12) who participated in his/her assigned sport at a feeder school. Instructional contact with the aforementioned students 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 per day in an informal setting.

22.10.2.1 Instructional time shall not exceed two hours per day per student.

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

23.0 Maximum Game Schedules and Designated Sport Season

23.1 The maximum number of regularly scheduled interscholastic contests/competition dates for each team and individual in the recognized sports and their designated season shall be as follows:

*** PLEASE NOTE: THE TABLE IN THE REGULATION IS NOT BEING CHANGED AND IS NOT REPRODUCED HERE.**

23.2 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than three (3) contests/competition dates in a week.

23.3 A student shall participate in a particular sport for only one season during each academic year.

23.4 A school which participates in more than the allowable number of contests in a season shall be fined \$200.00.

23.5 A school which exceeds the weekly contest limitation shall be required to forfeit the contest and be assessed a \$100.00 fine.

23.6 A student who exceeds the weekly or daily contest

limitation shall be considered an ineligible athlete and the school subject to the penalties stipulated in 14.0.

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

24.0 Practice Sessions

24.1 Member schools shall conduct a minimum of three (3) weeks of practice under the supervision of the school's coaching staff prior to the first scheduled contest in all sports.

24.2 A student shall be required to practice for a period of at least seven (7) calendar days prior to participating in a contest. However, if an eighth-grade student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven (7) calendar days before his/her team's first contest, he/she shall be exempt from this requirement.

24.3 A practice session shall be defined as any instructional or conditioning activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, chalkboard sessions, warmup and cool down exercises, drills, and mandatory strength training, etc.

24.3.1 All activities shall be under the supervision of a certified, emergency, or approved volunteer coach.

24.4 Practice sessions shall be limited to two (2) hours on official school days.

24.4.1 Split sessions may be conducted, but practice time shall not exceed two (2) hours for any individual athlete.

24.4.2 The two-hour practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.

24.5 A school which deliberately exceeds the two-hour practice limitation shall be assessed a \$100.00 fine.

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

25.0 Awards

25.1 A member school and/or support group affiliated with a member school, such as an alumni association or booster club, shall be allowed to present recognition awards for team and/or individual accomplishments.

25.1.1 The awards, including artwork and lettering, shall require the approval of the administrative head of the school and their value shall be mostly symbolic.

25.1.2 Permissible awards include trophies, plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms and similar items if properly inscribed (reference to the team or individual accomplishment) are also acceptable.

25.1.3 Member schools and such support groups shall also be permitted to sponsor banquets.

25.2 A non-profit group such as a coaches association, booster club not affiliated with a member school, or community service organization shall be allowed to present

recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school.

25.2.1 The awards shall have symbolic value only. Awards with utilitarian value are prohibited.

25.2.2 Non-profit groups shall also be permitted to sponsor team banquets.

25.3 Commercial organizations shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school.

25.3.1 The awards shall have symbolic value only. Awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$50.00 per team or per recipient.

25.4 Non-symbolic competition awards (based on team's or individual's place finish), regardless of sponsor, shall have an aggregate retail value not to exceed \$50.00 per recipient and shall require the prior approval of the Executive Director.

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

26.0 Boxing

Member schools shall not participate in interscholastic boxing.

27.0 Protests and Complaints

All protests and complaints brought before DSSAA shall be in writing and shall be acted on only after the administrative head of the school involved has been given an opportunity to appear before the Board of Directors.

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.

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 DSSAA. 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

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

29.1.1 In the case of emergencies such as an act of God, refusal by an official's 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 Officials shall be required each year to attend the DSSAA rules interpretation clinic and pass the rules examination provided by the DSSAA office for the sport(s) they officiate.

29.2.1 Failure on the part of an official to attend the DSSAA 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 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 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 If, for a legitimate reason which is documented by the president of his/her association, an official is unable to attend the DSSAA rules interpretation clinic, he/she may view a videotape of the DSSAA 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 No later than the day of the DSSAA 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 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 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 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 non-approved official.

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

30.0 Out of Season Athletic Camp and Clinic Sponsorship

30.1 DSSAA 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)

31.0 Sanctions – School Team Competition

31.1 Member schools may participate in tournaments/meets involving four (4) or more schools only if the event has been sanctioned by DSSAA and, if applicable, by the NFHS. Tournaments/meets shall be sanctioned in accordance with the following criteria:

31.1.1 The event shall not be for determining a regional or national champion.

31.1.2 The event shall be organized, promoted, and conducted by and all profits go to a nonprofit organization.

Involvement by a commercial organization shall be limited to providing financial support.

31.1.3 Nonsymbolic competition awards shall have a value of not more than \$50.00 per recipient and shall require the prior approval of the Executive Director.

31.1.4 Non-school event organizers shall submit a full financial report to the DSSAA office within ninety (90) calendar days of the completion of the event.

31.1.5 The event organizer shall submit a list of out-of-state schools which have been invited to participate and such schools shall be subject to approval by the Executive Director.

31.1.6 Out-of-state schools which are not members of their state athletic association shall verify in writing that their participating athletes are in compliance with their state athletic association's eligibility rules and regulations.

31.1.7 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

31.1.8 The event organizer shall comply with all applicable NFHS sanctioning requirements.

31.2 Participation in a non-sanctioned event shall result in the offending school being assessed a \$25.00 fine. A second offense shall result in a \$50.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the sport season. A third offense shall result in a \$100.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the school year.

32.0 Coed Teams

32.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams compete during different seasons.

32.1.1 A student shall participate in a particular sport for only one season during each academic year.

32.2 If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team.

32.3 If a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team.

33.0 Non-School Instructional Camps and Clinics

33.1 A student may participate in a commercial camp or clinic, including private lessons, both during and out of the designated sport season provided the following conditions are observed:

33.1.1 The student must participate unattached and may not wear school uniforms.

33.1.2 The student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

33.1.3 The school may not provide transportation or pay fees.

33.1.4 The school coach may not require his/her athletes to participate in a camp or clinic or provide instruction to his/her returning athletes in a camp or clinic.

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

34.0 Open Gym Programs

34.1 A member school may open its gymnasium or other facility for informal, recreational activities in accordance with the following provisions:

34.1.1 The open gym must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

34.1.2 Student participation must be voluntary and the open gym must not be a prerequisite for trying out for a particular team.

34.1.3 The activities must be unstructured and student-generated. Organized drills in the skills or techniques of a particular sport are prohibited. Organized competition with fixed team rosters is also prohibited.

34.1.3.1 A coach may not predetermine that the open gym will include only his/her sport and publicize the open gym as being restricted to that sport. It is the responsibility of the adult supervisor to permit as many different activities as the facility can effectively and safely accommodate.

34.1.4 A coach may open the facility and distribute playing equipment but may not instruct, officiate, participate, organize the activities, or choose teams in his/her assigned sport.

34.1.5 Playing equipment is restricted to that which is customarily used in a contest in a particular sport. Playing equipment which is only used in a practice session is prohibited.

34.1.6 The participants must provide their own workout clothing.

35.0 Conditioning Programs

35.1 A member school may conduct a conditioning program in accordance with the following provisions:

35.1.1 The conditioning program must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

35.1.2 Student participation must be voluntary. The conditioning program must not be a prerequisite for trying out for a particular team.

35.1.3 Permissible activities include stretching, lifting weights, jumping rope, running, calisthenics, aerobics, and similar generic conditioning activities. Organized drills in the skills or techniques of a particular sport are prohibited.

35.1.4 A coach may not provide instruction in sport specific skills or techniques.

35.1.5 Sport specific equipment is prohibited.

35.1.6 The participants must provide their own workout clothing.

36.0 Additional Penalties

Additional penalties may be imposed by the Executive Director or the DSSAA Board of Directors for repeat offenses or as deemed necessary to ensure the proper conduct of interscholastic competition.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. §505)

PUBLIC NOTICE

Medicaid/Medical Assistance Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, Delaware Health and Social Services (DHSS) / Division of Social Services / Medicaid/Medical Assistance Program is proposing to amend Title XIX Medicaid State Plan to cover non-emergency transportation as an administrative expense, as permitted by federal regulations, except for emergency ambulance coverage, which will remain unchanged.

Title of Proposed Regulation

Transportation as an Administrative Expense

Amending the Following State Plan Pages

Attachment 3.1-A, Page 9 Addendum, *Amount, Duration, and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy, Limitations*

Attachment 3.1-D, *Methods of Providing Transportation*

Attachment 4.19-B, Page 2, *Methods and Standards for Establishing Payment Rates, Other Types of Care, Transportation Services*

Basis

42 CFR 431.53 states that the Medicaid State Plan must ensure necessary transportation for clients to and from

providers of medical services. The State Plan must also describe the state's methods that meet this requirement.

42 CFR 440.170(a) states that if other arrangements are made to assure transportation, under Section 431.53, then federal financial participation (FFP) is available as an administrative cost.

Purpose

This regulatory change will permit the Division of Social Services (DSS) to contract with a qualified transportation broker to authorize, arrange and reimburse necessary transportation statewide. This regulatory action is essential to protect the safety and welfare of clients because it will ensure that clients are able to reach their doctors' and other health care providers' offices for appointments in the most expedient manner possible.

These services are for eligible clients to receive transportation services to and from medical services under the Medicaid Program and the Chronic Renal Disease Program. The Division of Social Services (DSS) administers the Chronic Renal Disease Program (CRDP). This program assists residents of Delaware, diagnosed with End Stage Renal Disease (ESRD), who are either on dialysis or have received a kidney transplant. Services include, but are not limited to reimbursement of transportation to and from a dialysis unit or transplant hospital. This program is 100% State-funded.

Overview

Medicaid programs are federally required to cover transportation by one of two methods to ensure that Medicaid clients have access to covered medical services. Federal Regulations at both 42 CFR 431.53 and 440.170(a) permit this coverage in either of two ways at the state's discretion: as an administrative service or as an optional medical service. There is no difference in federal medical assistance percentage (FMAP) for transportation costs claimed as an administrative expense. The most significant difference between these two alternatives is the amount of service coordination and management that is permitted by 42 CFR 431.53.

The Delaware Medical Assistance Program (DMAP) currently covers transportation as a medical service, which means that transportation is covered in comparable manner to physician, pharmacy, and other medical services. Under this arrangement, Medicaid clients have freedom of choice of transportation providers. As defined under federal regulations, this means that clients may select among transportation providers enrolled with DMAP for each trip to a medical service. The current transportation coverage has been subject to the misuse and even abuse by clients and transportation providers. DMAP has knowledge of the

following: (i) clients taking trips to non medical services (child care and recreational, for example); (ii) many single passenger trips were multiple passenger trips could be coordinated instead; (iii) billing for escorts not needed; (iv) trip mileage being billed to DMAP which is higher than the actual mileage incurred; and, (v) billings for trips that did not occur.

By claiming transportation as an administrative expense instead of a medical service, the state will no longer give clients a choice of transportation providers. This administrative approach will allow for the extensive coordination of trips and appropriate use of DMAP expenditures. The contractor will coordinate trips, reimburse transportation providers for services, and employ accountability measures to help ensure effective utilization of expenditures. The contractor will be able to manage transportation to ensure that it is only to medical services, that the type of transportation is suitable to the medical needs of the client, that closer medical providers are given consideration in planning trips, and that reported trip mileage is accurate.

On May 13 and 20, 2002, DMAP advertised and issued a request-for-proposals (RFP) solicitation for non-emergency transportation services, which is based on these regulatory changes. The RFP addresses transportation needs of eligible Medicaid and Chronic Renal Disease Program clients. DMAP is seeking a broker statewide for all three counties. The broker will receive requests for transportation from Medicaid and Chronic Renal Disease Program (CRDP) clients in New Castle County, Kent County and Sussex County and perform screening of clients such as confirming that the clients are Medicaid or CRDP eligible and the trips are to medical services, then arrange for the transportation and pay the transportation providers. The deadline for bidders under the RFP to submit proposals is June 7, 2002. DMAP anticipates implementation of this project on October 1, 2002; however, this is contingent on final approval of this regulatory package.

Cost-Sharing

DSS may establish cost-sharing (co-payments) when non-emergency transportation services are received.

The purpose of cost-sharing is to promote more efficient and cost-effective utilization of services and to encourage clients to assume some financial responsibility for their transportation needs.

Certain individuals are exempt from cost-sharing requirements by federal regulations.

Benefits to Clients

The benefits to clients are expected to be their easier access to services in a more reliable, dependable manner.

This transportation service coordination will also provide clients with an improved quality of services including a complaint mechanism when transportation providers fail to keep appointments or provide less than satisfactory service.

Family Impact Statement

This regulatory action will not have any negative affects on the institution of the family or family stability. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities. It will discourage the use of transportation services for shopping and other non-medical reasons.

The family can expect an improved quality of transportation services. Medicaid and CRDP clients will need to make just one call to the broker to have a trip arranged. The broker will determine the least expensive mode of transportation available that is appropriate to the medical needs of the client. DSS will be holding the broker accountable in such areas as vehicle condition, driver qualifications, and client satisfaction surveys. There will also be a complaint tracking system.

Funding Source/Affected Entities

The Delaware Medicaid Program is established under the authority of the Title XIX of the federal Social Security Act, Public Law 89-97, as amended. DMAP is funded with both federal and state funds. The current federal medical assistance percentage (FMAP) for medical assistance expenditures is 50.00%, which became effective October 1, 2001. This rate will remain the same on October 1, 2002.

The Chronic Renal Disease Program is established by the Delaware Legislature under the authority of Title 29, Chapter 79, Subchapter 11, and Sections 7932-7935. CRDP is 100% State funded.

The broker is to develop an adequate network of local transportation providers similar to what is found currently for Medicaid and CRDP clients. Depending on how competitively current providers are able to provide transportation, the broker may or may not choose to contract with them. Therefore, some current providers may experience a reduction in revenue derived from Medicaid and CRDP transportation.

The changes as a result of this regulatory package will in general affect all non-emergency transportation providers (approximately 78 non-emergency transportation providers billed for services during the period January - March 2002) and all eligible Medicaid clients (which totaled 111,989 for March 2002). Medicaid clients contacting transportation providers directly for a ride to medical appointments (for example, to an office visit with a physician) will no longer occur. An adequate network of transportation providers will still be needed to ensure access to services that are consistent

with efficiency, economy and quality of service.

In Fiscal Year 2001, DMAP reimbursed approximately \$7,000,000 for non-emergency transportation services to Medicaid clients. This reimbursement is a significant increase of approximately 26% from Fiscal Year 2000 while the number of persons eligible for Medicaid increased by only approximately 8.6% during the same time period.

Other states that have utilized transportation brokerage methods have reported savings in excess of 15%.¹ Additionally, a 1997 Office of Inspector General (OIG) study found that "in addition to saving money, brokerages were also effective in controlling fraud and abuse by both providers and beneficiaries, and that they promoted the use of the least costly transportation modes and providers."²

This action does not affect clients in the following programs as they are not eligible for transportation services: Qualified Medicare Beneficiary (QMB) Program, Specified Low-Income Beneficiary (SLMB) Program, Qualifying Individuals (QI) Program, Qualified Disabled and Working Individuals (QDWI) Program and, the Delaware Healthy Children Program (DCHP).

Prior to implementation, clients and providers will be notified about the transportation changes.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Director, Medical Assistance Programs, Division of Social Services, P.O. Box 906, New Castle, DE 19720 by June 30, 2002.

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.

Summary of Revisions to the Title XIX Medicaid State Plan

This regulatory action proposes to cover Medicaid transportation as an administrative expense as permitted by federal regulations, instead of as a medical expense. This would apply to non-emergency transportation services only.

1. "Managing Medicaid Transportation: Innovative Service Delivery Models under State Medicaid Managed Care Programs," David Raphael, Community Transportation Association of America for Center for Health Care Strategies, August 1998.
2. "Controlling Medicaid Non-Emergency Transportation Costs," Office of the Inspector General, U.S. Department of Health and Human Services, April 1997.

This change will permit the coordination of trips and is intended to help the Division of Social Services better manage the transportation program by controlling expenditures, providing more efficient and effective services, and preventing fraud and abuse.

TITLE XIX MEDICAID STATE PLAN STATE OF DELAWARE

Amount, Duration, And Scope Of Medical And Remedial
Care And Services Provided To The Categorically Needy,
Limitations

ATTACHMENT 3.1-A

Page 9 Addendum

LIMITATIONS

24.a Transportation

~~Transportation is only reimbursed to and from medical care that is covered under the Delaware Medicaid Program.~~

Transportation for medical services is provided in two ways:

(a) Emergency transportation as an optional medical service.

(b) Non-Emergency transportation as an administrative service through contractual broker arrangements.

STATE PLAN UNDER TITLE XIX UNDER THE SOCIAL
SECURITY ACT ESTABLISHMENT AND
MAINTENANCE OF STATE AND FEDERAL
STANDARDS
STATE OF DELAWARE
ATTACHMENT 3.1-B ~~D~~

METHODS OF PROVIDING TRANSPORTATION

~~Transportation is provided by means of agreements with qualified providers. Transportation requires prior authorization, which is provided by the employment of one or more transportation coordinators in each region of the state. Transportation is provided to and from sources of medical care payable under Title XIX.~~

Transportation is covered as administrative service through a broker system.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL
SECURITY ACT
STATE OF DELAWARE
METHODS AND STANDARDS FOR ESTABLISHING
PAYMENT RATES OTHER TYPES OF CARE

ATTACHMENT 4.19-B
Page 2

~~Transportation Services are reimbursed as follows:~~

~~1. Ambulance companies are paid a flat rate for any trip up to the first 10 miles and an additional amount for each additional mile.~~

~~2. DAST is reimbursed a negotiated rate.~~

~~3. Non-emergency medical transportation providers are reimbursed a regional base rate for each client plus a universal rate per mile. Delaware Medicaid will pay a differential rate added to the base rate for service provided between 6 PM and 6 AM on weekdays and 24 hours on weekends and State recognized holidays. Delaware Medicaid will pay a differential rate added to the base rate for transportation service provided in a vehicle equipped with a wheelchair lift required and occupied by a non-ambulatory client.~~

~~4. Non-emergency medical transportation by taxi is reimbursed at the metered rate. Taxi providers may be reimbursed for rideshare participants in addition to their usual and customary fee.~~

~~The broker is reimbursed a monthly capitated rate for each Medicaid client residing in the State.~~

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. §505)

PUBLIC NOTICE

Delaware's A Better Chance Welfare Reform Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, Delaware Health and Social Services (DHSS) / Division of Social Services / Delaware's A Better Chance Welfare Reform Program is proposing to implement policy changes to the following sections of the Division of Social Services Manual: 3008 and 3012. DSS is initiating proceedings to amend policies regarding children over 16 years of age, including teen parents who are dependent children. These changes are necessitated by the loss of the Division's contract for teen programs. The "Stay In School" contract ends June 30, 2002 and the proposed changes indicate what teen parents are expected to do now that service is no longer available.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must

submit same to Sharon L. Summers, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware by June 30, 2002.

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.

3008 Eligibility of Certain Minors

A. Babies Born to Teen Parents

This policy applies to both applicants and recipients not covered by family cap rules.

Babies born after December 31, 1998 to a teenage parent are not eligible for cash assistance (DABC and GA) unless the parent is:

- married; or
- at least eighteen (18) years of age.

An emancipated minor is considered an adult and therefore, the baby would be eligible for cash assistance. If both parents live in the home, both parents must be at least eighteen (18) years of age or married for the baby to be eligible.

Babies not receiving cash assistance are eligible for all other DSS services and programs including food stamps, grant-related Medicaid, and Welfare Reform child care. In lieu of cash assistance, the Division may provide non-cash assistance services.

Determining financial eligibility and grant amounts for an assistance unit, which contains a child (ren), affected by this provision:

The child(ren) is/are included when determining the assistance unit's need for assistance. The child(ren)'s income and resources are included when determining the assistance unit's income and resources. The child(ren) is/are not included when determining the payment standard for the assistance unit.

Exception:

This restriction will not apply when:

- the child is conceived as a result of incest or sexual assault; or
- the child does not reside with his/her parents.

Three Generation Households:

In a three (3) generation household, the grandparent could receive benefits for him/herself and for the teen parent but not for the child of the teen parent. This means that there is not grandparent deeming in these cases.

The services that non-cash assistance will provide are as follows:

DSS will offer non-cash assistance to these families after their request for cash assistance has been denied. The purpose of the voucher program is so the caretaker can purchase necessary items for the child denied benefits due to

the parent being unmarried and a minor. Necessary items may include formula, if the minor parent and child are not WIC eligible, diapers, baby wipes, clothing. This is not an all-inclusive list. Items covered by Medicaid are not eligible. A determination of need is to be completed by the contracted vendor. Though a baby may receive these services in subsequent months the service ends when the parent either marries or turns eighteen.

A monthly voucher is to be no more than \$69. The primary caseworker will explain that the family could receive a monthly voucher that may cover more than one month, but shall not exceed \$207, the amount of three months of Delaware's A Better Chance Welfare Reform Program grant awarded to children born before January 1, 1999. When a customer receives a monthly voucher greater than \$69, the customer will be ineligible to receive services as follows:

For the following month when the voucher is between \$70 and \$138.

For the following two months when the voucher is between \$139 and \$207.

The primary caseworker will make the initial referral for the non-cash assistance to the contracted vendor. Referrals will include the name and Social Security number of the adult caretaker and the minor parent, the name and date of birth of the baby, the address, a phone number for contacting the family and DCIS II case number. The adult caretaker will contact the vendor if there is a need for services in subsequent months. The case record will be documented when a referral for this program is made to a contracted vendor.

Provide families referred for this service with the appropriate vendor address and telephone number.

B. Family Cap

Required Individuals

No additional DABC cash benefits will be issued due to the birth of a child, if the birth occurs more than ten (10) calendar months after:

- the date of application for DABC; or
- for active cases, the date of the first redetermination after October 1, 1995.

While no additional DABC cash benefits will be issued for the child(ren), the child(ren) will be considered an DABC recipient for all other purposes, including Medicaid coverage, Welfare Reform child care, other supportive services and food stamp benefits.

NOTE: Children born prior to the periods identified above who return or enter the household are not included in this restriction.

Exceptions

The family cap restrictions will not apply in the following cases:

- to an additional child conceived as a result of incest or sexual assault; or

· to a child who does not reside with his or her parent; or

· to a child that was conceived in a month the assistance unit (i.e., the entire family) was not receiving DABC. This does not apply in cases that close due to being sanctioned.

Determining financial eligibility and grant amounts for an assistance unit, which contains child (ren), affected by the family cap provision.

· The child(ren) is/are included when determining the assistance unit's need for assistance. The child(ren)'s income and resources is/are included when determining the assistance unit's income and resources. The child(ren) is/are not included when determining the payment standard for the assistance unit.

C. Minor Teen Parents

Teen parents are required to attend either: a). elementary; b). secondary; c). post-secondary; d). vocational; e). training school, f) a GED program or g) work. (Refer to DSSM 3012.3, DSSM 3012.4, and DSSM 3012.5) to be able to receive TANF/DABC.

3012.1 Sanctions for Unsatisfactory School Attendance

CHILDREN AGE 16 AND OLDER, INCLUDING TEEN PARENTS WHO ARE DEPENDENT CHILDREN.

The fiscal sanction for noncompliance, without good cause, with school attendance, including dropping out of school or alternative participation ~~requirements in work~~ will be:

A reduction of \$68.00 in ABC which represents the teen's portion of the grant.

If the parent or caretaker is not cooperating with school officials or other agencies, as appropriate, to remedy the situation, an additional \$68.00 reduction in ABC will be imposed.

~~Teens who drop out of school will be immediately referred to Employment and Training staff for appropriate participation. They will be expected to participate as directed in order for their need to be restored to the grant. can only have their need restored to the grant if they participate in work or agree to re-enroll in school. So for teens to be in satisfactory compliance with school attendance requirements, they will either have to remain in school or, if not, they must be working. DSS staff will not refer teens to Employment and Training contractors.~~

3012.3 Teen Parent up to age 18 Education/Training Requirements

Teen parents are required to attend either a). elementary, b). secondary, c). post-secondary, d). vocational, or e). training school, participate in a GED program or work.

3012.4 Sanction for not meeting Teen Parent Education/Training requirement

A reduction of \$68.00 in DABC.

3012.5 Curing Teen Parent Education/Training Sanction

The sanction will end when either the Teen Parent re-enrolls in school or GED program, or participates in work.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. §505)

PUBLIC NOTICE Food Stamp Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Food Stamp Program is proposing to implement policy changes to the following sections of the Division of Social Services Manual related to resources: 9046, 9048, 9049, and 9051. These changes are based on the Federal Final Rules of Food Stamp Program: Noncitizen Eligibility and Certification Provisions of Public Law 104-193, as Amended by Public Laws 104-208, 105-33, 105-185.

SUMMARY OF CHANGES

Even though DSS does not generally count resources for the Food Stamp population, the resources of any individual disqualified for intentional Program violation (IPV) sanctions must be counted and therefore, reflected in the manual.

DSSM 9046 - Definition of Resources

- Refers the deeming of resources for sponsored aliens to another section.

DSSM 9048 - Inaccessible Resources

- Allows vehicles to be considered an inaccessible resource if the vehicle cannot be sold or disposed of for a significant return of \$1,500 or more.

DSSM 9049 - Resources Excluded for Food Stamp Purposes

- Food and Nutrition Services (FNS) simplified the language for excluding energy payments.
- Resources excluded for those households who are deemed categorically eligible due to the extended eligibility.

DSSM 9051 - Licenses Vehicles

- FNS revised the language regarding vehicles for readability and add some clarifications.
- Allows vehicles to be covered under the inaccessible rules if the return after selling is less than

\$1,500.

- Exempts from the equity test any vehicle driven to and from school, employment or training by a household member under 18.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware by June 30, 2002.

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.

9046 Definition of Resources

~~3. For households containing sponsored aliens (as defined in DSSM 9081) resources will also include that portion of the resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) which have been deemed to be those of the alien in accordance with the procedures established in DSSM 9081, unless the sponsored alien is otherwise exempt from this provision in accordance with DSSM 9081.3.~~

For a household containing a sponsored alien, deem the resources of the sponsor and the sponsor s spouse according to DSSM 9081.

9048 Inaccessible Resources

[273.8]

Resources that cannot be sold or disposed of for a significant return shall be identified as inaccessible. Any resource, ~~except licensed vehicles,~~ can be considered inaccessible if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. This means the household is unlikely to be able to sell the resource for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be greater than the value of the resource.

An example of an inaccessible resource is heir property where the heirs inherit individual fractional interests in a decedent's property. The value of the fractional interest in the property may be less than the cost of selling the property. Therefore, it can be considered inaccessible to the household.

The determination of whether any part of the value of a vehicle is included as a resource must be made in accordance to DSSM 9051.

A significant return shall be any return, after estimated costs of sale or disposition, and taking into account the ownership interest of the household, that DSS determines are

~~more than \$1,500, is estimated to be one half or more of the applicable resource limit for the household (\$1000 or \$1,500 if at least one member is aged 60 or older).~~

~~Any significant amount of funds shall be funds amounting to more than \$1,500.00, one half or more of the applicable resource limit for the household.~~

Verify the value of a resource to be excluded only if the information provided by the household is questionable.

This inaccessible resource provision does not apply to ~~vehicles or~~ negotiable financial instruments such as stocks and bonds.

9049 Resources Excluded for Food Stamp Purposes

[273.8(e)]

In determining the resources of a household, only the following will be excluded:

1. The home and surrounding property which is not separated from the home by intervening property owned by others. A public right of way, such as roads which run through surrounding property and separate it from the home, will not affect the exemption of the home. The home and surrounding property will remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, vacation, or inhabitation caused by casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, will have the value of the lot and, if it is partially completed, the value of the home excluded.

2. Household goods, personal effects, the cash value of life insurance policies, one burial plot per household member, and the value of one bona fide funeral agreement per household member, provided that the agreement does not exceed \$1,500 in equity value. If the equity value of the funeral agreement exceeds \$1,500, the value above \$1,500 is counted as a resource. The cash value of pension plans or funds will be excluded, except that Keogh plans which involve no contractual relationship with individuals who are not household members and individual retirement accounts (IRA's) will not be excluded.

3. Licensed vehicles per DSSM 9051.

4. Property which annually produces income consistent with its fair market value, even if used only on a seasonal basis. Such property includes rental homes and vacation homes.

5. Property or work-related equipment essential to the employment of a household member. Property such as farm land or work-related equipment such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member. Property essential to the self-employment of a household member engaged in farming continues to be excluded for one year from the date the household member

terminates their self-employment from farming.

6. Installment contracts for the sale of land or other property are exempt if the contract or agreement is producing income consistent with its fair market value and the value of any property sold under contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

7. Governmental payments which are designated for the restoration of a home damaged in a disaster. For example, governmental payments made under the Individual and Family Grant program or the Small Business Administration. The household must be subject to a legal sanction if the funds are not used as intended.

8. Resources such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate and property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. In such cases, establish that the property is for sale and that the household will accept a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation, or a listing with a real estate broker. Any funds in trust or transferred to a trust, and the income produced by the trust to the extent it is not available to the household, will be considered inaccessible to the household if:

a) The trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

b) The trustee administering the fund is either:
1) A court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or

2) An individual appointed by the court who has court imposed limitations placed on his/her use of the funds which meet the requirements of this paragraph.

c) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member; and

d) The funds held in irrevocable trust are either:

1) Established from the households' own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or

2) Established from non-household funds by a non-household member.

9. Resources, such as those of students or self-employed persons which have been prorated as income under DSSM 9063.3 and DSSM 9074.

10. Indian lands held jointly with the Tribe or land that can be sold only with the approval of the Bureau of Indian

Affairs; and

11. Resources which are excluded for food stamp purposes by express provision of Federal law, such as:

a) Benefits received from the Special Supplemental Food Program for Women, Infants, and Children, (WIC) (P.L. 92-443).

b) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. 91-646).

c) Earned income tax credits received before January 1, 1980, as a result of P.L. 95-600, Tax Revenue Act of 1978.

d) Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Programs under Title IV of the Comprehensive Employment and Training Act Amendment of 1978 (P.L. 95-524).

12. Earned Income tax credits are excluded as follows:

A Federal Earned Income tax credit received either as a lump sum or as payments under Section 3507 of the Internal Revenue Code for the month of receipt and the following month for the individual and that individual's spouse.

Any Federal, State or local earned income tax credit received by any household member shall be excluded for 12 months, provided that the household was participating in the Food Stamp Program at the time of receipt of the earned income tax credit and provided the household participates continuously during that 12-month period. Breaks in participation of one month or less due to administrative reasons, such as delayed recertification, shall not be considered as nonparticipating in determining the 12-month exclusion.

13. Where an exclusion applies because of the use of a resource by or for a household member, the exclusion will also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. For example, work-related equipment essential to the employment of an ineligible alien or disqualified person will be excluded [in accordance with DSSM 9049(5)], as will one burial plot per ineligible alien or disqualified household member [in accordance with DSSM 9049(2)].

~~14. Payments or allowances made under any Federal, State or local laws for the purpose of energy assistance. These payments or allowances must be clearly identified as energy assistance by the legislative body authorizing the program or providing the funds.~~

~~Among the Federal payments that would be excluded are energy assistance payments provided through the Department of Health and Human Services Low Income Energy Assistance Program and the Community Service Administration's Energy Crisis Assistance and Crisis Intervention Programs. Energy assistance payments or~~

allowances excluded as income under DSSM 9059 K.

15. Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder (creditor) from selling the asset(s).

16. Property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under DSSM 9051 #1, 2, and 6. Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park and/or service the truck. Only the value of the quarter-acre would be excluded under this provision, not the entire 100-acre field.

17. All of the resources of DABC and SSI recipients and households deemed categorically eligible due to DSSM 9042.

A household member is considered a recipient of these benefits even if the benefits have been authorized but not received, if the benefits are suspended or recouped, or if the benefits are not paid because they are less than a minimum amount.

Individuals entitled to Medicaid benefits only are not considered recipients of DABC/GA or SSI.

18. Allowances paid to children of Vietnam veterans who are born with spina bifida are excluded from income and resources for food stamp purposes. (P.L. 104-204). These monthly allowances (\$200, \$700, or \$1,200) are based on the degree of disability suffered by the child.

9051 Licensed Vehicles

[273.8(g)]

Include as financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce income) to the extent that the fair market value of any such vehicle exceeds the fair market value limit. (Refer to current October Cost-Of-Living Adjustment Administrative Notice for the fair market value limit.)

Determine the fair market value of licensed automobiles, trucks, and vans by the value of those vehicles as listed in the NADA "blue" books published within the last six months.

Assign the average trade-in value. Do not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. However, vehicles with excessive high mileage can have the value of the vehicle decreased by using the High Mileage Tables in the front of the NADA books. A household may indicate that for some reason, such as body damage or inoperability, a

vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle must be given the opportunity to acquire verification of the true value from a reliable source. Also, households are to be asked to acquire verification of the value of licensed antique, custom made, or classic vehicles, if the Division is unable to make an accurate appraisal. Do not increase the value of any vehicle if it is equipped with apparatus for the handicapped. Instead, assign a blue book value as if the vehicle were not so equipped. If a vehicle is no longer listed in a blue book, the household's estimate of the value of the vehicle will be accepted unless the Division has reason to believe that the estimate is incorrect. In that case and if it appears that the vehicle's value will affect eligibility, the household must obtain an appraisal or produce other evidence of its value such as a newspaper advertisement which indicated the amount for which like vehicles are being sold.

If a new vehicle is not yet listed in the blue book, determine the wholesale value through some other means (e.g., contacting a car dealer which sells that make of car).

The entire value of any licensed vehicle will be excluded if the vehicle is:

1. Used primarily (over 50 percent of the time the vehicle is used) for income producing purposes such as, but not limited to a taxi, truck, ~~or fishing boat, or a vehicle used to make deliveries, or call on clients or customers, or required by the terms of employment.~~ Licensed vehicles which have been previously used by a self-employed household member engaged in farming, but are no longer used over 50 percent of the time in farming because the household member has terminated their self-employment from farming continue to be excluded as a resource for one year from the date the household member terminated their self-employment from farming;

2. Annually producing income consistent with its fair market value, even if used only on a seasonal basis;

3. Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household);

Examples would be a vehicle of a traveling salesperson or of a migrant farmworker following the workstream;

4. ~~Necessary for subsistence hunting or fishing;~~

5. ~~4.~~ Used as the household's home and therefore excluded under DSSM 9049;

6. ~~5.~~ Necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). The vehicle does not need to have

special equipment or be used primarily by or for the transportation of the physically disabled household member to be excluded.

7. ~~6.~~ Used to carry fuel for heating or water for home use when such transported fuel or water is anticipated to be the primary source of fuel or water for the household. Do not require any further tests concerning the nature, capabilities, or other uses of the vehicle.

7. The value of the vehicle is inaccessible because its sale would produce an estimated return of \$1,500 or less according to DSSM 9048.

~~A vehicle is considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. However, the vehicle does not need to have special equipment or be used primarily by or for the transportation of the physically disabled household member to be excluded.~~

The exclusions # 1 through #3 above in DSSM 9051 will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

Additionally, the value of property, real or personal, is excludable to the extent that it is directly related to the maintenance or use of a vehicle excluded under items (1), (2), or (6) above. Only that portion of real property determined necessary for maintenance or use is excludable under this provision. For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park and/or service the truck. Only the value of the quarter-acre would be excludable under this provision, not the entire 100-acre field.

Determining the value of non-excluded vehicles:

Evaluate the fair market value to each licensed vehicle not excluded under 1-7 above;

Count in full, regardless of any amounts owed on the vehicle, the portion of the fair market value that exceeds \$4,650;

Evaluate such licensed, and all unlicensed vehicles) for their equity value which is the fair market value minus any amount owed; and

Count as a resource only the greater of the two amounts if the vehicle has a countable fair market value of more than \$4,650 and also has a countable equity value.

~~All licensed vehicles not included under items 1-7 above must individually be evaluated for fair market value and that portion of the value which exceeds the fair market value limit will be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile~~

with a fair market value of \$5,500 will have \$850 applied towards its resource level. If the fair market value limit is \$4,650, any value in excess of \$4,650 will be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle must be appraised individually. The fair market values of two or more vehicles may not be added together to reach a total fair market value in excess of the fair market value limit.

Licensed vehicles will also be evaluated for their equity value, except for:

Only the following vehicles are exempt from the equity value test above:

1. Vehicles excluded under items 1- 7 above;
2. One licensed vehicle per adult household member (or an ineligible alien or disqualified household member whose resources are being considered available to the household), regardless of the use of the vehicle; and
3. Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are being considered available to the household) to and from employment, or to and from training or education which is preparatory to employment or to seek employment in compliance with the job search criteria. Any other vehicle a household member under age 18 (or an ineligible alien or disqualified household member under age 18 whose resources are being considered available to the household) drives to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This equity exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives to commute to and from employment.

A vehicle customarily used to commute to and from employment will be covered by this equity exclusion during temporary periods of unemployment.

The equity value of licensed vehicles not covered by this exclusion, and of unlicensed vehicles not excluded by DSSM 9049 (3), (4) and (5) will be attributed toward the household's resource level.

In the event a licensed vehicle is assigned both a fair market value in excess of the fair market value limit and an equity value, only the greater of the two amounts is to be counted as a resource. For example, a second car which is not used by a household member to go to work will be evaluated for both fair market value and for equity value. If the fair market value limit is \$4,650 and the fair market value is \$5,000 and the equity value is \$1,000, the household will be credited with only the \$1,000 equity value and the \$350 excess fair market value will not be counted.

In summary, each licensed vehicle shall be handled as follows: First it will be evaluated to determine if it is exempt

as an income producer or as a home necessary to transport a disabled household member, or necessary to carry fuel for heating or water for home use. If not exempt, it will be evaluated to determine if its fair market value exceeds the fair market value limit. If worth more than the fair market value limit, the portion in excess of the fair market value limit for each vehicle will be counted as a resource. The vehicle will also be evaluated to see if it is equity exempt as the household's only vehicle or necessary for employment reasons one licensed vehicle per adult household member or a vehicle used by a household member under age 18 to go to school, training, or employment. If not equity exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than the fair market value limit and also has a countable equity value, only the greater of the two amounts will be counted as a resource.

If an individual is denied benefits because of the motor vehicle license requirement, he or she must be notified that they may produce verification that their motor vehicle is not licensed from the Division of Motor Vehicles in order to determine the equity value of the unlicensed vehicle.

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION**
Statutory Authority: 7 Delaware Code,
Chapter 60 (7 Del.C. Ch. 60)

SAN # 1999-01

1. **TITLE OF THE REGULATION:**
Regulation No. 24, Section 10, "Aerospace Coatings"
2. **BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

Delaware is not in compliance with the EPA ground-level ozone standard, and must make reductions in volatile organic compound (VOC) emissions, which are a factor in the formation of ground-level ozone. The Department is proposing to revise Regulation No. 24, Section 10, to achieve VOC emission reductions at Aerospace Manufacturing and Rework facilities within the State. The Department is proposing to add an exemption from the current topcoat limit of 3.5 lb/gal, which will allow a maximum of 200 gallons of coating per year to be applied with a VOC limit of 6.0 lb/gal. The amended regulation also establishes the following: (1) new VOC limits for specialty coatings; (2) requirements for using high transfer efficiency

coating application equipment; and (3) minimum standards in the proper use and handling of equipment and materials. These amendments are based on EPA's Control Technique Guideline (CTG) document "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations."

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Delaware Code, Chapter 60

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None

6. NOTICE OF PUBLIC COMMENT:

The public comment period for this proposed regulation will extend through July 1, 2002. Interested parties may submit comments in writing during this period to: Deanna Morozowich, Air Quality Management Section, 156 South State Street, Dover, DE 19901, and/or statements and testimony may be presented either orally or in writing at the public hearing to be held Tuesday, June 25, 2002 beginning at 6pm in the Priscilla Building Conference Room, 156 S. State Street, Dover, Delaware.

7. PREPARED BY:

Deanna Morozowich, (302)739-4791, April 30, 2002

Section 10 - Aerospace Coatings.

11/29/94

a. Applicability.

1. This section applies to the following operations in each aerospace manufacturing or rework facility:

- i. General cleaning operations.
- ii. All hand-wipe cleaning operations.
- iii. Each spray-gun cleaning operation.
- iv. All flush cleaning operations.
- v. Each primer and topecoat application operation.
- vi. Each depainting operation, which applies to the depainting of the outer surface of aerospace vehicles with the exception of parts or units normally removed during depainting.
- vii. Each chemical milling maskant application operation using Type II chemical milling etchants.
- viii. Each waste storage and handling operation.

2. The requirements in paragraph (c) of this Section do not apply to the following operations: chemical milling, metal finishing, electrodeposition, composite processing, adhesives, adhesive bonding primers, sealants, and specialty coatings.

3. The requirements in paragraph (c) of this Section do not apply to aerospace manufacturing and rework facilities whose plant wide, actual emissions from the operations in paragraph (a)(1) without control devices are less than 6.8 kilograms (kg) (15 pounds [lb]) of volatile organic compounds (VOCs) per day.

4. Existing sources affected by this Section shall comply with the provisions of this Section as soon as practicable, but no later than April 1, 1996. New, modified, or reconstructed sources affected by this Section shall comply with the provisions of this Section upon startup.

5. Any facility that becomes or is currently subject to the provisions of this Section by exceeding the applicability threshold in paragraph (a)(3) of this Section shall remain subject to these provisions even if its emissions later fall below the applicability threshold.

6. Any facility that is currently subject to a state or federal rule promulgated pursuant to the Clean Air Act Amendments of 1977 by exceeding an applicability threshold is and shall remain subject to these provisions, even if its throughput or emissions later fall below the applicability threshold.

b. Definitions. As used in this Section, all terms not defined herein shall have the meaning given them in the November 15, 1990 Clean Air Act Amendments (CAAA), or in Section 2 of Regulation 24.

"Adhesive bonding" means the joining together of two or more metal parts, such as the parts of a honeycomb core. The surfaces to be bonded are first coated with an adhesive bonding primer to promote adhesion and protect from subsequent corrosion. Structural adhesives are applied as either a thin film or as a paste, and can be oven cured or cured in an autoclave.

"Aerospace manufacturing or rework facility" means a commercial, civil, or military facility that produces in any amount an aerospace vehicle or component, or a commercial, civil, or military facility that reworks (or repairs) these vehicles or components. Aerospace manufacturing and rework operations may consist of any of the following basic operations: chemical milling maskant application, chemical milling, adhesive bonding, cleaning (e.g., hand-wipe, spray equipment, and flush), metal finishing, electrodeposition, coating application (e.g., primers, topecoats, sealants, and specialty coatings), depainting, and composite processing.

"Aerospace vehicle or component" means any fabricated part, processed part, assembly of parts, or completed unit of any aircraft including, but not limited to, airplanes, helicopters, missiles, rockets, and space vehicles.

"Brush coating" means the application of a coating material to a substrate by means of a brush (this technique is commonly used for touch-up and masking operations).

"Chemical milling" means a process used to reduce the

thickness of selected areas of metal parts in order to reduce weight by submerging the metal parts in an etchant.

"Chemical milling maskant" means a coating that is applied directly to components to protect surface areas when chemically milling the component with a Type II etchant.

"Chemical milling maskant application operation" means the use of spray equipment or a dip tank to apply a chemical milling maskant, prior to chemically milling the component with a Type II etchant.

"Cleaning solvent" means any liquid material used for hand-wipe, spray-gun, or coating-line cleaning.

"Coating operation" means the use of a spray booth, tank, or other enclosure or any area, such as a hangar, for the application of a single type of coating (e.g., primer); the use of the same spray booth for the application of another type of coating (e.g., topcoat) constitutes a separate coating operation for which compliance determinations are performed separately.

"Composite processing operations" include layup, thermal forming, debulking, curing, break-out, compression molding, and injection molding. Layup means the process of assembling the layers of the composite structure by positioning composite material in a mold and impregnating the material with a resin. Thermal forming means the process of forming the layup in a mold, which usually takes place in an autoclave. Debulking means the simultaneous application of low-level heat and pressure to the composite structure to force out excess resin, trapped air, vapor, and volatiles from between the layers of the composite structure. Curing means the process of changing the resin into a solid material through a polymerization reaction. Break-out means the removal of the composite structure from the mold or curing fixtures. Compression molding means the process of filling one half of a mold with a molding compound, closing the mold, and applying heat and pressure until the material is cured. Injection molding means the use of a closed mold, where the molding compound is injected into the mold, maintained under pressure, and then cured by applying heat.

"Depainting" means the removal of any coating from the outer surface of the aircraft by either chemical or non-chemical means. "Depainting operation" means the use of a chemical agent, media blasting, or any other technique to remove coatings from the outer surface of aerospace components or vehicles. The depainting operation includes washing of the aerospace component or vehicle to remove residual stripper and coating residue.

"Dip coating" means the application of a coating material to a substrate by dipping the part into a tank of the coating material.

"Electrodeposition", or "metal plating", means an additive process for metal substrates in which another metal layer is added to the substrate in order to enhance corrosion and wear resistance necessary for the successful performance of the component. The two types of

electro-deposition typically used are electroplating and plasma arc spraying.

"Electrostatic spray" means a method of applying a spray coating in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate by the electrostatic potential between them.

"Etchant" means a chemical used to mill a part or subassembly, such as sodium hydroxide for aluminum parts.

"Flow coating" means the application of a coating material to a substrate by pouring the coating over the suspended part.

"Flush cleaning operation" means the cleaning of an aerospace vehicle or component by passing solvent over, into, or through the vehicle or component. The solvent may simply be poured into the vehicle or component and then drained, or be assisted by air or hydraulic pressure, or by pumping.

"Hand-wipe cleaning operation" means the removal of contaminants such as dirt, grease, and oil from aerospace components or vehicles by physically rubbing them with a material such as a rag, paper, or cotton swab that has been moistened with a cleaning solvent.

"High volume low pressure (HVLP) spray equipment" means spray equipment that is used to apply coating by means of a gun that operates at 10.0 psig or less at the air cap and a fluid delivery pressure of 100 pounds per square inch gauge (psig) or less.

"Leak" means any visible leakage, including misting and clouding.

"Metal finishing operations" include conversion coating, anodizing, desmutting, descaling, and any operations that chemically affect the surface layer of a part, and are used to prepare the surface of a part for better adhesion, improved surface hardness, and improved corrosion resistance.

"Non-chemical-based depainting equipment" means any depainting equipment or technique, including media blasting equipment, that does not rely on a chemical stripper to depaint an aerospace vehicle or component.

"Primer" means the first layer of coating applied to the surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, environment protection, functional fluid resistance, and adhesion of subsequent coatings. Coatings that are defined as specialty coatings are not included under this definition.

"Radome" means the non-metallic protective housing for radar antenna.

"Self-priming topcoat" means a coating that is applied directly to an aerospace vehicle or component for purposes of corrosion protection, environmental protection, and functional fluid resistance and that is not subsequently topcoated.

"Specialty coating" means a coating that, even though it

meets the definition of a primer or topcoat, has additional performance criteria beyond those of primers and topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection.

"Spray gun" means a device that uses air pressure or air flow to atomize a coating or other material and to project the atomized coating particulates or other material onto a component.

"Stripper" means a liquid that is applied to an aerospace component or vehicle to remove primer, topcoat, or coating residue.

"Surface preparation" means the removal of contaminants from the surface of an aerospace component or vehicle, or the activation of the surface immediately prior to the application of a coating.

"Topcoat" means a coating that is applied over a primer on an aerospace vehicle or component for appearance, identification, camouflage, or protection, or any self-priming topcoat. Coatings that are defined as specialty coatings are not included under this definition.

"Touch-up and repair operation" means that portion of the coating operation that is incidental to the main coating process and is used to cover minor imperfections in the coating finish. Touch-up and repair operations are not to exceed an area of 4 square feet per aerospace vehicle.

"Type II etchant" or "Type II chemical milling etchant" means a chemical milling etchant that is a strong sodium hydroxide solution containing amines (Type I etchants do not contain amines).

e. Standards.

1. General Cleaning Operations. The owner or operator of an aerospace manufacturing and rework facility shall use good housekeeping measures for all cleaning operations at the facility. These measures include the following practices:

- i. Placing solvent-laden cloths or papers in closed containers immediately after use.
- ii. Storing fresh and used cleaning solvents in closed containers.
- iii. Minimizing losses during handling and transfer.

2. Hand-Wipe Cleaning Operations. No owner or operator of a hand-wipe cleaning operation subject to this Section, with the exception of those operations listed in paragraph (e)(2)(iii), shall cause or allow on any day the use of any cleaning solvent that does not comply with one of the following limits:

- i. Vapor pressure less than 45 millimeters (mm) mercury (Hg) (1.8 inches [in] Hg) at 20 degrees Celsius (°C) (68 degrees Fahrenheit [°F]).
- ii. VOC content of 200 grams per liter (g/L) (1.6 pounds per gallon [lb/gal]) or less, excluding water or

exempt compounds, as applied.

iii. The vapor pressure and VOC content limits in paragraphs (e)(2)(i) and (e)(2)(ii) of this Section do not apply to the following cleaning operations:

A. Cleaning during the manufacture, assembly, installation, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen.

B. Cleaning during the manufacture, assembly, installation, or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, hydrazine).

C. Cleaning and surface activation prior to adhesive bonding.

D. Cleaning of electronics and assemblies containing electronics.

E. Cleaning of aircraft fluid systems that are exposed to the fluid.

F. Cleaning of fuel cells, fuel tanks, and limited-access spaces.

G. Surface cleaning of solar cells, coated optics, and thermal control surfaces.

H. Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used on the interior of the aircraft.

I. Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components.

J. Cleaning of polycarbonate substrates.

K. Cleaning and solvent usage associated with production, research, development, quality control, and laboratory testing.

3. Spray-Gun Cleaning Operations.

i. No owner or operator of a spray-gun cleaning operation subject to this Section shall cause or allow on any day the use of any cleaning technique that does not include or is not equivalent to one of the following techniques:

A. Use of an enclosed spray-gun cleaning system that is kept closed when not in use.

B. Non-atomized discharge of solvent into a waste container that is kept closed when not in use.

C. Disassembly of the spray gun and placing the parts for cleaning in a vat that is kept closed when not in use.

D. Atomized spray into a waste container that is fitted with a device designed to capture atomized solvent emissions.

ii. Leaks from enclosed spray-gun cleaners must be repaired as soon as practicable, but no later than 15 days from when the leak is first discovered.

4. Flush Cleaning Operations. Spent cleaning solvents used during flush cleaning operations, with the exception of spray-gun cleaning, shall be emptied into an enclosed container or collection system that is kept closed when not in

use.

5. Primer and Topcoat Application Operations.

i. No owner or operator of a primer or topcoat application operation subject to this Section shall cause or allow on any day the application of any coating on that operation with a VOC content, as applied, that does not comply with one of the following emission limits:

A. VOC content equal or less than 350 g/L (2.9 lb/gal), excluding water and exempt compounds, as applied, from any primer application operation.

B. VOC content equal to or less than 420 g/L (3.5 lb/gal), excluding water and exempt compounds, as applied, from any topcoat application operation.

C. As an alternative to compliance with the emission limits in paragraphs (e)(5)(i)(A) and (e)(5)(i)(B) of this Section, an owner or operator may meet the requirements of paragraphs (d) or (e) of this Section.

ii. No owner or operator of a primer or topcoat application operation subject to this Section, with the exception of those operations listed in paragraph (e)(5)(iii), shall cause or allow on any day the use of any application technique other than flow coat, roll coat, brush coat, dip coat, electrostatic attraction, or HVLP spray guns. An alternate technique may be used if emissions are less than or equal to emissions from HVLP or electrostatic spray application techniques.

iii. The equipment standards in paragraph (e)(5)(ii) do not apply to the following application operations:

A. Any situation that normally requires the use of an extension on the spray gun to properly reach limited access spaces.

B. The application of coatings that contain fillers that adversely affect atomization with HVLP spray guns and cannot be applied by any of the specified application techniques.

C. The application of coatings that normally have a dried film thickness of less than 0.0005 inches and cannot be applied by any of the specified application techniques.

D. The use of airbrush application methods for stenciling, lettering, and other identification markings.

E. Touch-up and repair operations.

iv. All application equipment must be operated according to the manufacturer's specifications at all times, even if it is exempt from the equipment standards in paragraph (e)(5)(ii).

6. Depainting Operations. No owner or operator of a depainting operation subject to this Section shall cause or allow on any day the use of any stripper that does not comply with the following limits:

i. Vapor pressure of less than 10 mm Hg (0.4 in. Hg) at 20_C (68_F).

ii. VOC content of less than 400 g/L (3.3 lb/gal), excluding water and exempt compounds, as applied.

7. Chemical Milling Maskant Application Operations.

i. No owner or operator of a chemical milling maskant application operation subject to this Section shall cause or allow on any day the application of any maskant on that operation with a VOC content less than or equal to 160 g/L (1.3 lb/gal), excluding water and exempt compounds, as applied, from any maskant application operation.

ii. As an alternative to compliance with the emission limits in paragraph (e)(7)(i) of this Section, an owner or operator may meet the requirements of paragraphs (d) or (e) of this Section.

8. Waste Handling and Storage Operations.

i. The owner or operator of an aerospace facility shall handle and transfer VOC-containing waste to or from containers, tanks, vats, vessels, or piping systems in such a manner that minimizes spills.

ii. All VOC-containing waste shall be stored in closed containers.

iii. The requirements in paragraphs (e)(8)(i) and (e)(8)(ii) of this Section do not apply to wastes that are determined to be hazardous wastes under the Resource Conservation and Recovery Act of 1976 (PL 94-580) (RCRA), as implemented by 40 Code of Federal Regulations (CFR) Parts 260 and 261, and that are subject to RCRA requirements, as implemented in 40 CFR Parts 262 through 268.

d. Daily-Weighted Average Limitations. No owner or operator subject to this Section shall apply, during any day, coatings in any primer, topcoat, or chemical maskant application operation whose daily-weighted average VOC content, calculated in accordance with the procedure specified in Appendix "C" of Regulation 24 and the provisions listed below, exceeds the applicable emission limits in paragraphs (e)(5)(i)(A), (e)(5)(i)(B), and (e)(7)(i)(A) of this Section.

1. Averaging between topcoats, primers, and chemical maskants is prohibited.

2. Averaging between coatings used in operations where air emissions are not captured and controlled and coatings used in operations where air emissions are captured and controlled is prohibited.

e. Control Devices.

1. An owner or operator subject to this Section may comply with the applicable emission limits for any primer, topcoat, or chemical maskant application operation by:

i. Installing and operating a capture system on that operation.

ii. Installing and operating a control system on that operation.

iii. Demonstrating that the overall emission reduction efficiency achieved is greater than or equal to 81 weight percent.

2. An owner or operator of any primer, topcoat, or chemical maskant application operation subject to this Section shall use the mass balance calculation in Appendix "D" of Regulation 24 to demonstrate compliance with paragraph (e)(1)(iii) of this Section where carbon adsorption systems are used.

3. An owner or operator of any primer, topcoat, or chemical maskant application operation subject to this Section shall use the following procedures to demonstrate compliance with paragraph (e)(1)(iii) of this Section where control devices other than carbon adsorption systems are used:

- i. Procedures in Appendix "D" of Regulation 24 to determine capture efficiency for total enclosures.
- ii. Procedures in Appendix "D" and Appendix "E" of Regulation 24 to determine destruction efficiency.

f. Compliance Procedures:

1. An owner or operator of a spray gun application operation shall visually inspect spray gun cleaners for leaks at least once per month and comply with paragraph (e)(3)(ii). The inspection shall occur while the enclosed cleaner is in operation.

2. An owner or operator of a primer, topcoat, or maskant application operation subject to this Section shall monitor temperature, using a continuous recorder, to determine compliance if a capture system or control device that destroys VOCs (e.g., an incinerator) is used to comply with the emission limit in paragraph (e)(1)(iii) of this Section.

3. An owner or operator of a primer or topcoat application operation subject to this Section shall conduct a test to evaluate the performance of the application technique if an alternative application technique is used to comply with the equipment standard in paragraph (e)(5)(ii).

i. Emission levels shall be determined during an initial 90-day period using only HVLP or electrostatic spray application techniques.

ii. Emission levels shall be determined for the alternative application method for a period of time necessary to coat the equivalent amount of parts with the same coatings. Dried film thickness must be within specification for the initial 90-day period.

g. Test Methods:

1. Compliance with paragraphs (e)(2)(i) and (e)(6)(i) of this Section shall be achieved by applying ASTM Method E 260-91 or by using standard reference text values for determining the vapor pressure of solvents with multiple components.

2. The test methods found in Appendix "A" through Appendix "D" of Regulation 24 shall be used to determine compliance with paragraphs (e)(2)(ii), (e)(5)(i)(A), (e)(5)(i)(B), (e)(6)(ii), and (e)(7)(i) of this Section.

3. The method found in Appendix "I" of Regulation 24,

shall be used to determine an alternative multi-day rolling period when calculating the efficiency of carbon adsorption systems according to paragraph (e)(2).

h. Recordkeeping and Reporting for Cleaning Operations:

1. An owner or operator of a cleaning operation subject to this Section shall supply notification of compliance status annually on a calendar year basis to the Department, which shall include the following information:

i. Identification of each cleaning solvent used at the facility.

ii. A description of the procedures used to ensure that bags and containers are kept closed when not in use and that cleaning solvents are stored in closed containers.

iii. The vapor pressure test results of each cleaning solvent, or the reference text value.

iv. A description of all methods used to clean spray guns.

2. An owner or operator of a cleaning operation subject to this Section and complying with paragraph (e)(2) of this Section shall comply with the following requirements:

i. The owner or operator shall maintain at the facility for a period of 5 years the name, VOC content, composite vapor pressure, and monthly volume purchased of each cleaning solvent, and all supporting documentation, including any test reports and calculations.

ii. The owner or operator shall maintain at the facility for a period of 5 years the name and volume of each cleaning solvent that is used in an exempt cleaning operation, and the parts, assemblies, or subassemblies cleaned at these operations.

3. An owner or operator of a cleaning operation subject to this Section and complying with paragraph (e)(3) of this Section shall maintain at the facility for a period of 5 years a record of all leaks from spray gun cleaners, including source identification, the date the leak was discovered, and the date the leak was repaired.

4. An owner or operator of a cleaning operation subject to this Section shall submit an annual report for the previous calendar year, which includes the following information:

i. Notification of any non-compliance situations, including the names and volumes of any non-compliant solvents or cleaners used and of any leaks from enclosed spray gun cleaners that were not repaired within 15 days of detection.

ii. Names and compositions (or vapor pressures) of new solvents used for hand-wipe cleaning operations in the previous year.

iii. Names of previously reported cleaning solvents that are no longer in use at the facility.

i. Recordkeeping and Reporting for Application Operations:

1. An owner or operator of a primer, topcoat, or maskant

application subject to this Section shall supply notification of compliance status annually on a calendar-year basis to the Department, which shall include the following information:

i. Identification of the combination of compliant coatings, averaging, and control devices used at the facility.

ii. Identification of the operating parameters identified for continuous monitoring of control devices.

2. An owner or operator of a primer, topecoat, or maskant application operation subject to this Section shall comply with the following requirements:

i. An owner or operator complying with paragraphs (c)(5)(i)(A), (c)(5)(i)(B), or (c)(7)(i) of this Section by the use of compliant coatings shall comply with the recordkeeping requirements in Section 4 paragraph (c) of Regulation 24.

ii. An owner or operator complying with paragraphs (c)(5)(i)(A), (c)(5)(i)(B), or (c)(7)(i) of this Section by daily weighted averaging shall comply with the recordkeeping requirements in Section 4 paragraph (d) of Regulation 24.

iii. An owner or operator complying with paragraphs (c)(5)(i)(C) or (c)(7)(ii) of this Section by the use of control devices shall comply with the recordkeeping requirements in Section 4 paragraph (e) of Regulation 24.

3. An owner or operator of a primer, topecoat, or maskant application operation subject to this Section shall submit an annual report for the previous calendar year, which includes the following information:

i. Each exceedance of the VOC content level.

ii. Identification of new primers, topecoats, and maskants used at the facility in the previous year.

iii. Each exceedance by a control device, when the average values of the monitored parameter(s) fall outside the ranges established in the operating permit.

j. ~~Recordkeeping and Reporting for Depainting Operations.~~

1. An owner or operator of a depainting operation subject to this Section shall supply notification of compliance status annually on a calendar-year basis to the Department, which shall include the following information:

i. The name and VOC content of each stripper used at the facility to repaint aerospace vehicles.

ii. The vapor pressure test results of each stripper.

iii. A description of all non-chemical depainting methods.

iv. A description of all depainting methods to be used during periods of malfunction of non-chemical depainting methods.

2. An owner or operator of a depainting operation subject to this Section and complying with paragraph (c)(6) of this Section shall comply with the following requirements:

i. The owner or operator shall maintain at the

facility the name, VOC content, composite vapor pressure, and monthly volume purchased of each stripper, and all supporting documentation, including any test reports and calculations.

ii. The owner or operator shall maintain at the facility a list of the parts, assemblies, subassemblies, or radomes normally removed during depainting operations.

iii. The owner or operator shall maintain at the facility a description of the non-chemical depainting operations, including the name and type of equipment, and a description of all malfunctions, including dates and alternative depainting methods used.

3. An owner or operator of a depainting operation subject to this Section shall submit an annual report for the previous year, which includes the following information:

i. Names and compositions (or vapor pressures) of new or reformulated strippers used for depainting operations in the previous year.

ii. Names of previously reported cleaning solvents that are no longer in use at the facility.

iii. A description of any new non-chemical depainting techniques used in the previous year.

iv. A description of all malfunctions of non-chemical depainting operations, including dates and alternative depainting methods used in the previous year.

v. A list of any new parts, assemblies, or subassemblies normally removed during depainting operations from the previous year.

Section 10 - Aerospace Coatings

11/29/94 (revisions as of 04/25/02)

a. Applicability.

1. Except as provided for in (a)(2) and (a)(3), this Section applies to any owner or operator of any aerospace manufacturing or rework facility that conducts any of the following operation(s):

i. hand-wipe cleaning;

ii. spray gun cleaning;

iii. flush cleaning;

iv. primer, topcoat, self-priming topcoat, and specialty coating application;

v. the depainting of the outer surface of aerospace vehicles (except for depainting parts or units normally removed during depainting);

vi. Type I or Type II chemical milling maskant application; and

vii. VOC handling and storage.

2. Except for the requirements in paragraph (c)(8), this Section does not apply to the following operations in any aerospace manufacturing or rework facility:

i. Chemical milling;

ii. Metal finishing;

iii. Electrodeposition (except for the electro-

deposition of paints); and

iv. Composite processing operations (except for cleaning and coating of composite parts or components that become part of an Aerospace vehicle or component as well as composite tooling that comes in contact with such composite parts or components prior to cure).

3. The requirements of this Section do not apply to aerospace manufacturing or rework facilities whose plant-wide, actual emissions from the operations in paragraph (a)(1) without control devices are less than 6.8 kilograms (kg) (15 pounds [lbs]) of volatile organic compounds (VOCs) per day.

4. Existing sources affected by this Section shall comply with the provisions of this Section on and after the effective date of this Section, except for the requirements of paragraph (c)(6)(ii) and (c)(7). Existing sources affected by this Section shall comply with the requirements of paragraph (c)(6)(ii) and (c)(7) beginning as soon as practicable, but no later than the date one year after the effective date of this Section. New, modified, or reconstructed sources affected by this Section shall comply with the provisions of this Section on and after startup. Notwithstanding Section (1)(e) of Regulation 24, any owner or operator currently permitted under Regulation 2 and/or Regulation 30 to operate an aerospace manufacturing or rework facility shall submit to the Department an application to amend the current permit and to comply with the provisions of this Section, pursuant to Regulation 2 and/or Regulation 30, as applicable.

5. Any facility that becomes or is currently subject to the provisions of this Section by exceeding the applicability threshold in paragraph (a)(3) of this Section shall remain subject to these provisions even if its emissions later fall below the applicability threshold.

6. Any facility that is currently subject to a state or federal rule promulgated pursuant to the Clean Air Act Amendments of 1977 by exceeding an applicability threshold is and shall remain subject to these provisions, even if its throughput or emissions later fall below the applicability threshold.

b. Definitions. As used in this Section, all terms not defined herein shall have the meaning given them in the November 15, 1990 Clean Air Act Amendments (CAAA), or in Section 2 of Regulation 24 of the State of Delaware "Regulations Governing the Control of Air Pollution".

"Ablative coating" means a specialty coating that chars when exposed to open flame or extreme temperatures, as would occur during the failure of an engine casing or during aerodynamic heating. The ablative char surface serves as an insulation barrier, protecting adjacent components from the heat or open flame.

"Adhesion promoter" means a very thin specialty coating applied to a substrate to promote wetting and form a chemical bond with the subsequently applied material.

"Adhesive bonding" means the joining together of two or more metal parts, such as the parts of a honeycomb core. The surfaces to be bonded are first coated with an adhesive bonding primer to promote adhesion and protect from subsequent corrosion. Structural adhesives are applied as either a thin film or as a paste, and can be oven cured or cured in an autoclave.

"Adhesive bonding primer" means a specialty coating that is applied in a thin film to aerospace components for the purpose of corrosion inhibition and increased adhesive bond strength by attachment. There are two categories of adhesive bonding primers: primers with a design cure at 250oF or below and primers with a design cure above 250oF.

"Aerospace manufacturing or rework facility" means a commercial, civil, or military facility that produces in any amount an aerospace vehicle or component, or a commercial, civil, or military facility that reworks (or repairs) any aerospace vehicle or component.

"Aerospace vehicle or component" means any fabricated part, processed part, assembly of parts, or completed unit of any aircraft including, but not limited to, airplanes, helicopters, missiles, rockets, and space vehicles.

"Aircraft fluid system" means those systems that handle hydraulic fluids, fuel, cooling fluids, or oils.

"Aircraft transparency" means the aircraft windshield, canopy, passenger windows, lenses and other components that are constructed of transparent materials.

"Antichafe coating" means a coating applied to areas of moving aerospace components that may rub during normal operations or installation.

"Bearing coating" means a specialty coating applied to an antifriction bearing, a bearing housing, or the area adjacent to such a bearing in order to facilitate bearing function or to protect base material from excessive wear. A material shall not be classified as a bearing coating if it can also be classified as a dry lubricative material or a solid film lubricant.

"Bonding maskant" means a temporary specialty coating used to protect selected areas of aerospace parts from strong acid or alkaline solutions during processing for bonding.

"Brush coating" means the application of a coating material to a substrate by means of a brush (this technique is commonly used for touch-up and maskant operations).

"Caulking and smoothing compounds" means semi-solid specialty coating materials which are applied by hand application methods and are used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses. A material shall not be classified as a caulking and smoothing compound if it can also be classified as a sealant.

"Chemical agent-resistant coating (CARC)" means an exterior topcoat; specialty coating designed to withstand

exposure to chemical warfare agents or the decontaminants used on these agents.

"Chemical milling" means a process used to reduce the thickness of selected areas of metal parts in order to reduce weight by submerging the metal parts in an etchant.

"Chemical milling maskant" means a coating that is applied directly to aluminum components to protect surface areas when chemically milling the component with a Type I or II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants, and seal coat maskants. Additionally, maskants that must be used with a combination of Type I or II etchants and any of the above types of maskants (i.e., bonding, critical use and line sealer, and seal coat) are not included.

"Chemical milling maskant application" means the use of spray equipment or a dip tank to apply a Chemical milling maskant, prior to chemically milling the component with a Type I or II etchant.

"Cleaning operation" means collectively spray gun, hand-wipe, and flush cleaning operations.

"Cleaning solvent" means a liquid VOC containing material used for hand-wipe, spray gun, or flush cleaning.

"Clear coating" means a transparent coating applied to any substrate.

"Coating" means a material that is applied to the surface of an aerospace vehicle or component to form a decorative, protective, or functional solid film, or the solid film itself.

"Coating operation" means the use of a spray booth, tank, or other enclosure or area, such as a hangar, for the application of a single type of coating (e.g., primer); the use of the same spray booth for the application of another type of coating (e.g., topcoat) constitutes a separate coating operation for which compliance determinations are performed separately.

"Commercial exterior aerodynamic structure primer" means a specialty coating primer used on aerodynamic components and structures that protrude from the fuselage, such as wings and attached components, control surfaces, horizontal stabilizers, vertical fins, wing-to-body fairings, antennae, and landing gear and doors, for the purpose of extended corrosion protection and enhanced adhesion.

"Commercial interior adhesive" means specialty coating materials used in the bonding of passenger cabin interior components that meet the FAA fireworthiness requirements.

"Compatible substrate primer" means a specialty coating that is either a compatible epoxy primer or an adhesive primer. Compatible epoxy primer is primer that is compatible with the filled elastomeric coating and is epoxy based. The compatible substrate primer is an

epoxy-polyamide primer used to promote adhesion of elastomeric coatings such as impact-resistant coatings. Adhesive primer is a coating that (1) inhibits corrosion and serves as a primer applied to bare metal surfaces or prior to adhesive application, or (2) is applied to surfaces that can be expected to contain fuel. Fuel tank coatings are excluded from this category.

"Composite processing operations" include layup, thermal forming, debulking, curing, break-out, compression molding, and injection molding. Layup means the process of assembling the layers of the composite structure by positioning composite material in a mold and impregnating the material with a resin. Thermal forming means the process of forming the layup in a mold, which usually takes place in an autoclave. Debulking means the simultaneous application of low-level heat and pressure to the composite structure to force out excess resin, trapped air, vapor, and volatiles from between the layers of the composite structure. Curing means the process of changing the resin into a solid material through a polymerization reaction. Break-out means the removal of the composite structure from the mold or curing fixtures. Compression molding means the process of filling one half of molds with a molding compound, closing the mold, and applying heat and pressure until the material is cured. Injection molding means the use of a closed mold, where the molding compound is injected into the mold, maintained under pressure, and then cured by applying heat.

"Corrosion prevention system" means a coating system that provides corrosion protection by displacing water and penetrating mating surfaces, forming a protective barrier between the metal surface and moisture. Coatings containing oils or waxes are excluded from this category.

"Critical use line and sealer maskant" means a temporary specialty coating, not covered under other maskant categories, used to protect selected areas of aerospace parts from strong acid or alkaline solutions such as those used in anodizing, plating, chemical milling and processing of magnesium, titanium, or high-strength steel, high-precision aluminum chemical milling of deep cuts, and aluminum chemical milling of complex shapes. Materials used for repairs or to bridge gaps left by scribing operations (i.e., line sealer) are also included in this category.

"Cryogenic flexible primer" means a specialty coating primer designed to provide corrosion resistance, flexibility, and adhesion of subsequent coating systems when exposed to loads up to and surpassing the yield point of the substrate at cryogenic temperatures (-275oF and below).

"Cryoprotective coating" means a specialty coating that insulates cryogenic or subcooled surfaces to limit propellant boil-off, maintain structural integrity of metallic structures during ascent or re-entry, and prevent ice formation.

"Cyanoacrylate adhesive" means a fast-setting, single

component specialty coating adhesive that cures at room temperature. Also known as "super glue."

"Depainting" means the removal of any coating from the outer surface of an aerospace vehicle or component by either chemical or non-chemical means.

"Depainting operation" means the use of a chemical agent, media blasting, or any other technique to remove coatings from the outer surface of aerospace vehicles or components. The depainting operation includes washing of the aerospace vehicle or component to remove residual stripper and coating residue.

"Dip coating" means the application of a coating material to a substrate by dipping the part into a tank of the coating material.

"Dry lubricative material" means a specialty coating consisting of lauric acid, cetyl alcohol, waxes, or other noncross linked or resin-bound materials that act as a dry lubricant.

"Electric or radiation-effect coating" means a specialty coating or coating system engineered to interact, through absorption or reflection, with specific regions of the electromagnetic energy spectrum, such as the ultraviolet, visible, infrared, or microwave regions. Uses include, but are not limited to, lightning strike protection, electromagnetic pulse (EMP) protection, and radar avoidance. Coatings that have been designated as "classified" by the Department of Defense are exempt.

"Electrodeposition" means an additive process for metal substrates in which another metal layer is added to the substrate in order to enhance corrosion and wear resistance necessary for the successful performance of the component. The two types of electrodeposition typically used are electroplating and plasma arc spraying.

"Electrostatic discharge and electromagnetic interference (EMI) coating" means a specialty coating applied to space vehicles, missiles, aircraft radomes, and helicopter blades to disperse static energy or reduce electromagnetic interference.

"Electrostatic spray" means a method of applying a spray coating in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate by the electrostatic potential between them.

"Elevated-temperature Skydrol-resistant commercial primer" means a specialty coating primer applied primarily to commercial aircraft (or commercial aircraft adapted for military use) that must withstand immersion in phosphate-ester (PE) hydraulic fluid (Skydrol 500b or equivalent) at the elevated temperature of 150oF for 1,000 hours.

"Epoxy polyamide topcoat" means a specialty coating used where harder films are required or where engraving is accomplished in camouflage colors.

"Etchant" means a chemical used to mill a part or

subassembly (e.g., sodium hydroxide for aluminum parts).

"Exempt solvent" means an organic compound that has been determined to have negligible photochemical reactivity, as specified, and is defined in Regulation 24, Section 2 under "exempt compounds."

"Fire-resistant (interior) coating" means for civilian aircraft, fire-resistant interior specialty coatings used on parts that are subject to the flammability requirements of MIL-STD-1630A and MIL-A-87721. For space applications, these specialty coatings are used on parts that are subject to the flammability requirements of SE-R-0006 and SSP 30233.

"Flexible primer" means a specialty coating primer that meets flexibility requirements such as those needed for adhesive bond primed fastener heads or on surfaces expected to contain fuel. The flexible coating is required because it provides a compatible, flexible substrate over bonded sheet rubber and rubber-type coatings as well as a flexible bridge between the fasteners, skin, and skin-to-skin joints on outer aircraft skins. This flexible bridge allows more topcoat flexibility around fasteners and decreases the chance of the topcoat cracking around the fasteners. The result is better corrosion resistance.

"Flow coating" means the application of a coating material to a substrate by pouring the coating over the suspended part.

"Flush cleaning" means the cleaning of an aerospace vehicle or component by passing solvent over, into, or through the vehicle or component. The solvent may simply be poured into the vehicle or component and then drained, or assisted by air or hydraulic pressure, or by pumping. Hand-wipe cleaning operations where wiping, scrubbing, mopping, or other hand action is used are not flush cleaning operations.

"Formulation" means a specific coating made by a specific manufacturer. Each different color of a specific coating is considered a separate formulation.

"Fuel tank adhesive" means a specialty coating adhesive used to bond components exposed to fuel which shall be compatible with fuel tank coatings.

"Fuel tank coating" means a specialty coating applied to fuel tank components for the purpose of corrosion and/or bacterial growth inhibition, and to assure sealant adhesion in extreme environmental conditions.

"Hand-wipe cleaning operation" means the removal of contaminants such as dirt, grease, oil, and coatings from aerospace vehicles or components by physically rubbing them with a material such as a rag, paper, or cotton swab that has been moistened with a cleaning solvent.

"High temperature coating" means a specialty coating designed to withstand temperatures of more than 350oF.

"High volume low pressure (HVLP) spray equipment" means spray equipment that is used to apply coatings using a spray gun that operates at equal to or less

than 10.0 psig of atomized air pressure at the air cap.

"Insulation covering" means a specialty coating material that is applied to foam insulation to protect the insulation from mechanical or environmental damage.

"Intermediate release coating" means a thin specialty coating applied beneath topcoats to assist in removing the topcoat in depainting operations, which generally allows the use of less hazardous depainting methods.

"Lacquer" means a clear or pigmented specialty coating formulated with a nitrocellulose or synthetic resin to dry by evaporation without a chemical reaction. Lacquers are resolvable in their original solvent.

"Leak" means any visible leakage, including misting and clouding.

"Limited access space" means internal surfaces or passages of an aerospace vehicle or component that cannot be reached for the application of coatings without the aid of an airbrush or a spray gun extension.

"Metal finishing" means conversion coating, anodizing, desmutting, descaling, and any operation that chemically affect the surface layer of a part, and is used to prepare the surface of a part for better adhesion, improved surface hardness, and improved corrosion resistance.

"Metalized epoxy coating" means a specialty coating that contains relatively large quantities of metallic pigmentation for appearance and/or added protection.

"Mold release" means a specialty coating applied to a mold surface to prevent the molded piece from sticking to the mold as it is removed.

"Non-chemical-based depainting equipment" means any depainting equipment or technique that does not rely on a chemical stripper to depaint an aerospace vehicle or component (e.g., media blasting equipment).

"Nonstructural adhesive" means a specialty coating adhesive that bonds nonload bearing aerospace components in noncritical applications and is not covered in any other specialty adhesive categories.

"Part marking coating" means a specialty coating or ink used to make identifying markings on materials, components, and/or assemblies. These markings may be either permanent or temporary.

"Pretreatment coating" means an organic specialty coating that contains at least 0.5 percent acids by weight and is applied directly to metal or composite surfaces to provide surface etching, corrosion resistance, adhesion, and ease of stripping.

"Primer" means the first layer and any subsequent layers of identically formulated coating applied to the surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, environment protection, functional fluid resistance, and adhesion promotion of subsequent coatings. Primers that are defined as specialty coatings are not included under this definition.

"Radome" means the non-metallic protective housing

for electromagnetic transmitters and receivers (e.g., radar, electronic countermeasures, etc.).

"Rain erosion-resistant coating" means a specialty coating or coating system used to protect the leading edges of parts such as flaps, stabilizers, radomes, engine inlet nacelles, etc. against erosion caused by rain impact during flight.

"Research and development" means an operation whose primary purpose is for research and development of new processes and products and that is conducted under the close supervision of technically trained personnel and is not involved in the manufacture of final or intermediate products for commercial purposes, except in a de minimis manner.

"Rocket motor bonding adhesive" means a specialty coating adhesive used in rocket motor bonding applications.

"Rocket motor nozzle coating" means a catalyzed epoxy specialty coating system used in elevated temperature applications on rocket motor nozzles.

"Rubber-based adhesive" means a quick setting, specialty coating contact cement that provides a strong, yet flexible bond between two mating surfaces that may be of dissimilar materials.

"Scale inhibitor" means a specialty coating that is applied to the surface of a part prior to thermal processing to inhibit the formation of scale.

"Screen print ink" means a specialty coating ink used in screen printing processes during fabrication of decorative laminates and decals.

"Sealant" means a specialty coating material used to prevent the intrusion of water, fuel, air, or other liquids or solids from certain areas of aerospace vehicles or components. There are two categories of sealants: extrudable/rollable/brushable sealants and sprayable sealants.

"Seal coat maskant" means a specialty coating overcoat applied over a maskant to improve abrasion and chemical resistance during production operations.

"Self-priming topcoat" means a coating that is applied directly to an Aerospace vehicle or component for purposes of corrosion protection, environmental protection, and functional fluid resistance and that is not subsequently topcoated. More than one layer of identical coating formulation may be applied to the aerospace vehicle or component. Self-priming topcoats that are defined as specialty coatings are not included under this definition.

"Silicone insulation material" means an insulating specialty coating material applied to exterior metal surfaces for protection from high temperatures caused by atmospheric friction or engine exhaust. These materials differ from ablative coatings in that they are not "sacrificial."

"Solids" means the nonvolatile portion of the coating that after drying makes up the dry film.

"Solid film lubricant" means a very thin specialty coating consisting of a binder system containing as its main

pigment material one or more of the following: molybdenum, graphite, polytetrafluoroethylene (PTFE), or other solids that act as a dry lubricant between faying (i.e., closely or tightly fitting) surfaces.

"Space vehicle" means a man-made device, either manned or unmanned, designed for operation prototypes, molds, jigs, tooling, hardware jackets, and test coupons. Also included is auxiliary equipment associated with test, transport, and storage that through contamination can compromise the space vehicle performance.

"Specialty coating" means a coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection. A specialty coating is any coating listed in Table 7-1 and defined in paragraph (b) of this Section.

"Specialized function coating" means a specialty coating that fulfills extremely specific engineering requirements that are limited in application and are characterized by low volume usage. This category excludes coatings covered in other Specialty Coating categories.

"Spray gun" means a device that uses air pressure or air flow to atomize a coating or other material, and to project the atomized coating particulates or other material onto a component.

"Stripper" means a liquid that is applied to an aerospace vehicle or component to remove primer, topcoat, self-priming topcoat, or coating residue.

"Structural autoclavable adhesive" means a specialty coating adhesive used to bond load-carrying aerospace components that are cured by heat and pressure in an autoclave.

"Structural nonautoclavable adhesive" means a specialty coating adhesive cured under ambient conditions that is used to bond load-carrying aerospace components or other critical functions, such as nonstructural bonding in the proximity of engines.

"Surface preparation" means the removal of contaminants from the surface of an aerospace vehicle or component, or the activation or reactivation of the surface in preparation for the application of a coating.

"Temporary protective coating" means a specialty coating applied to provide scratch or corrosion protection during manufacturing, storage, or transportation. Two types include peelable protective coatings and alkaline removable coatings. These materials are not intended to protect against strong acid or alkaline solutions. Coatings that provide this type of protection from chemical processing are not included in this category.

"Thermal control coating" means a specialty coating formulated with specific thermal conductive or radiative properties to permit temperature control of the substrate.

"Topcoat" means a coating that is applied over a primer on an aerospace vehicle or component for appearance, identification, camouflage, or protection. Topcoats that are defined as specialty coatings are not included under this definition.

"Touch-up and repair coating" means a coating used to cover minor coating imperfections appearing after the main coating operation.

"Touch-up and repair operation" means that portion of the coating operation that is the incidental application of coating used to cover minor imperfections in the coating finish or to achieve complete coverage. This definition includes out-of-sequence or out-of-cycle coating. Touch-up and repair operations are not to exceed an area of 4 square feet per aerospace vehicle.

"Type II etchant" or "Type II chemical milling etchant" means a Chemical milling etchant that is a strong sodium hydroxide solution containing amines (Type I etchants do not contain amines).

"Volatile Organic Compound (VOC)" means any compound defined as VOC in Regulation 24, Section 2 - Definitions.

"VOC composite vapor pressure" means the sum of the partial pressures of the compounds defined as VOC's and is determined by the following calculation:

$$PP_c = \frac{\sum_{i=1}^n \frac{(W_i)(VP_i)}{MW_i}}{\frac{W_w}{MW_w} + \sum_{e=1}^n \frac{W_e}{MW_e} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

W_i ≡ Weight of the "i"th VOC compound, grams

W_w ≡ Weight of water, grams

W_e ≡ Weight of nonwater, non-VOC compound, grams

MW_i ≡ Molecular weight of the "i"th VOC compound, g/g-mole

MW_w ≡ Molecular weight of water, g/g-mole

MW_e ≡ Molecular weight of exempt compound, g/g-mole

PP_c ≡ VOC composite partial pressure at 20oC, mm Hg

VP_i ≡ Vapor pressure of the "i"th VOC compound at 20oC, mm Hg

"Wet fastener installation coating" means a specialty coating primer or sealant applied by dipping, brushing, or

daubing to fasteners that are installed before the coating is cured.

"Wing coating" means a corrosion-resistant specialty coating topcoat that is resilient enough to withstand the flexing of the wings.

c. Standards.

1. Hand-Wipe Cleaning Operations.

i. Except as exempted in paragraph (c)(1)(ii), no person subject to this Section shall cause or allow on any day the use of any cleaning solvent in any hand-wipe cleaning operation that does not comply with one of the following limits:

A. VOC composite vapor pressure should be less than 45 millimeters (mm) mercury (Hg) (1.8 inches [in] Hg) at 20 degrees Celsius ((C) (68 degrees Fahrenheit [(F)).

B. Cleaning solvent shall be an aqueous cleaning solvent (i.e., a solvent in which water is at least 80 percent of the solvent, as applied).

ii. The requirements of paragraphs (c)(1)(i) of this Section shall not apply to the following hand-wipe cleaning operations:

A. Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen.

B. Cleaning during the manufacture, assembly, installation, maintenance, or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, and hydrazine).

C. Cleaning and surface activation prior to adhesive bonding.

D. Cleaning of electronics and assemblies containing electronics.

E. Cleaning of aircraft fluid system and ground support equipment fluid systems that are exposed to the fluid, including air-to-air heat exchangers and hydraulic fluid systems.

F. Cleaning of fuel cells, fuel tanks, and limited-access spaces.

G. Surface cleaning of solar cells, coated optics, and thermal control surfaces.

H. Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used on the interior of the aircraft.

I. Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components.

J. Cleaning of aircraft transparencies.

K. Cleaning associated with research and development, quality control, and laboratory testing.

2. Spray Gun Cleaning Operations.

i. No person subject to this Section shall cause or allow on any day the use of any spray gun cleaning techniques that does not comply with one of the following:

A. Use of an enclosed spray gun cleaning system that is kept closed when not in use.

B. Non-atomized discharge of solvent into a waste container that is kept closed when not in use.

C. Disassembly of the spray gun and placing the parts for cleaning in a vat that is kept closed when not in use.

D. Atomized spray into a waste container that is fitted with a device that captures atomized solvent emissions.

E. Any alternative technique that has been demonstrated to, and accepted by the Department as producing emissions that are equal to or less than the emissions from the techniques specified in paragraph (c)(2)(i)(A) through (D) of this Section. Emissions from any alternative technique shall be demonstrated pursuant to test protocols that are approved in advance by the Department.

ii. Any enclosed spray gun cleaner shall be visually inspected for leaks at least once per month. Such inspection shall occur while the enclosed spray gun cleaner is in operation.

iii. Leaks from any enclosed spray gun cleaner shall be repaired as soon as practicable, but no later than 15 days from when the leak is first discovered.

iv. If any leak is not repaired by the 15th day after detection, the solvent shall be removed and the enclosed cleaner shall be shut down until the leak is repaired.

3. Flush Cleaning. Any cleaning solvents used during flush cleaning operations shall be handled pursuant to paragraph (c)(8) of this Section.

4. Primer, Topcoat, and Self-Priming Topcoat Application.

i. Except as provided for in paragraph (c)(4)(ii), (d) and (e) of this Section, no person subject to this Section shall cause or allow on any day the application of any primer, topcoat, and/or self-priming topcoat with a VOC content that does not comply with the following limits:

A. Primers shall have a VOC content equal to or less than 350 g/L (2.9 lb/gal), excluding water and exempt compounds, as applied.

B. Topcoats and self-priming topcoats shall have a VOC content equal to or less than 420 g/L (3.5 lb/gal), excluding water and exempt compounds, as applied.

ii. The requirements of paragraphs (c)(4)(i)(B) of this Section shall not apply to facilities that use less than 50 gallons per consecutive rolling 12-month period of a particular formulation of topcoat, or self-priming topcoat provided:

A. Each topcoat and self-priming topcoat shall have a VOC content equal to or less than 720 g/L (6.0

lb/gal), excluding water and exempt compounds as applied.

B. A total of not more than 200 gallons per consecutive rolling 12-month period of all such high VOC coatings are used at the facility.

iii. Except as provided for in paragraph (c)(4)(iv) of this Section, no person subject to this Section shall cause or allow on any day the use of any application technique to apply any primer, topcoat, or self-priming topcoat other than the following:

A. flow/curtain coat, roll coat, brush coat, dip coat, cotton-tip swab application, electrostatic spray, electrodeposition, or high volume low pressure (HVLP) spray guns;

B. Any alternate technique that has been demonstrated to and accepted by the Department as providing emissions that are less than or equal to the emissions from HVLP or electrostatic spray application techniques. Emissions from any alternate techniques shall be demonstrated pursuant to test protocols that are approved in advance by the Department. Such tests shall, at a minimum, compare the emission levels determined using an initial 90-day period of HVLP or electrostatic spray attraction techniques with the emission levels determined using the alternate technique for a period of time necessary to coat the equivalent amount of parts with the same coatings.

iv. The equipment standards and application techniques in paragraph (c)(4)(iii) of this Section shall not apply to the following primer, topcoat and self-priming topcoat application operations:

A. The application of coatings in any limited access space.

B. The application of coatings that contain fillers that adversely affect atomization with HVLP spray guns and cannot be applied by any of the application techniques specified in paragraph (c)(4)(iii) of this Section.

C. The application of coatings that normally have a dried film thickness of less than 0.0005 inches and

cannot be applied by any of the application techniques specified in paragraph (c)(4)(iii) of this Section.

D. The use of airbrush application methods for stenciling, lettering, and other identification markings.

E. Any touch-up and repair operation.

v. All application equipment shall be operated according to the manufacturer's specifications at all times, even if it is exempt from the equipment standards specified in paragraph (c)(4)(iii) of this Section.

5. Depainting Operation. No person subject to this Section shall cause or allow on any day the use of any stripper that does not comply with one of the following limits:

i. VOC composite vapor pressure shall be less than 10 mm Hg (0.4 in. Hg) at 20(C (68(F).

ii. VOC content shall be less than 400 g/L (3.3 lb/gal), excluding water and exempt compounds, as applied.

6. Chemical Milling Maskant Application.

Except as provided for in paragraph (d) or (e) of this Section, no person subject to this Section shall cause or allow on any day the application of any chemical milling maskant with a VOC content that does not comply with the following emission limits:

i. For any Type I maskant, VOC content equal or less than 622 g/L (5.2 lbs/gal), excluding water and exempt compounds, shall be applied; or

ii. For any Type II maskant, VOC content equal or less than 160 g/L (1.3 lbs/gal), excluding water and exempt compounds, shall be applied.

7. Specialty Coatings

Except as provided for in paragraph (d) or (e) of this Section, no person subject to this Section shall cause or allow on any day the application of any specialty coating that has a VOC content, excluding water and exempt compounds, as applied, that is greater than the limits specified in Table 7-1:

Coating Type	Limit	Coating Type	Limit
<u>Ablative Coating</u>	<u>600</u>	<u>Epoxy Polyamide Topcoat</u>	<u>660</u>
<u>Adhesives:</u>	<u>760</u>	<u>Fire-Resistant (interior) Coating</u>	<u>800</u>
<u>Commercial Interior Adhesive</u>	<u>1,020</u>	<u>Flexible Primer</u>	<u>640</u>
<u>Cyanoacrylate Adhesive</u>	<u>620</u>	<u>Flight-Test Coatings: Missile or Single Use Aircraft</u>	<u>420</u>
<u>Fuel Tank Adhesive</u>	<u>360</u>	<u>All other</u>	<u>840</u>
<u>Nonstructural Adhesive</u>	<u>890</u>	<u>Fuel-Tank Coating</u>	<u>720</u>
<u>Rocket Motor Bonding Adhesive</u>	<u>850</u>	<u>High-Temperature Coating</u>	<u>850</u>
<u>Rubber-based Adhesive</u>	<u>60</u>	<u>Insulation Covering</u>	<u>740</u>
<u>Structural Autoclavable Adhesive</u>	<u>850</u>	<u>Intermediate Release Coating</u>	<u>750</u>
<u>Adhesion promoter</u>	<u>890</u>	<u>Lacquer</u>	<u>830</u>
<u>Adhesive Bonding Primers:</u>	<u>850</u>		
<u>Cured at 250°F or below</u>	<u>1,030</u>		
<u>Cured above 250°F</u>			

PROPOSED REGULATIONS

<u>Antichafe coating</u>	660	Maskants (excluding Type I and Type II): <u>Bonding maskant</u> <u>Critical Use and Line Sealer Maskant</u> <u>Seal Coat Maskant</u>	1,230 1,020 1,230
<u>Bearing coating</u>	620	<u>Pretreatment Coating</u>	780
<u>Caulking and smoothing compounds</u>	850	<u>Rain Erosion-Resistant Coating</u>	850
<u>Chemical Agent-Resistant Coating</u>	550	<u>Rocket Motor Nozzle Coating</u>	660
<u>Clear Coating</u>	720	<u>Scale Inhibitor</u>	880
<u>Commercial exterior aerodynamic structure primer</u>	650	<u>Screen Print Ink</u>	840
<u>Compatible Substrate Primer</u>	780	<u>Sealants:</u> <u>Extrudable/Rollable/Brushable Sealant</u> <u>Sprayable Sealant</u>	280 600
<u>Corrosion Prevention Compound</u>	710	<u>Silicone Insulation Material</u>	850
<u>Cryogenic Flexible Primer</u>	645	<u>Solid Film Lubricant</u>	880
<u>Cryoprotective Coating</u>	600	<u>Specialized Function Coating</u>	890
<u>Dry Lubricative Material</u>	880	<u>Temporary Protective Coating</u>	320
<u>Electric or Radiation-Effect Coating</u>	800	<u>Thermal Control Coating</u>	800
<u>Electrostatic Discharge and Electromagnetic Interference (EMI) Coating</u>	800	<u>Wet Fastener Installation Coating</u>	675
<u>Elevated-Temperature Skydrol-Resistant Commercial Primer</u>	740	<u>Wing Coating</u>	850

a Coating limits expressed in terms of mass (grams) of VOC per volume (liters) of coating less water and less exempt solvent. To convert from g/L to lbs/gallon multiply by 0.00835.

8. VOC Handling and Storage.

i. Except as provided in paragraph (c)(8)(ii) of this Section, any person subject to this Section shall use good house keeping measures when handling any VOC and any VOC-containing material at the facility. Such measures shall include:

A. Handling and transferring all fresh and spent cleaning solvent and other VOC-containing material to or from any container, tank, vat, vessel, or piping system, etc. in such a manner that minimizes losses.

B. All fresh and spent solvents and VOC-containing material shall be stored in closed containers at all times except during filling or emptying.

C. All solvent-laden cloths, papers, or other absorbent materials shall be placed in closed containers immediately after use.

ii. The requirements in paragraph (c)(8)(i) of this Section shall not apply to wastes that are determined to be hazardous wastes under the Resource Conservation and Recovery Act of 1976 (PL 94-580) (RCRA), as implemented by 40 Code of Federal Regulations (CFR) Parts 260 and 261, and that are subject to RCRA requirements, as implemented in 40 CFR Parts 262 through 268.

d. Daily-Weighted Average Limitations. As an alternative to complying with the individual limits specified in paragraphs (c)(4)(i)(A), (c)(4)(i)(B), (c)(6)(i), (c)(6)(ii), and (c)(7) of this Section, coatings in any primer, topcoat, chemical milling maskant, or specialty coating application operation shall not be applied at the facility, during any day, whose daily-weighted average VOC content, calculated in accordance with the procedure specified in Appendix "C" of Regulation 24 and the provisions listed below, exceeds the applicable emission limits in paragraphs (c)(4)(i)(A), (c)(4)(i)(B), (c)(6)(i), (c)(6)(ii), and (c)(7) of this Section, as applicable.

1. Averaging between primers, topcoats, self-priming topcoats, chemical milling maskants and/or specialty coatings is prohibited.

2. Averaging between coatings used in operations where air emissions are not captured and controlled and coatings used in operations where air emissions are captured and controlled is prohibited.

e. Control Devices.

1. As an alternative to complying with the individual limits specified in paragraph (c)(4)(i)(A), (c)(4)(i)(B), (c)(6)(i), (c)(6)(ii), and (c)(7), any person subject to this Section shall, for any primer, topcoat, self-priming topcoat, chemical milling maskant, and/or specialty coating application operation:

i. Install, test, calibrate, operate, maintain, and monitor according to the manufacturer's specifications, as

approved by the Department, an air pollution control device consisting of a capture and control system on that operation; and

ii. Demonstrate that the overall emission reduction efficiency achieved is equal to or greater than 81 weight percent.

2. The procedures in Appendix "D" and Appendix "E" of Regulation 24 shall be used to demonstrate compliance with paragraph (e)(1)(ii) of this Section. The method in Appendix "I" of Regulation 24 may be used to determine an alternative multi-day rolling period when calculating the efficiency of any carbon absorption system.

f. Test Methods.

1. The VOC composite vapor pressure specified in paragraph (c)(1)(i)(A) and paragraph (c)(5)(i) of this Section shall be determined either by using ASTM Method E 260-91, manufacturer's supplied data, or standard engineering reference text values.

2. The water content specified in paragraph (c)(1)(i)(B) of this Section shall be determined using the test methods found in Appendix "A" and Appendix "B" of Regulation 24.

3. The VOC content specified in paragraph (c)(4)(i)(A) and (c)(4)(i)(B) shall be determined by using the test method found in Appendix "A" and Appendix "B" of Regulation 24.

g. Recordkeeping. Any person subject to this Section shall maintain at the facility for a minimum period of 5 years from the information's date of record, all of the following information. Such information shall be immediately submitted to the Department upon written or verbal request.

1. For any person subject to the requirements of paragraph (c)(1) of this Section (i.e., hand-wipe cleaning operations):

i. Identification of each hand-wipe cleaning solvent used at the facility;

ii. The composite vapor pressure of each hand-wipe cleaning solvent complying with paragraph (c)(1)(i)(A), and all supporting documentation, to include any test reports and/or calculations.

iii. The water content of each hand-wipe cleaning solvent complying with paragraph (c)(1)(i)(B), and all supporting documentation, to include any test reports and/or calculations.

iv. Identification of each hand-wipe cleaning solvent used at the facility pursuant to paragraph (c)(1)(ii) of this Section, and a list of the parts, assemblies, or subassemblies cleaned with each such hand-wipe cleaning solvent.

2. For any person subject to paragraph (c)(2) of this Section (i.e., spray gun cleaning):

i. A description of each method used to clean

spray guns.

ii. Records of the inspections conducted pursuant to paragraph (c)(2)(ii)(A).

iii. For any leak found pursuant to paragraph (c)(2)(ii)(A), records indicating the source of the leak, the date the leak was discovered, and the date the leak was repaired.

3. For any person subject to paragraph (c)(4) of this Section (i.e., primer, topcoat, and self-priming topcoat application):

i. For each coating applied pursuant to paragraph (c)(4)(ii) of this Section.

A. Not later than the 5th day of each month, identification of each coating used at the facility pursuant to paragraph (c)(4)(ii) of this Section during the preceding month.

B. The volume used of each coating identified in paragraph (g)(3)(i)(A) of this Section.

C. The summation of the volumes recorded pursuant to paragraph (g)(3)(i)(B) for the preceding twelve (12) months.

D. The records required by paragraph (e) of Section 4 of Regulation 24.

ii. A description of the proper operation of all coating application equipment used at the facility.

iii. Documentation associated with any alternate coating application techniques approved pursuant to paragraph (c)(4)(iii)(B) of this Section.

4. For any person subject to paragraph (c)(4), (c)(6), and (c)(8) of this Section (i.e., primer, topcoat, self-priming topcoat, chemical milling maskant, and specialty coating application):

i. Identification of the control strategy employed (i.e., the combination of complying coatings, daily-weighted averaging, and control devices used at the facility).

ii. Where complying coatings are used, the records required by paragraph (c) of Section 4 of Regulation 24.

iii. Where daily-weighted averaging pursuant to paragraph (d) of this Section is used, the records required by paragraph (d) of Section 4 of Regulation 24.

iv. Where a control device(s) pursuant to paragraph (e) of this Section is used, the records required by paragraph (e) of Section 4 of Regulation 24.

5. For any person subject to paragraph (c)(5) of this Section:

i. If complying with paragraph (c)(5)(i), the name, VOC composite vapor pressure, and method and supporting documentation used to determine the VOC composite vapor pressure of each stripper used at the facility.

ii. If complying with paragraph (c)(5)(ii), the name, VOC content, and method and supporting documentation used to determine the VOC content of each

stripper used at the facility.

iii. A description of any non-chemical-based depainting equipment used at the facility, to include the name and type of equipment or technique.

iv. Records and a description of all malfunctions of non-chemical-based depainting equipment used at the facility, to include the dates and alternative depainting method(s) used.

v. A list of any parts, assemblies, or subassemblies normally removed during depainting operations.

6. For any person subject to paragraph (c)(8) of this Section, a description of the procedures used to ensure that containers are kept closed when not in use and that solvents and other VOC-containing materials are stored in closed containers.

h. Reporting. Notification of any non-compliance with any requirement of this Section shall be reported to the Department in accordance with Section 4 and 5 of Regulation 24, as applicable and any other applicable Federal or State reporting requirements.

DIVISION OF AIR AND WASTE MANAGEMENT

AIR QUALITY MANAGEMENT SECTION

Statutory Authority: 7 Delaware Code, Chapter 60
(7 Del. C. Ch. 60)

SAN # 2000-12

1. TITLE OF THE REGULATIONS:

“Reporting of a Discharge of a Pollutant or an Air Contaminant”

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Department is proposing to amend the Reporting of a Discharge of a Pollutant or an Air Contaminant regulation to replace the current regulation that describe the requirements for reporting the environmental release or discharge of a pollutant or air contaminant with new requirements. Senate Bill 33 modified the definition of an environmental release to mean substances and their reportable quantities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or regulations enacted under Title 7 §6028. The amendment to the regulation include wording changes required by Senate Bill 33, updates and changes to the Delaware list of substances and their reportable quantities, and the inclusion of a mandatory follow-up written report.

3. **POSSIBLE TERMS OF THE AGENCY ACTION:**
None

4. **STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 Delaware Code, Chapter 60

5. **OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None

6. **NOTICE OF PUBLIC COMMENT:**

The original public hearing date of May 30 has been rescheduled for June 27. The public comment period for this proposed amendment will extend through June 28, 2002. Interested parties may submit comments in writing during this time frame to: Jay Brabson, Air Quality Management Section, 715 Grantham Lane, New Castle, DE 19720, and/or statements and testimony may be presented either orally or in writing at the public hearing to be held on Thursday, June 27, 2002 beginning at 6:00 PM in the DNREC auditorium at the Richardson and Robbins Building, 89 Kings Highway, Dover, DE.

7. **PREPARED BY:**

Jay Brabson (302) 323-4542, May 8, 2002

Proposed Amendment to Reporting of a Discharge of a Pollutant or an Air Contaminant

Section 1 General Provisions

1.1 The purpose of this Regulation is to describe the requirements ~~to~~ for reporting the discharge of a pollutant or an air contaminant as mandated in 7 Del. C., Section 6028.

1.2 Information obtained through the provisions of this Regulation shall be made available for public inspection ~~at any Department office~~ in accordance with 29 Del.C., Chapter 100 and Department of Natural Resources and Environmental Control (Department) Freedom of Information Act (FOIA) regulations except where such information is of confidential nature as defined in 7 Del. C., Section 6014.

1.3 The list of chemicals and substances subject to the reporting requirements of this Regulation and the associated Delaware Reportable Quantity (DRQ) for each chemical and substance is contained in Section 3. The Department may, after providing proper public notice and an opportunity for public hearing, add or delete chemicals or substances or change the DRQ of any chemical or substance. ~~for the listed chemicals.~~

1.4 The reporting requirements under this ~~Section~~ Regulation are in addition to and not in lieu of, any other discharge reporting requirement found in any other state, federal, county or local government statutes, permits,

regulations or ordinances. ~~such as the provisions found in the "Delaware Regulations Governing Hazardous Waste" at Sections 264.56 and 265.56.~~

1.5 ~~[Reserved] Emissions normally reported on Excess Emission Reports (EER's) when required by state or federal permits or regulations are exempt from the requirements of this regulation~~

1.6 ~~Continuous discharges are exempt from the requirements of this regulation.~~

1.7 1.6 Definitions

A. ~~"Continuous Discharge" a discharge that occurs without interruption or abatement or that is routine, anticipated and intermittent during normal operations or treatment processes. Episodic discharges such as those associated with accidents, equipment malfunctions, emergency shutdowns, or pipe ruptures, however, are not routine or regular and do not come within the definition of continuous.~~

"**Delaware Reportable Quantity**" (DRQ) – means the reportable quantity of chemicals, compounds, substances or mixtures listed in Section 3 of this regulation notwithstanding any reporting requirements by other state, federal, county or local government statutes, regulations or ordinances. To be reportable, the DRQ is based on the total quantity discharged over a rolling 24 hour period.

B. "**Discharge**" means any spilling, leaking, pumping, pouring, emitting, emptying, releasing, injecting, escaping, leaching, dumping, or disposing into the environment of any chemical or substance listed in Section 3 but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, waterborne vessel or pipeline pumping station engine. Discharge includes any environmental release. To be reportable, a discharge/DRQ is based on any 24hour period.

C. "**Environmental Emergency Notification and Complaint Number**" – means the 24hour DNREC telephone number(s) used for reporting the discharge of a pollutant or an air contaminant.

D. "**Environmental Release**" – means any spillage, leakage, emission, discharge, or delivery into the air or waters or on or into the lands of this State, of any sewage of 10,000 gallons or more, oil, industrial waste, liquid waste, hydrocarbon chemical, hazardous substance, hazardous waste, restricted chemical material, vessel discharge, air contaminant, pollutant, regulated biological substance or other wastes reportable pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, or this Regulation.

E. "**Extremely Hazardous Substance**" – means substances listed in 40 CFR Part 355 Appendices A and B as amended May 7, 1996.

F. "**Heating oil**" means petroleum that is of one of nine technical grades. These are: No. 1; No.2; No.4light; No.4heavy; No.5light; No.5heavy; No.6 technical grade of

fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels used as substitutes for one of these fuels such as kerosene or diesel when used for heating purposes. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

G. ~~"Medical Treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.~~

"**Motor Fuel**" means petroleum or petroleum-based substance that is motor gasoline, aviation gasoline, jet fuel, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine.

H. "**Petroleum Substance**" - means oil of any kind or in any form, including but not limited to petroleum, fuel oil, heating oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Vegetable based oils such as soybean oil are not included.

I. "**Sewage**" - means water-carried human or animal wastes from septic tanks, water closets, residences, buildings, industrial establishments, or other places, together with such ground water infiltration, subsurface water, and mixtures of industrial wastes or other wastes as may be present.

Section 2 Reporting Requirements

2.1 Applicability

A. Unless otherwise stated in this Section, any person who causes or contributes to an environmental release or to the discharge of an air contaminant into the air or a pollutant, including petroleum substances, into surface water, groundwater or land, or disposal of solid waste in excess of any DRQ specified under this Regulation, shall report such discharge to the Department as soon as the person has knowledge of said environmental release or discharge while immediately upon discovery of said discharge and after activating the appropriate emergency site plan unless circumstances exist which make such a notification impossible. A delay in notification shall not be considered to be a violation of this Regulation when the act of reporting may delay the mitigation of the discharge and/or the protection of public health and the environment.

B. Discharge ~~or disposal~~ in compliance with a validly issued state or federal permit(s) or in compliance with other state and federal regulations is exempt from ~~this~~ the reporting requirements of this Regulation.

C. An owner or operator responsible for a transportation related discharge may meet the requirements of this Regulation by providing the information indicated in 2.4 to the 911 operator and, if applicable, to the responding Department representative at the scene. For the purposes of this paragraph, a "transportation related discharge" means a

discharge during transportation when the stored chemical or substance is moving under active shipping papers and has not reached the ultimate consignee.

D. This Regulation does not apply to the proper application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et. seq. as amended August 3, 1996).

E. Any discharge that is continuous and stable in quantity and rate under the definitions in 40 CFR 302.8 (b) is exempt from reporting requirements of this regulation except:

i. Initial notifications as required by 40 CFR part 302.8 (d) and (e).

ii. "statistically significant increase" as defined in 40 CFR 302.8(b).

iii. notification of a "new release" as defined in 40 CFR 302.8(g) (1), or

iv. notification of a change in the normal range of the release as required under 40 CFR 302.8(g) (2).

Telephone notification required by 40 CFR 302.8 to the State of Delaware State Emergency Response Commission (SERC) shall be fulfilled by notifying the Department. Written notification reports required by 40 CFR 302.8 and sent to the EPA regional office shall serve as written notification to the State of Delaware SERC when copied to the Department. (Reference: 40 CFR 302.8 as promulgated on July 24, 1990).

2.2 Discharges of an air contaminant or pollutant (including petroleum substances) that are wholly contained within a building are exempt from the reporting requirements of this Regulation Sections 2.1 and 2.3. Should such a wholly contained discharge be discharged outside the building at a later time for any reason, that eventual discharge, when exceeding the DRQ, shall activate these reporting requirements.

2.3 [Reserved] When an owner, operator or responsible representative of a facility obtains knowledge that a discharge of any listed or unlisted chemical in any quantity results in injuries outside the workplace which require medical treatment or result in death to anyone affected by the discharge, the incident must be reported under 2.4 and if required by the Department, under 2.5, and this notice shall be made at the time this knowledge is obtained. This provision does not apply if it takes longer than 7 days to learn about the injury, but it does apply whenever the knowledge of a death attributable to a discharge is obtained.

2.4 For the purpose of this regulation, notification of any reportable incident under Sections 2.1 or 2.3 by a person to the Department can be in person to Department staff or by telephone communication to the Department's Environmental Emergency Notification and Complaint Number. The notification must containing the following information which details the facts and circumstances of the discharge to the extent known the maximum extent

practicable at the time of notice: and so long as no delay in notice or emergency response results:

A. Facility name and/or location of the discharge.

B. Type of incident, e.g. discharge, fire, explosion, associated with discharge and whether assistance from outside emergency responders, e.g. 911, has been requested.

C. The chemical or substance involved with the incident of discharge including the Chemical Abstract System (CAS) number for the chemical or of the constituent chemicals when a mixture is discharged.

D. An indication of whether the chemical or chemicals are an extremely hazardous substance. as defined under the SARA Section 302 (EHS) list or Table I of the Delaware Regulation for the Management of Extremely Hazardous Substances.

E. An estimate of the quantity of any such chemical(s) or substance(s) or compound(s) that was discharged into the environment.

F. The beginning time and the duration of the discharge.

G. The medium or media, e.g. soil, groundwater, surface water, air, etc., into which the discharge occurred.

H. Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

I. Proper precautions to take as a result of the discharge, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan).

J. Name of the reporting person and a callback phone number. The name(s) and telephone number(s) of the person(s) to be contacted for further information.

K. An indication of whether or not this is a complete report. Incomplete reports must be completed when the information is available but in no case more than 24 hours later than the initial contact. Such other information as the Department may require.

2.5 (A) Except for petroleum substances, sewage, or infectious waste releases, as soon as practical but no later than 30 days after a release of a DRQ of a listed substance, such person, owner or operator shall provide a written follow-up report to the Department updating the information required under section 2.4 and including the following additional information to the extent known:

Part I.

i. Actions taken to respond to and contain the release in the form of a chronology.

ii. Any known or anticipated acute or chronic health risks associated with the release, and

iii. Where appropriate, advice regarding medical attention necessary for exposed individuals.

Part II.

iv. The facts and circumstances leading to the environmental release including a detailed identification of the pathway through which the discharge to the environment occurred and potential environmental impacts.

v. Measures proposed to prevent such a discharge from occurring in the future and to remedy the deficiencies, if any, in the prevention, detection, response containment, cleanup or removal plan components.

vi. Such other information which the Department may require.

Except where Part II information is of confidential nature as defined in 7 Del. C., § 6014, all written information obtained through this subsection shall be made available to Local Emergency Planning Committees (LEPCs) and the public.

(B) The Department reserves the right to require a written report for any environmental release, regardless of the substance or quantity, if there is concern for public health and safety or environmental welfare has been adversely affected. At the Department's discretion, the Department may require said person to file a written follow-up report, within 30 days or any shorter time as required by validly issued state or federal permits or by any pertinent regulations, setting forth all details contained in Sections 2.4 and 2.5.

The written report shall be in a format approved by the Department and submitted to the appropriate addresses for report submissions provided by the Department. The Department may establish procedures for notification and submission of written reports by computerized and electronic methods, including but not limited to, the submission of information through the internet.

If not already required SARA Section 304, and at the Department's discretion, the Department may require said person to file a written report, within 30 days or any shorter time as required by validly issued state or federal permits or by any other pertinent regulations, setting forth all details contained in Section 2.4, updating as necessary, and providing further information as detailed below:

A. Name, address and phone number of the owner or operator.

B. Actions taken to respond to and contain the discharge in the form of a chronology.

C. Any known or anticipated acute or chronic health risks associated with the discharge.

D. Where appropriate, advice regarding medical attention necessary for exposed individuals.

E. Anticipated environmental impact.

F. An evaluation of all pertinent prevention and response plans and policies in light of the discharge and the owner's or operator's response thereto.

G. detailed identification of the pathway through which the discharge to the environment occurred with drawings, if necessary, to clearly explain this path.

~~H. Measures proposed to prevent such a discharge from occurring in the future and to remedy the shortcomings in the prevention, detection, response containment, cleanup or removal plan components.~~

Section 3 Chemicals, ~~Compounds~~ and Substances and Mixtures and Associated Reportable Quantities.

3.1 The purpose of this Section is to detail those chemicals, ~~compounds~~, substances and mixtures applicable to the reporting requirements of this Regulation and to identify the DRQ at which reporting of the chemical ~~compound~~ or substance release or discharge is required.

3.2 ~~The list Table A~~ attached to this Section contains all chemicals and chemical categories and DRQ's that are subject to these reporting requirements of this Regulation. Notification of the discharge of a DRQ of solid particles of antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, zinc or any other solid substance on the DRQ list is not required if the mean diameter of the particles discharged is larger than 100 micrometers (0.004 inches).

3.3 When any incident of discharge occurs involving more than one (1) chemical or chemical category listed in this Section, the DRQ for the total discharge shall be ~~is~~ the lowest DRQ of any constituent of that total, unless the mixture is known ~~to the responsible person~~. In this case, the word "known" means that a determination of constituent levels may be is made either by direct testing or by application calculation of the constituent level in light of the materials or processes used to generate the mixture. For incidents involving known mixtures of substances with a DRQ, ~~where the constituent levels have been determined~~, the discharge is subject to these notification requirements only when a ~~component~~ constituent substance of the mixture is discharged in a quantity equal to or greater than its DRQ.

3.4 In all cases, discharges of infectious waste, as defined in Title 7 Chapter 64 § 6402, of any quantity or of any type occurring outside of a medical or health care facility are subject to the notification requirements of Section 2.4 of this regulation, including and the written requirements of Section 2.5 (B).

3.5 In all cases, discharges of petroleum substances of any quantity or of any type are subject to these notification requirements unless the petroleum substance is contained in such a manner as to prevent the immediate or eventual discharge or leaking into surface water or groundwater, or is confined to the location of the discharge on an impervious surface. For discharges of petroleum substances that are contained in such a manner as to prevent the immediate or eventual discharge or leaking into surface water or groundwater or are confined to the location of the discharge on an impervious surface, the following shall apply:

A. Discharges of 25 gallons or more on land of motor fuel, jet fuel, heating oil, used oil or used petroleum

substances must be reported.

B. Discharges of 150 gallons or more to land of any other petroleum substance not listed above or not uniquely identified on the Section 3 list, must be reported.

SECTION 3 TABLE A
Delaware List Of Chemicals And Reportable Quantities
In Pounds In Alphabetical Order

CAS	NAME	DRQ
	* Infectious waste	ALL*
	* Petroleum subs., other than heating oil, motor fuel, used oil	150 gal.*
	* Petroleum substances, heating oil, motor fuel, used oil	25 gal.*
	10,000 gallons sewage	10,000 gal.
71751412	Abamectin	100
83329	Acenaphthene	100
208968	Acenaphthylene	5000
30560191	Acephate	100
75070	Acetaldehyde	1000
75876	Acetaldehyde, trichloro-	5000
60355	Acetamide	100
64197	Acetic acid	5000
108247	Acetic anhydride	5000
67641	Acetone	5000
75865	Acetone cyanohydrin	10
1752303	Acetone thiosemicarbazide	1000
75058	Acetonitrile	5000
98862	Acetophenone	5000
53963	2-Acetylaminofluorene	1
506967	Acetyl bromide	5000
75365	Acetyl chloride	5000
74862	Acetylene	1000
591082	1-Acetyl-2-thiourea	1000
62476599	Acifluorfen, sodium salt	100
107028	Acrolein	1
79061	Acrylamide	5000
79107	Acrylic acid	5000
107131	Acrylonitrile	100
814686	Acrylyl chloride	100
124049	Adipic acid	5000
111693	Adiponitrile	1000
15972608	Alachlor	100
116063	Aldicarb	1
1646884	Aldicarb sulfone	1
309002	Aldrin	1
1116707	Alkylaluminums	500
28057489	d-trans-Allethrin	100
107119	Allylamine	50
107186	Allyl alcohol	100
107051	Allyl chloride	1000
7429905	Aluminum (fume or dust)	100

1344281	Aluminum oxide (fibrous forms)	100
20859738	Aluminum phosphide	100
10043013	Aluminum sulfate	5000
834128	Ametryn	100
117793	2-Aminoanthraquinone	10
60093	4-Aminoazobenzene	10
92671	4-Aminobiphenyl	1
82280	1-Amino-2-methylantraquinone	10
54626	Aminopterin	500
504245	4-Aminopyridine	1000
78535	Amiton	500
3734972	Amiton oxalate	100
33089611	Amitraz	100
61825	Amitrole	10
7664417	Ammonia	50
6484522	Ammonium nitrate	500
7790989	Ammonium perchlorate	500
13446101	Ammonium permaganate	500
631618	Ammonium acetate	5000
1863634	Ammonium benzoate	5000
1066337	Ammonium bicarbonate	5000
7789095	Ammonium bichromate	10
1341497	Ammonium bifluoride	100
10192300	Ammonium bisulfite	5000
1111780	Ammonium carbamate	5000
506876	Ammonium carbonate	5000
12125029	Ammonium chloride	5000
7788989	Ammonium chromate	10
3012655	Ammonium citrate, dibasic	5000
13826830	Ammonium fluoborate	5000
12125018	Ammonium fluoride	100
1336216	Ammonium hydroxide	1000
14258492	Ammonium oxalate	5000
6009707	Ammonium oxalate	5000
5972736	Ammonium oxalate	5000
131748	Ammonium picrate	10
16919190	Ammonium silicofluoride	1000
7773060	Ammonium sulfamate	5000
12135761	Ammonium sulfide	100
10196040	Ammonium sulfite	5000
3164292	Ammonium tartrate	5000
14307438	Ammonium tartrate	5000
1762954	Ammonium thiocyanate	5000
7783188	Ammonium thiosulfate	5000
7803556	Ammonium vanadate	1000
300629	Amphetamine	1000
628637	Amyl acetate	5000
123922	iso-Amyl acetate	5000
626380	sec-Amyl acetate	5000
625161	tert-Amyl acetate	5000
101053	Anilazine	100
62533	Aniline	5000
88051	Aniline, 2,4,6-trimethyl-	500
90040	o-Anisidine	100

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104949	p-Anisidine	100
134292	o-Anisidine hydrochloride	10
120127	Anthracene	5000
7440360	Antimony	5000
7647189	Antimony pentachloride	1000
7783702	Antimony pentafluoride	500
28300745	Antimony potassium tartrate	100
7789619	Antimony tribromide	1000
10025919	Antimony trichloride	1000
7783564	Antimony trifluoride	1000
1309644	Antimony trioxide	1000
1397940	Antimycin A	1000
86884	Antu	100
12674112	Aroclor 1016	1
11104282	Aroclor 1221	1
11141165	Aroclor 1232	1
53469219	Aroclor 1242	1
12672296	Aroclor 1248	1
11097691	Aroclor 1254	1
11096825	Aroclor 1260	1
7440382	Arsenic	1
7778394	Arsenic acid	1
1327522	Arsenic acid	1
1303328	Arsenic disulfide	1
1303282	Arsenic pentoxide	1
1327533	Arsenic trioxide	1
1303339	Arsenic trisulfide	1
7784341	Arsenous trichloride	1
7784421	Arsine	10
1332214	Asbestos (friable)	1
1912249	Atrazine	10
115026	Azaserine	1
2642719	Azinphos-ethyl	100
319857	beta-BHC	1
319868	delta-BHC	1
101279	Barban	1
7440393	Barium	100
542621	Barium cyanide	10
22781233	Bendiocarb	1
22961826	Bendiocarb phenol	1
1861401	Benfluralin	100
17804352	Benomyl	1
225514	Benz[c]acridine	100
98873	Benzal chloride	5000
55210	Benzamide	100
56553	Benz[a]anthracene	10
98168	Benzenamine, 3-(trifluoromethyl)-	500
71432	Benzene	10
100141	Benzene, 1-(chloromethyl)-4-nitro-	500
510156	Benzenoacetic acid, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-hydroxy-, ethyl ester	10
98055	Benzenearsonic acid	10
122098	Benzenethanamine, alpha,alpha-dimethyl-	5000

98099	Benzenesulfonyl chloride	100
92875	Benzidine	1
3615212	Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-	500
205823	Benzo(j)fluoranthene	10
207089	Benzo(k)fluoranthene	5000
	Benzo(j,k)fluorene	1
65850	Benzoic acid	5000
98077	Benzoic trichloride	10
205992	Benzol[b]fluoranthene	1
100470	Benzonitrile	5000
189559	Benzo(rst)pentaphene	10
191242	Benzo[ghi]perylene	5000
218019	Benzo(a)phenanthrene	100
50328	Benzo[a]pyrene	1
98884	Benzoyl chloride	1000
94360	Benzoyl peroxide	100
100447	Benzyl chloride	100
140294	Benzyl cyanide	500
7440417	Beryllium	10
7787475	Beryllium chloride	1
7787497	Beryllium fluoride	1
7787555	Beryllium nitrate	1
13597994	Beryllium nitrate	1
191242	Benzo(g,h,i)perylene	5000
15271417	Bicyclo[2.2.1]heptane-2-carbonitrile, 5-chloro-6-(((methylamino)carbonyl)oxy)imino)-, (1-alpha,2-beta,4-alpha,5-alpha,6E)-	500
82657043	Bifenthrin	100
92524	Biphenyl	100
111911	Bis(2-chloroethoxy) methane	1000
111444	Bis(2-chloroethyl) ether	10
542881	Bis(chloromethyl) ether	10
534076	Bis(chloromethyl) ketone	10
108601	Bis(2-chloro-1-methylethyl)ether	1000
97745	Bis(dimethylthiocarbamoyl) sulfide	1
38661722	1,3-Bis(methylisocyanate)cyclohexane	100
10347543	1,4-Bis(methylisocyanate)cyclohexane	100
56359	Bis(tributyltin) oxide	100
4044659	Bitoscanate	500
10294345	Boron trichloride	500
7637072	Boron trifluoride	10
353424	Boron trifluoride compound with methyl ether (1:1)	1000
314409	Bromacil	100
53404196	Bromacil, lithium salt	100
28772567	Bromadiolone	100
7726956	Bromine	100
13863417	Bromine chloride	100
7789382	Bromine pentafluoride	100
598312	Bromoacetone	1000
35691657	1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile	100
353593	Bromochlorodifluoromethane	100

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75252	Bromoform	100
74839	Bromomethane	1000
101553	4-Bromophenyl phenyl ether	100
106967	3-Bromopropyne	500
7787715	Bromotrifluoride	500
598732	Bromotrifluoroethylene	1000
75638	Bromotrifluoromethane	100
1689845	Bromoxynil	100
1689992	Bromoxynil octanoate	100
52517	Bronopol	100
357573	Brucine	100
106990	1,3-Butadiene	10
106978	Butane	1000
123739	2-Butenal, (e)-	100
25167673	Butene	1000
590181	2-Butene-cis	1000
624646	2-Butene-trans	1000
106989	1-Butene	1000
107017	2-Butene	1000
75912	tert-Butyl hydroperoxide	500
614459	tert-Butyl perbenzoate	500
107711	tert-Butyl peroxyacetate	500
927071	tert-Butyl peroxyvalate	1000
123864	Butyl acetate	5000
110190	iso-Butyl acetate	5000
105464	sec-Butyl acetate	5000
540885	tert-Butyl acetate	5000
141322	Butyl acrylate	100
71363	n-Butyl alcohol	5000
78922	sec-Butyl alcohol	100
75650	tert-Butyl alcohol	100
109739	Butylamine	1000
78819	iso-Butylamine	1000
513495	sec-Butylamine	1000
13952846	sec-Butylamine	1000
75649	tert-Butylamine	1000
2008415	Butylate	1
85687	Butyl benzyl phthalate	100
106887	1,2-Butylene oxide	100
123728	Butyraldehyde	100
107926	Butyric acid	5000
79312	iso-Butyric acid	5000
75605	Cacodylic acid	1
7440439	Cadmium	10
543908	Cadmium acetate	10
7789426	Cadmium bromide	10
10108642	Cadmium chloride	10
1306190	Cadmium oxide	100
2223930	Cadmium stearate	1000
7778441	Calcium arsenate	1
52740166	Calcium arsenite	1
75207	Calcium carbide	10
13765190	Calcium chromate	10
156627	Calcium cyanamide	1000

592018	Calcium cyanide	10
26264062	Calcium dodecylbenzenesulfonate	1000
7778543	Calcium hypochlorite	10
56257	Cantharidin	100
105602	Caprolactam	5000
133062	Captan	10
51832	Carbachol chloride	500
26419738	Carbamic acid, methyl-, O-(((2,4-dimethyl-1,3-dithiolan-2-yl)methylene)amino)-	1
136301	Carbamodithioic acid, dibutyl-, sodium salt	1
148185	Carbamodithioic acid, diethyl-, sodium salt	1
1929777	Carbamothioic acid, dipropyl-, S-propyl ester	1
52888809	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester	1
63252	Carbaryl	100
10605217	Carbendazim	1
1563662	Carbofuran	10
1563388	Carbofuran phenol	1
75150	Carbon disulfide	100
353584	Carbon fluoride	100
630080	Carbon monoxide	1000
353504	Carbonic difluoride	1000
109615	Carbonochloridic acid, propylester	500
56235	Carbon tetrachloride	10
463581	Carbonyl sulfide	1000
786196	Carbophenothion	500
55285148	Carbosulfan	1
5234684	Carboxin	100
120809	Catechol	100
9004700	Cellulose nitrate	500
2439012	Chinomethionat	100
133904	Chloramben	100
305033	Chlorambucil	10
57749	Chlordane	1
115286	Chlorendic acid	10
470906	Chlorfenvinfos	500
90982324	Chlorimuron ethyl	100
0	Chlorinated Benzenes	5000
0	Chlorinated Naphthalene	5000
0	Chlorinated Phenol	100
7782505	Chlorine	10
10049044	Chlorine dioxide	100
7791211	Chlorine monoxide	100
13637633	Chlorine pentafluoride	1
7790912	Chlorine trifluoride	100
24934916	Chlormephos	500
999815	Chlormequat chloride	100
494031	Chlornaphazine	100
97007	1-Chloro-2,4-Dinitrobenzene	500
59507	p-Chloro-m-cresol	5000
107200	Chloroacetaldehyde	1000
79118	Chloroacetic acid	100
532274	2-Chloroacetophenone	100

PROPOSED REGULATIONS

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0	Chloroalkyl ethers	1
4080313	1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	100
106478	p-Chloroaniline	1000
108907	Chlorobenzene	100
124481	Chlorodibromomethane	100
96106	Chlorodiethylaluminum	500
75683	1-Chloro-1,1-difluoroethane	100
75456	Chlorodifluoromethane	100
75003	Chloroethane	1000
107073	Chloroethanol	500
627112	Chloroethyl chloroformate	1000
110758	2-Chloroethyl vinyl ether	1000
67663	Chloroform	10
74873	Chloromethane	100
107302	Chloromethyl methyl ether	10
563473	3-Chloro-2-methyl-1-propene	10
91587	2-Chloronaphthalene	5000
3691358	Chlorophacnone	100
95578	2-Chlorophenol	100
104121	p-Chlorophenyl isocyanate	100
7005723	4-Chlorophenyl phenyl ether	5000
76062	Chloropicrin	10
126998	Chloroprene	100
542767	3-Chloropropionitrile	1000
590216	1-Chloropropylene	1000
557982	2-Chloropropylene	2000
7790945	Chlorosulfonic acid	1000
63938103	Chlorotetrafluoroethane	100
354256	1-Chloro-1,1,2,2-tetrafluoroethane	100
2837890	2-Chloro-1,1,1,2-tetrafluoroethane	100
1897456	Chlorothalonil	100
95692	p-Chloro-o-toluidine	10
3165933	4-Chloro-o-toluidine, hydrochloride	100
75887	2-Chloro-1,1,1-trifluoroethane	100
75729	Chlorotrifluoromethane	100
460355	3-Chloro-1,1,1-trifluoropropane	100
1982474	Chloroxuron	500
2921882	Chlorpyrifos	1
5598130	Chlorpyrifos methyl	100
64902723	Chlorsulfuron	100
1066304	Chromic acetate	1000
11115745	Chromic acid	10
7738945	Chromic acid	10
10025737	Chromic chloride	1
10101538	Chromic sulfate	1000
7440473	Chromium	5000
10049055	Chromous chloride	1000
4680788	C.I. Acid Green 3	100
6459945	C.I. Acid Red 114	10
569642	C.I. Basic Green 4	100
989388	C.I. Basic Red 1	100
1937377	C.I. Direct Black 38	10
28407376	C.I. Direct Blue 218	100

2602462	C.I. Direct Blue 6	10
16071866	C.I. Direct Brown 95	10
2832408	C.I. Disperse Yellow 3	100
3761533	C.I. Food Red 5	10
81889	C.I. Food Red 15	100
3118976	C.I. Solvent Orange 7	100
97563	C.I. Solvent Yellow 3	100
842079	C.I. Solvent Yellow 14	100
492808	C.I. Solvent Yellow 34	100
128665	C.I. Vat Yellow 4	100
7440484	Cobalt	10
10210681	Cobalt carbonyl	10
62207765	Cobalt, ((2,2'-(1,2-ethanediybis(nitrilomethylidyne))bis(6-fluorophenylato))(2-N,N',O,O')-	100
7789437	Cobaltous bromide	1000
544183	Cobaltous formate	1000
14017415	Cobaltous sulfamate	1000
0	Coke Oven Emmissions	1
64868	Colchicine	10
7440508	Copper	5000
544923	Copper cyanide	10
137291	Copper, bis(dimethylcarbamodithioato-S,S')	1
56724	Coumaphos	10
5836293	Coumatetralyl	500
8001589	Creosote	1
120718	p-Cresidine	10
108394	m-Cresol	100
95487	o-Cresol	100
106445	p-Cresol	1000
1319773	Cresol (isomers and mixture)	100
535897	Crimidine	100
4170303	Crotonaldehyde	100
98828	Cumene	5000
80159	Cumene hydroperoxide	10
135206	Cupferron	10
142712	Cupric acetate	100
12002038	Cupric acetoarsenite	1
7447394	Cupric chloride	10
3251238	Cupric nitrate	100
5893663	Cupric oxalate	100
7758987	Cupric sulfate	10
10380297	Cupric sulfate, ammoniated	100
815827	Cupric tartrate	100
21725462	Cyanazine	100
57125	Cyanides (soluble salts and complexes) not otherwise specified	10
460195	Cyanogen	100
506683	Cyanogen bromide	1000
506774	Cyanogen chloride	10
506785	Cyanogen iodide	1000
2636262	Cyanophos	1000
675149	Cyanuric fluoride	1
1134232	Cycloate	1

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110827	Cyclohexane	1000	132649	Dibenzofuran	100
2556367	1,4-Cyclohexane diisocyanate	100	192654	Dibenzo(a,e)pyrene	10
108930	Cyclohexanol	100	189640	Dibenzo(a,h)pyrene	10
108941	Cyclohexanone	5000	191300	Dibenzo(a,l)pyrene	10
66819	Cycloheximide	100	94360	Dibenzoyl peroxide	500
108918	Cyclohexylamine	10000	19287457	Diborane	10
131895	2-Cyclohexyl-4,6-dinitrophenol	100	96128	1,2-Dibromo-3-chloropropane	1
50180	Cyclophosphamide	10	10222012	2,2-Dibromo-3-nitrilopropionamide	100
75194	Cyclopropane	1000	124732	Dibromotetrafluoroethane	100
68359375	Cyfluthrin	100	110054	tert-Dibutyl peroxide	500
68085858	Cyhalothrin	100	84742	Dibutyl phthalate	10
94757	2,4-D Acid	100	1918009	Dicamba	1000
1929733	2,4-D Esters	100	1194656	Dichlobenil	100
1928387	2,4-D Esters	100	117806	Dichlone	1
25168267	2,4-D Esters	100	99309	Dichloran	100
53467111	2,4-D Esters	100	7572294	Dichloroacetylene	10
1928616	2,4-D Esters	100	95501	1,2-Dichlorobenzene	100
2971382	2,4-D Esters	100	541731	1,3-Dichlorobenzene	100
94804	2,4-D Esters	100	106467	1,4-Dichlorobenzene	100
94791	2,4-D Esters	100	25321226	Dichlorobenzene (mixed isomers)	100
1320189	2,4-D Esters	100	91941	3,3'-Dichlorobenzidine	1
94111	2,4-D Ester	100	612839	3,3'-Dichlorobenzidine dihydrochloride	10
20830813	Daunomycin	10	64969342	3,3'-Dichlorobenzidine sulfate	10
533744	Dazomet	1	75274	Dichlorobromomethane	5000
53404607	Dazomet, sodium salt	100	110576	trans-1,4-Dichlorobutene	500
94826	2,4-DB	100	764410	1,4-Dichloro-2-butene	1
72548	DDD	1	1649087	1,2-Dichloro-1,1-difluoroethane	100
72559	DDE	1	75718	Dichlorodifluoromethane	5000
3547044	DDE	5000	156605	1,2-Dichloroethylene	1000
50293	DDT	1	540590	1,2-Dichloroethylene	100
17702419	Decaborane(14)	500	1717006	1,1-Dichloro-1-fluoroethane	100
1163195	Decabromodiphenyl oxide	100	75434	Dichlorofluoromethane	100
8065483	Demeton	500	75092	Dichloromethane	1000
919868	Demeton-S-methyl	500	149746	Dichloromethylphenylsilane	1000
13684565	Desmedipham	100	127564925	Dichloropentafluoropropane	100
1928434	2,4-D 2-ethylhexyl ester	10	128903219	2,2-Dichloro-1,1,1,3,3-pentafluoropropane	100
53404378	2,4-D 2-ethyl-4-methylpentyl ester	10	422480	2,3-Dichloro-1,1,1,2,3-pentafluoropropane	100
110225	Diacetyl peroxide (55% solution)	500	422446	1,2-Dichloro-1,1,2,3,3-pentafluoropropane	100
10311849	Dialifor	100	422560	3,3-Dichloro-1,1,1,2,2-pentafluoropropane	100
2303164	Diallate	100	507551	1,3-Dichloro-1,1,2,2,3-pentafluoropropane	100
615054	2,4-Diaminoanisole	10	13474889	1,1-Dichloro-1,2,2,3,3-pentafluoropropane	100
39156417	2,4-Diaminoanisole sulfate	10	431867	1,2-Dichloro-1,1,3,3,3-pentafluoropropane	100
101804	4,4'-Diaminodiphenyl ether	10	136013791	1,3-Dichloro-1,1,2,3,3-pentafluoropropane	100
496720	Diaminotoluene	10	111512562	1,1-Dichloro-1,2,3,3,3-pentafluoropropane	100
823405	Diaminotoluene	10	97234	Dichlorophene	100
95807	2,4-Diaminotoluene	10	120832	2,4-Dichlorophenol	100
25376458	Diaminotoluene (mixed isomers)	10	87650	2,6-Dichlorophenol	100
333415	Diazinon	1	696286	Dichlorophenylarsine	1
334883	Diazomethane	100	26638197	Dichloropropane	1000
226368	Dibenz(a,h)acridine	10	8003198	Dichloropropane - Dichloropropene (mixture)	100
224420	Dibenz(a,j)acridine	10	78999	1,1-Dichloropropane	1000
53703	Dibenz[a,h]anthracene	1	78875	1,2-Dichloropropane	1000
194592	7H-Dibenzo(c,g)carbazole	10	142289	1,3-Dichloropropane	5000
5385751	Dibenzo(a,e)fluoranthene	100	26952238	Dichloropropene	100

PROPOSED REGULATIONS

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10061026	trans-1,3-Dichloropropene	10
78886	2,3-Dichloropropene	100
75990	2,2-Dichloropropionic acid	5000
542756	1,3-Dichloropropylene	100
4109960	Dichlorosilane	100
76142	Dichlorotetrafluoroethane	100
90454185	Dichloro-1,1,2-trifluoroethane	100
34077877	Dichlorotrifluoroethane	100
812044	1,1-Dichloro-1,2,2-trifluoroethane	100
354234	1,2-Dichloro-1,1,2-trifluoroethane	100
306832	2,2-Dichloro-1,1,1-trifluoroethane	100
62737	Dichlorvos	10
51338273	Diclofop methyl	100
115322	Dicofol	10
141662	Dicrotophos	100
77736	Dicyclopentadiene	100
60571	Dieldrin	1
1464535	Diepoxybutane	10
111422	Diethanolamine	100
38727558	Diethyl ethyl	100
109897	Diethylamine	100
91667	N,N-Diethylaniline	1000
692422	Diethylarsine	1
814493	Diethyl chlorophosphate	500
134190377	Diethyldiisocyanatobenzene	100
117817	Di(2-ethylhexyl) phthalate	100
3288582	O,O-Diethyl S-methyl dithiophosphate	5000
311455	Diethyl-p-nitrophenyl phosphate	100
84662	Diethyl phthalate	1000
56531	Diethylstilbestrol	1
64675	Diethyl sulfate	10
557200	Diethylzinc	1000
35367385	Diflubenzuron	100
75376	Difluoroethane	1000
71636	Digitoxin	100
2238075	Diglycidyl ether	1000
101906	Diglycidyl resorcinol ether	10
20830755	Digoxin	10
94586	Dihydrosafrole	10
4128738	4,4'-Diisocyanatodiphenyl ether	100
75790873	2,4'-Diisocyanatodiphenyl sulfide	100
105646	Diisopropyl peroxydicarbonate	500
55914	Diisopropylfluorophosphate	100
105748	Diluaroyl peroxide	500
115264	Dimefox	500
55290647	Dimethipin	100
60515	Dimethoate	10
119904	3,3'-Dimethoxybenzidine	100
20325400	3,3'-Dimethoxybenzidine dihydrochloride	10
91930	3,3'-Dimethoxybenzidine-4,4'-diisocyanate	100
111984099	3,3'-Dimethoxybenzidine hydrochloride	10
75183	Dimethyl sulfide	1
124403	Dimethylamine	1000
2300665	Dimethylamine dicamba	100

60117	4-Dimethylaminoazobenzene	10
121697	N,N-Dimethylaniline	100
57976	7,12-Dimethylbenz[a]anthracene	1
119937	3,3'-Dimethylbenzidine	10
612828	3,3'-Dimethylbenzidine dihydrochloride	10
41766750	3,3'-Dimethylbenzidine dihydrofluoride	10
79447	Dimethylcarbamyl chloride	1
2524030	Dimethyl chlorothiophosphate	500
75785	Dimethyldichlorosilane	500
91974	3,3'-Dimethyl-4,4'-diphenylene diisocyanate	100
139253	3,3'-Dimethyldiphenylmethane-4,4'-diisocyanate	100
68122	N,N-Dimethylformamide	100
57147	1,1-Dimethyl hydrazine	10
105679	2,4-Dimethylphenol	100
576261	2,6-Dimethylphenol	100
99989	Dimethyl-p-phenylenediamine	10
131113	Dimethyl phthalate	5000
463821	2,2-Dimethylpropane	1000
77781	Dimethyl sulfate	100
644644	Dimetilan	1
602017	2,3-Dinitroaniline	500
97029	2,4-Dinitroaniline	500
25154545	Dinitrobenzene (mixed isomers)	100
99650	m-Dinitrobenzene	100
528290	o-Dinitrobenzene	100
100254	p-Dinitrobenzene	100
88857	Dinitrobutyl phenol	1000
534521	4,6-Dinitro-o-cresol	10
25550587	Dinitrophenol	10
51285	2,4-Dinitrophenol	10
329715	2,5-Dinitrophenol	10
573568	2,6-Dinitrophenol	10
619158	2,5-Dinitrotoluene	500
618858	3,5-Dinitrotoluene	500
25321146	Dinitrotoluene (mixed isomers)	10
121142	2,4-Dinitrotoluene	10
606202	2,6-Dinitrotoluene	100
610399	3,4-Dinitrotoluene	10
39300453	Dinocap	100
1420071	Dinoterb	500
117840	n-Dioctylphthalate	5000
123911	1,4-Dioxane	100
78342	Dioxathion	500
82666	Diphacinone	10
957517	Diphenamid	100
122394	Diphenylamine	100
122667	1,2-Diphenylhydrazine	10
152169	Diphosphoramidate, octamethyl-	100
2164070	Dipotassium endothall	100
142847	Dipropylamine	5000
136458	Dipropyl isocinchomeronate	100
85007	Diquat	1000
2764729	Diquat	1000

PROPOSED REGULATIONS

138932	Disodium cyanodithioimidocarbonate	100
97778	Disulfiram	1
298044	Disulfoton	1
514738	Dithiazanine iodide	500
541537	2,4-Dithiobiuret	100
330541	Diuron	100
27176870	Dodecylbenzenesulfonic acid	1000
2439103	Dodine	100
120365	2,4-DP	10
2702729	2,4-D sodium salt	10
316427	Emetine, dihydrochloride	1
959988	alpha - Endosulfan	1
33213659	beta - Endosulfan	1
115297	Endosulfan	1
1031078	Endosulfan sulfate	1
145733	Endothall	1000
2778043	Endothion	500
72208	Endrin	1
7421934	Endrin aldehyde	1
106898	Epichlorohydrin	100
51434	Epinephrine	1000
2104645	EPN	100
50146	Ergocalciferol	1000
379793	Ergotamine tartrate	500
74840	Ethane	1000
1622328	Ethanesulfonyl chloride, 2-chloro-	500
76131	Ethane, 1,1,2-trichloro-1,2,2,-trifluoro-	100
30558431	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester	1
10140871	Ethanol, 1,2-dichloro-, acetate	1000
5952261	Ethanol, 2,2'-oxybis-, dicarbamate	1
563122	Ethion	10
13194484	Ethoprop	1000
110805	2-Ethoxyethanol	1000
19393670	Ethyl methylketone peroxide	500
141786	Ethyl acetate	5000
107006	Ethyl acetylene	1000
140885	Ethyl acrylate	1000
100414	Ethylbenzene	1000
538078	Ethylbis(2-chloroethyl)amine	500
541413	Ethyl chloroformate	100
759944	Ethyl dipropylthiocarbamate	1
74851	Ethylene	1000
111546	Ethylenebisdithiocarbamic acid, salts & esters	5000
107153	Ethylenediamine	5000
60004	Ethylenediamine-tetraacetic acid (EDTA)	5000
106934	Ethylene dibromide	1
107062	Ethylene dichloride	100
371620	Ethylene fluorohydrin	1
107211	Ethylene glycol	5000
151564	Ethyleneimine	1
75218	Ethylene oxide	10
96457	Ethylenethiourea	10

60297	Ethyl ether	100
75343	Ethylidene Dichloride	1000
75081	Ethyl mercaptan	1000
97632	Ethyl methacrylate	1000
62500	Ethyl methanesulfonate	1
109955	Ethyl nitrite	100
542905	Ethyl thiocyanate	10000
14324551	Ethyl Ziram	1
52857	Famphur	1000
22224926	Fenamiphos	10
60168889	Fenarimol	100
13356086	Fenbutatin oxide	100
122145	Fenitrothion	1
66441234	Fenoxaprop ethyl	100
72490018	Fenoxycarb	100
39515418	Fenpropathrin	100
115902	Fensulfothion	500
55389	Fenthion	100
51630581	Fenvalerate	100
14484641	Ferbam	1
1185575	Ferric ammonium citrate	1000
55488874	Ferric ammonium oxalate	1000
2944674	Ferric ammonium oxalate	1000
7705080	Ferric chloride	1000
7783508	Ferric fluoride	100
10421484	Ferric nitrate	1000
10028225	Ferric sulfate	1000
10045893	Ferrous ammonium sulfate	1000
7758943	Ferrous chloride	100
7782630	Ferrous sulfate	1000
7720787	Ferrous sulfate	1000
69806504	Fluazifop butyl	100
4301502	Fluencil	100
2164172	Fluometuron	100
206440	Fluoranthene	100
86737	Fluorene	5000
7782414	Fluorine	10
640197	Fluoroacetamide	100
144490	Fluoroacetic acid	10
359068	Fluoroacetyl chloride	10
51218	Fluorouracil	500
69409945	Fluvalinate	100
133073	Folpet	100
72178020	Fomesafen	100
944229	Fonofos	500
50000	Formaldehyde	100
107164	Formaldehyde cyanohydrin	1000
23422539	Formetanate hydrochloride	1
64186	Formic acid	5000
2540821	Formothion	100
17702577	Formparanate	1
21548323	Fosthietan	500
3878191	Fuberidazole	100
110178	Fumaric acid	5000

PROPOSED REGULATIONS

2275

110009	Furan	100
109999	Furan, tetrahydro-	1000
98011	Furfural	5000
13450903	Gallium trichloride	500
765344	Glycidylaldehyde	10
70257	Guanidine, N-methyl-N'-nitro-N-nitroso-	10
86500	Guthion	1
76448	Heptachlor	1
1024573	Heptachlor epoxide	1
118741	Hexachlorobenzene	10
87683	Hexachloro-1,3-butadiene	1
319846	alpha-Hexachlorocyclohexane	10
77474	Hexachlorocyclopentadiene	10
67721	Hexachloroethane	100
1335871	Hexachloronaphthalene	100
70304	Hexachlorophene	100
1888717	Hexachloropropene	1000
757584	Hexaethyl tetraphosphate	100
684162	Hexafluoroacetone	100
4835114	Hexamethylenediamine, N,N'-dibutyl-	500
822060	Hexamethylene-1,6-diisocyanate	100
680319	Hexamethylphosphoramide	1
110543	Hexane	1000
51235042	Hexazinone	100
67485294	Hydramethylnon	100
302012	Hydrazine	1
1615801	Hydrazine, 1,2-diethyl-	10
540738	Hydrazine, 1,2-dimethyl-	1
10034932	Hydrazine sulfate	10
1333740	Hydrogen	10
10035106	Hydrogen bromide	1000
7647010	Hydrogen chloride; Hydrochloric acid	5000
74908	Hydrogen cyanide	10
7664393	Hydrogen fluoride; hydrofluoric acid	100
7722841	Hydrogen peroxide	100
7783075	Hydrogen selenide	10
7783064	Hydrogen sulfide	100
123319	Hydroquinone	100
7803498	Hydroxylamine	500
35554440	Imazalil	100
193395	Indeno(1,2,3-cd)pyrene	100
55406536	3-Iodo-2-propynyl butylcarbamate	1
13463406	Iron, pentacarbonyl-	10
297789	Isobenzan	100
75285	Isobutane	1000
78831	Isobutyl alcohol	5000
78842	Isobutyraldehyde	100
78820	Isobutyronitrile	1000
102363	Isocyanic acid, 3,4-dichlorophenyl ester	500
465736	Isodrin	1
25311711	Isopenphos	100
78784	Isopentane	1000
78591	Isophorone	5000
4098719	Isophorone diisocyanate	100

78795	Isoprene	100
42504461	Isopropanolamine dodecylbenzene sulfonate	1000
75351	Isopropyl amine	1000
625558	Isopropyl formate	100
75310	Isopropylamine	1000
75296	Isopropyl chloride	1000
108236	Isopropyl chloroformate	1000
80057	4,4'-Isopropylidenediphenol	100
119380	Isopropylmethylpyrazolyl dimethylcarbamate	1
120581	Isosafrole	100
143500	Kepone	1
463514	Ketene	10
77501634	Lactofen	100
78977	Lactonitrile	1000
303344	Lasiocarpine	10
7439921	Lead	10
301042	Lead acetate	10
7784409	Lead arsenate	1
7645252	Lead arsenate	1
10102484	Lead arsenate	1
7758954	Lead chloride	10
13814965	Lead fluoborate	10
7783462	Lead fluoride	10
10101630	Lead iodide	10
10099748	Lead nitrate	10
7446277	Lead phosphate	10
1072351	Lead stearate	10
56189094	Lead stearate	10
52652592	Lead stearate	10
7428480	Lead stearate	10
1335326	Lead subacetate	10
15739807	Lead sulfate	10
7446142	Lead sulfate	10
1314870	Lead sulfide	10
592870	Lead thiocyanate	10
21609905	Leptophos	500
541253	Lewisite	10
58899	Lindane	1
330552	Linuron	100
554132	Lithium carbonate	100
14307358	Lithium chromate	10
7580678	Lithium hydride	100
121755	Malathion	100
110167	Maleic acid	5000
108316	Maleic anhydride	5000
123331	Maleic hydrazide	5000
109773	Malononitrile	1000
12427382	Maneb	100
7439965	Manganese	100
15339363	Manganese, bis(dimethylcarbamodithioato-S,S')-	1
12108133	Manganese, methylcyclopentadienyl tricarbonyl	100
93652	Mecoprop	10

PROPOSED REGULATIONS

148823	Melphalan	1	78933	Methyl ethyl ketone	5000
950107	Mephosfolan	500	1338234	Methyl ethyl ketone peroxide	10
149304	2-Mercaptobenzothiazole	100	107313	Methyl formate	1000
2032657	Mercaptodimethur	10	60344	Methyl hydrazine	10
1600277	Mercuric acetate	500	74884	Methyl iodide	100
7487947	Mercuric chloride	500	108101	Methyl isobutyl ketone	5000
592041	Mercuric cyanide	1	624839	Methyl isocyanate	10
10045940	Mercuric nitrate	10	556616	Methyl isothiocyanate	500
21908532	Mercuric oxide	500	74931	Methyl mercaptan	100
7783359	Mercuric sulfate	10	502396	Methylmercuric dicyanamide	500
592858	Mercuric thiocyanate	10	80626	Methyl methacrylate	1000
7782867	Mercurous nitrate	10	924425	N-Methylolacrylamide	100
10415755	Mercurous nitrate	10	298000	Methyl parathion	100
7439976	Mercury	1	3735237	Methyl phenkapton	500
628864	Mercury fulminate	10	676971	Methyl phosphonic dichloride	100
150505	Merphos	100	115117	2-Methylpropene	1000
10476956	Methacrolein diacetate	1000	109068	2-Methylpyridine	5000
760930	Methacrylic anhydride	500	872504	N-Methyl-2-pyrrolidone	100
126987	Methacrylonitrile	1000	1634044	Methyl tert-butyl ether	30
920467	Methacryloyl chloride	10	556649	Methyl thiocyanate	1000
30674807	Methacryloyloxyethyl isocyanate	10	56042	Methylthiouracil	10
10265926	Methamidophos	100	75796	Methyltrichlorosilane	500
137428	Metham sodium	1	78944	Methyl vinyl ketone	1
74828	Methane	1000	9006422	Metiram	100
558258	Methanesulfonyl fluoride	1000	1129415	Metolcarb	1
67561	Methanol	5000	21087649	Metribuzin	100
91805	Methapyrilene	5000	7786347	Mevinphos	10
20354261	Methazole	100	315184	Mexacarbate	1000
950378	Methidathion	500	90948	Michler's ketone	10
16752775	Methomyl	100	50077	Mitomycin C	10
94746	Methoxone	10	2212671	Molinate	1
3653483	Methoxone sodium salt	10	1313275	Molybdenum trioxide	100
72435	Methoxychlor	1	76153	Monochloropentafluoroethane	100
109864	2-Methoxyethanol	100	6923224	Monocrotophos	10
151382	Methoxyethylmercuric acetate	500	75047	Monoethylamine	100
75221	Methyl chloroformate	1	74895	Monomethylamine	100
624920	Methyl disulfide	1	150685	Monuron	100
453189	Methyl fluoroacetate	1	2763964	Muscimol	1000
421205	Methyl fluorosulfate	1	505602	Mustard gas	500
96333	Methyl acrylate	100	88671890	Myclobutanil	100
563462	2-Methyl-1-butene	1000	142596	Nabam	100
563451	3-Methyl-1-butene	1000	300765	Naled	10
80637	Methyl 2-chloroacrylate	500	91203	Naphthalene	100
79221	Methyl chlorocarbonate	1000	3173726	1,5-Naphthalene diisocyanate	100
56495	3-Methylcholanthrene	10	1338245	Naphthenic acid	100
3697243	5-Methylchrysene	10	130154	1,4-Naphthoquinone	5000
75790840	4-Methyldiphenylmethane-3,4-diisocyanate	100	134327	alpha-Naphthylamine	100
101144	4,4'-Methylenebis(2-chloroaniline)	10	91598	2-Naphthylamine	10
101611	4,4'-Methylenebis(N,N-dimethyl)benzenamine	10	7440020	Nickel	100
5124301	1,1'-Methylene bis(4-isocyanatocyclohexane)	100	15699180	Nickel ammonium sulfate	100
101688	Methylenebis(phenylisocyanate)	5000	13463393	Nickel carbonyl	10
74953	Methylene bromide	1000	7718549	Nickel chloride	100
101779	4,4'-Methylenedianiline	10	37211055	Nickel chloride	100
115106	Methyl ether	1000	0	Nickel Compounds/Nickel Coated Catalysts	200

PROPOSED REGULATIONS

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557197	Nickel cyanide	10
12054487	Nickel hydroxide	10
14216752	Nickel nitrate	100
7786814	Nickel sulfate	100
54115	Nicotine	100
54115	Nicotine, and salts	100
65305	Nicotine sulfate	100
1929824	Nitrapyrin	100
7697372	Nitric acid	1000
10102439	Nitric oxide	10
139139	Nitritotriacetic acid	10
90092	m-Nitroaniline	500
88744	o-Nitroaniline	500
100016	p-Nitroaniline	5000
99592	5-Nitro-o-anisidine	100
98953	Nitrobenzene	1000
92933	4-Nitrobiphenyl	10
1122607	Nitrocyclohexane	500
79243	Nitroethane	500
1836755	Nitrofen	10
10102440	Nitrogen dioxide	10
51752	Nitrogen mustard	10
10102439	Nitrogen oxide	10
10544726	Nitrogen tetraoxide	10
55630	Nitroglycerin	10
75525	Nitromethane	500
25154556	Nitrophenol (mixed isomers)	100
554847	m-Nitrophenol	100
88755	2-Nitrophenol	100
100027	4-Nitrophenol	100
79469	2-Nitropropane	10
5522430	1-Nitropyrene	10
924163	N-Nitrosodi-n-butylamine	10
1116547	N-Nitrosodiethanolamine	1
55185	N-Nitrosodiethylamine	1
62759	N-Nitrosodimethylamine	10
86306	N-Nitrosodiphenylamine	100
156105	p-Nitrosodiphenylamine	100
621647	N-Nitrosodi-n-propylamine	10
759739	N-Nitroso-N-ethylurea	1
684935	N-Nitroso-N-methylurea	1
615532	N-Nitroso-N-methylurethane	1
4549400	N-Nitrosomethylvinylamine	10
59892	N-Nitrosomorpholine	1
16543558	N-Nitrosornicotine	10
100754	N-Nitrosopiperidine	10
930552	N-Nitrosopyrrolidine	1
1321126	Nitrotoluene	1000
99081	m-Nitrotoluene	1000
88722	o-Nitrotoluene	1000
99990	p-Nitrotoluene	1000
99558	5-Nitro-o-toluidine	100
991424	Norbormide	100
27314132	Norflurazon	100

2234131	Octachloronaphthalene	100
29082744	Octachlorostyrene	1
8014957	Oleum (fuming sulfuric acid)	1000
0	Organorhodium Complex (PMN-82-147)	10
19044883	Oryzalin	100
20816120	Osmium tetroxide	1000
630604	Ouabain	100
23135220	Oxamyl	1
78717	Oxetane, 3,3-bis(chloromethyl)-	500
301122	Oxydemeton methyl	100
19666309	Oxydiazon	100
2497076	Oxydisulfoton	500
42874033	Oxyfluorfen	100
7783417	Oxygen difluoride	1
10028156	Ozone	1
30525894	Paraformaldehyde	1000
123637	Paraldehyde	1000
1910425	Paraquat dichloride	10
2074502	Paraquat methosulfate	10
56382	Parathion	10
1114712	Pebulate	1
40487421	Pendimethalin	1
19624227	Pentaborane	1
608935	Pentachlorobenzene	1
608935	Pentachlorobenzene	10
76017	Pentachloroethane	10
87865	Pentachlorophenol	10
2570265	Pentadecylamine	100
504609	1,3-Pentadiene	100
109660	Pentane	1000
109671	1-Pentene	1000
646048	2-Pentene, (E)-	1000
627203	2-Pentene, (Z)-	1000
57330	Pentobarbital sodium	100
79210	Peracetic acid	100
7601903	Perchloric acid	1000
594423	Perchloromethyl mercaptan	100
7616946	Perchloryl fluoride	100
52645531	Permethrin	100
62442	Phenacetin	100
85018	Phenanthrene	5000
108952	Phenol	1000
64006	Phenol, 3-(1-methylethyl)-, methylcarbamate	1
4418660	Phenol, 2,2'-thiobis[4-chloro-6-methyl-	100
26002802	Phenothrin	100
58366	Phenoxarsine, 10,10'-oxydi-	500
95545	1,2-Phenylenediamine	100
108452	1,3-Phenylenediamine	100
106503	p-Phenylenediamine	5000
615281	1,2-Phenylenediamine dihydrochloride	100
624180	1,4-Phenylenediamine dihydrochloride	100
123615	1,3-Phenylene diisocyanate	100
104494	1,4-Phenylene diisocyanate	100
59881	Phenylhydrazine hydrochloride	1000

PROPOSED REGULATIONS

62384	Phenylmercuric acetate	100
90437	2-Phenylphenol	100
2097190	Phenylsilatrane	100
103855	Phenylthiourea	100
57410	Phenytoin	10
298022	Phorate	10
4104147	Phosacetim	100
947024	Phosfolan	100
75445	Phosgene	10
732116	Phosmet	10
13171216	Phosphamidon	100
7803512	Phosphine	100
2703131	Phosphonothioic acid, methyl-, O-ethyl O-(4-(methylthio)phenyl) ester	500
50782699	Phosphonothioic acid, methyl-, S-(2-(bis(1-methylethyl)amino)ethyl) O-ethyl ester	100
2665307	Phosphonothioic acid, methyl-, O-(4-nitrophenyl) O-phenyl ester	500
7664382	Phosphoric acid	5000
3254635	Phosphoric acid, dimethyl 4-(methylthio)phenyl ester	500
2587908	Phosphorothioic acid, O,O-dimethyl-5-(2-(methylthio)ethyl)ester	500
7723140	Phosphorus	1
10025873	Phosphorus oxychloride	1000
10026138	Phosphorus pentachloride	500
1314563	Phosphorus pentoxide	1
7719122	Phosphorus trichloride	1000
85449	Phthalic anhydride	5000
57476	Physostigmine	1
57647	Physostigmine, salicylate (1:1)	1
1918021	Picloram	100
88891	Picric acid	100
124878	Picrotoxin	500
110894	Piperidine	1000
120547	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	1
51036	Piperonyl butoxide	100
23505411	Pirimifos-ethyl	1000
29232937	Pirimiphos methyl	100
1336363	Polychlorinated biphenyls	1
9016879	Polymeric diphenylmethane diisocyanate	100
7784410	Potassium arsenate	1
10124502	Potassium arsenite	1
7778509	Potassium bichromate	10
7758012	Potassium bromate	10
7789006	Potassium chromate	10
151508	Potassium cyanide	10
128030	Potassium dimethyldithiocarbamate	1
1310583	Potassium hydroxide	1000
51026289	Potassium N-hydroxymethyl-N-methyldithiocarbamate	1
137417	Potassium N-methyldithiocarbamate	1
7722647	Potassium permanganate	100
506616	Potassium silver cyanide	1

41198087	Profenofos	100
2631370	Promecarb	1
7287196	Prometryn	100
23950585	Pronamide	5000
1918167	Propachlor	100
463490	Propadiene	1000
74986	Propane	1000
107120	Propanenitrile	10
1120714	Propane sultone	10
709988	Propanil	100
2312358	Propargite	10
107197	Propargyl alcohol	1000
106967	Propargyl bromide	1
31218834	Propetamphos	100
122429	Propham	1
60207901	Propiconazole	100
57578	beta-Propiolactone	10
123386	Propionaldehyde	1000
79094	Propionic acid	5000
123626	Propionic anhydride	5000
70699	Propiophenone, 4'-amino	100
114261	Propoxur	100
627134	m-Propyl nitrate	500
107108	n-Propylamine	5000
115071	Propylene	100
75569	Propylene oxide	100
75558	Propyleneimine	1
74997	Propyne	1000
2275185	Prothoate	100
129000	Pyrene	5000
121299	Pyrethrins	1
121211	Pyrethrins	1
8003347	Pyrethrins	1
110861	Pyridine	1000
140761	Pyridine, 2-methyl-5-vinyl-	500
1124330	Pyridine, 4-nitro-, 1-oxide	500
53558251	Pyriminil	100
91225	Quinoline	5000
106514	Quinone	10
82688	Quintozene	100
76578148	Quizalofop-ethyl	100
50555	Reserpine	5000
10453868	Resmethrin	100
108463	Resorcinol	5000
81072	Saccharin and salts	100
94597	Safrole	100
14167181	Salcomine	500
107448	Sarin	1
7783008	Selenious acid	10
12039520	Selenious acid, dithallium(1+) salt	1000
7782492	Selenium	100
7783791	Selenium hexafluoride	10
7446084	Selenium oxide	10
7791233	Selenium oxychloride	500

PROPOSED REGULATIONS

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7488564	Selenium sulfide	10
144343	Selenium, tetrakis(dimethylthiocarbamate)	1
630104	Selenourea	1000
563417	Semicarbazide hydrochloride	1000
74051802	Sethoxydim	100
7803625	Silane	1000
3037727	Silane, (4-aminobutyl)diethoxymethyl-	1000
7440224	Silver	1000
506649	Silver cyanide	1
7761888	Silver nitrate	1
122349	Simazine	100
7440235	Sodium	10
7631892	Sodium arsenate	1
7784465	Sodium arsenite	1
26628228	Sodium azide (Na(N3))	1000
10588019	Sodium bichromate	10
1333831	Sodium bifluoride	100
7631905	Sodium bisulfite	5000
124652	Sodium cacodylate	100
7775113	Sodium chromate	10
143339	Sodium cyanide	10
1982690	Sodium dicamba	100
128041	Sodium dimethyldithiocarbamate	1
25155300	Sodium dodecylbenzenesulfonate	1000
7681494	Sodium fluoride	1000
62748	Sodium fluoroacetate	10
16721805	Sodium hydrosulfide	5000
1310732	Sodium hydroxide	1000
10022705	Sodium hypochlorite	100
7681529	Sodium hypochlorite	100
124414	Sodium methylate	1000
7632000	Sodium nitrite	100
131522	Sodium pentachlorophenate	100
132274	Sodium o-phenylphenoxide	10
7558794	Sodium phosphate, dibasic	5000
10140655	Sodium phosphate, dibasic	5000
10039324	Sodium phosphate, dibasic	5000
7785844	Sodium phosphate, tribasic	5000
10124568	Sodium phosphate, tribasic	5000
7601549	Sodium phosphate, tribasic	5000
10361894	Sodium phosphate, tribasic	5000
7758294	Sodium phosphate, tribasic	5000
10101890	Sodium phosphate, tribasic	5000
10028247	Sodium Phosphate, dibasic	5000
13410010	Sodium selenate	100
10102188	Sodium selenite	100
7782823	Sodium selenite	100
10102202	Sodium tellurite	500
900958	Stannane, acetoxyltriphenyl-	500
7803523	Stibine	10
18883664	Streptozotocin	1
7789062	Strontium chromate	10
57249	Strychnine	10
57249	Strychnine, and salts	10

60413	Strychnine, sulfate	10
100425	Styrene	1000
96093	Styrene oxide	100
95067	Sulfallate	1
3689245	Sulfotep	100
3569571	Sulfoxide, 3-chloropropyl octyl	500
7446095	Sulfur dioxide	100
7664939	Sulfuric acid	1000
12771083	Sulfur monochloride	1000
5714227	Sulfur pentafluoride	10
1314803	Sulfur phosphide	100
7783600	Sulfur tetrafluoride	10
7446119	Sulfur trioxide	20
2699798	Sulfuryl fluoride	100
35400432	Sulprofos	100
93765	2,4,5-T acid	1000
3813147	2,4,5-T amines	5000
6369966	2,4,5-T amines	5000
6369977	2,4,5-T amines	5000
2008460	2,4,5-T amines	5000
1319728	2,4,5-T amines	5000
61792072	2,4,5-T esters	1000
25168154	2,4,5-T esters	1000
93798	2,4,5-T esters	1000
1928478	2,4,5-T esters	1000
2545597	2,4,5-T esters	1000
13560991	2,4,5-T salts	1000
77816	Tabun	10
34014181	Tebuthiuron	100
13494809	Tellurium	1
7783804	Tellurium hexafluoride	10
3383968	Temephos	100
5902512	Terbacil	100
13071799	Terbufos	100
79947	Tetrabromobisphenol A	1
1634022	Tetrabutylthiuram disulfide	1
95943	1,2,4,5-Tetrachlorobenzene & Isomers	5000
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)	1
630206	1,1,1,2-Tetrachloroethane	100
79345	1,1,2,2-Tetrachloroethane	100
127184	Tetrachloroethylene	100
354143	1,1,2,2-Tetrachloro-1-fluoroethane	100
354110	1,1,1,2-Tetrachloro-2-fluoroethane	100
58902	2,3,4,6-Tetrachlorophenol	10
961115	Tetrachlorvinphos	100
64755	Tetracycline hydrochloride	100
78002	Tetraethyl lead	10
107493	Tetraethyl pyrophosphate	10
597648	Tetraethyltin	100
116143	Tetrafluoroethylene	500
10086472	Tetrafluoro hydrazine	100
7696120	Tetramethrin	100
75741	Tetramethyllead	100
75763	Tetramethylsilane	1000

PROPOSED REGULATIONS

509148	Tetranitromethane	10	79005	1,1,2-Trichloroethane	100
1314325	Thallic oxide	100	79016	Trichloroethylene	100
7440280	Thallium	1000	115219	Trichloroethylsilane	500
563688	Thallium(I) acetate	100	75694	Trichlorofluoromethane	5000
10102451	Thallium(I) nitrate	100	327980	Trichloronate	500
10031591	Thallium sulfate	100	25167822	Trichlorophenol	10
7446186	Thallium(I) sulfate	100	15950660	2,3,4-Trichlorophenol	10
6533739	Thallos carbonate	100	933788	2,3,5-Trichlorophenol	10
7791120	Thallos chloride	100	933755	2,3,6-Trichlorophenol	10
2757188	Thallos malonate	100	95954	2,4,5-Trichlorophenol	10
148798	Thiabenzazole	100	88062	2,4,6-Trichlorophenol	10
62555	Thioacetamide	10	609198	3,4,5-Trichlorophenol	10
28249776	Thiobencarb	100	98135	Trichlorophenylsilane	500
2231574	Thiocarbazide	1000	96184	1,2,3-Trichloropropane	10
139651	4,4'-Thiodianiline	10	10025782	Trichlorosilane	1000
59669260	Thiodicarb	1	57213691	Triclopyr triethylammonium salt	100
39196184	Thiofanox	100	27323417	Triethanolamine dodecylbenzene sulfonate	1000
297972	Thionazin	100	998301	Triethoxysilane	500
7719097	Thionyl chloride	10	121448	Triethylamine	5000
23564069	Thiophanate ethyl	100	79389	Trifluorochloroethylene	1000
23564058	Thiophanate-methyl	1	1582098	Trifluralin	10
108985	Thiophenol	100	26644462	Triforine	100
79196	Thiosemicarbazide	100	2487903	Trimethoxysilane	10
62566	Thiourea	10	75503	Trimethylamine	100
5344821	Thiourea, (2-chlorophenyl)-	100	95636	1,2,4-Trimethylbenzene	100
614788	Thiourea, (2-methylphenyl)-	500	75774	Trimethylchlorosilane	1000
137268	Thiram	10	16938220	2,2,4-Trimethylhexamethylene diisocyanate	100
1314201	Thorium dioxide	100	15646965	2,4,4-Trimethylhexamethylene diisocyanate	100
7550450	Titanium tetrachloride	100	824113	Trimethylolpropane phosphite	100
108883	Toluene	1000	540841	2,2,4-Trimethylpentane	1000
584849	Toluene-2,4-diisocyanate	100	2655154	2,3,5-Trimethylphenyl methylcarbamate	100
91087	Toluene-2,6-diisocyanate	100	1066451	Trimethyltin chloride	500
26471625	Toluene diisocyanate (unspecified isomer)	100		1,2,4-Trinitrobenzene	500
95534	o-Toluidine	100	99354	1,3,5-Trinitrobenzene	10
106490	p-Toluidine	100	602293	2,3,4-Trinitrotoluene	500
636215	o-Toluidine hydrochloride	100		2,3,5-Trinitrotoluene	500
8001352	Toxaphene	1		2,3,6-Trinitrotoluene	500
32534955	2,4,5-TP esters	100	610253	2,4,5-Trinitrotoluene	500
93721	2,4,5-TP acid	100	118967	2,4,6-Trinitrotoluene	500
43121433	Triadimefon	100		3,4,5-Trinitrotoluene	500
2303175	Triallate	1	639587	Triphenyltin chloride	500
1031476	Triamiphos	500	76879	Triphenyltin hydroxide	1000
68768	Triaziquone	100	555771	Tris(2-chloroethyl)amine	100
24017478	Triazofos	500	126727	ethanamine, 1,1-dimethyl-2-phenyl-	10
101200480	Tribenuron methyl	100	72571	Trypan blue	10
1983104	Tributyltin fluoride	100	66751	Uracil mustard	10
2155706	Tributyltin methacrylate	100	541093	Uranyl acetate	100
78488	S,S,S-Tributyltrithiophosphate	100	10102064	Uranyl nitrate	100
52686	Trichlorfon	100	36478769	Uranyl nitrate	100
76028	Trichloroacetyl chloride	500	51796	Urethane	100
120821	1,2,4-Trichlorobenzene & Isomers	100	2001958	Valinomycin	1000
1558254	Trichloro(chloromethyl)silane	10	7440622	Vanadium (except when contained in an alloy)	1
27137855	Trichloro(dichlorophenyl)silane	500	1314621	Vanadium pentoxide	1000
71556	1,1,1-Trichloroethane	1000	27774136	Vanadyl sulfate	1000

50471448	Vinclozolin	100
108054	Vinyl acetate	5000
689974	Vinyl acetylene	1000
593602	Vinyl bromide	100
75014	Vinyl chloride	1
109922	Vinyl ethyl ether	1000
75025	Vinyl fluoride	1000
75354	Vinylidene chloride	100
75387	Vinylidene fluoride	1000
107255	Vinyl methyl ether	1000
81812	Warfarin	100
81812	Warfarin, & salts, conc.>0.3%	100
129066	Warfarin sodium	100
108383	m-Xylene	100
95476	o-Xylene	100
106423	p-Xylene	100
1330207	Xylene	100
1300716	Xylenol	1000
87627	2,6-Xylidine	10
28347139	Xylylene dichloride	100
7440666	Zinc	1000
557346	Zinc acetate	1000
14639975	Zinc ammonium chloride	1000
14639986	Zinc ammonium chloride	1000
52628258	Zinc ammonium chloride	1000
1332076	Zinc borate	1000
7699458	Zinc bromide	1000
3486359	Zinc carbonate	1000
7646857	Zinc chloride	1000
557211	Zinc cyanide	10
58270089	Zinc, dichloro(4,4-dimethyl-5(((methylamino)carbonyl)oxy)imino)pentanenitrile)-, (T-4)-	100
7783495	Zinc fluoride	1000
557415	Zinc formate	1000
7779864	Zinc hydrosulfite	1000
7779886	Zinc nitrate	1000
127822	Zinc phenolsulfonate	5000
1314847	Zinc phosphide	100
16871719	Zinc silicofluoride	5000
7733020	Zinc sulfate	1000
12122677	Zineb	100
137304	Ziram	1
13746899	Zirconium nitrate	5000
16923958	Zirconium potassium fluoride	1000
14644612	Zirconium sulfate	5000
10026116	Zirconium tetrachloride	5000

This consolidated chemical list includes chemicals subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Chemicals listed under 112(r) of the Clean Air Act (CAA), Section 311 of the Clean Water Act of

1980, State of Delaware's Accidental Release Prevention Regulation, and EPCRA Section 313 are included with Delaware Reportable Quantities (DRQs). Some substances are listed as commonly known synonyms more than once or with different CAS numbers. For other synonyms and CAS numbers search the EPA Chemical Registry System (CRS) under chemical names or CAS numbers. The EPA CSR search page can be found on the internet at: [http://oaspub.epa.gov/crs/SEARCH\\$.STARTUP](http://oaspub.epa.gov/crs/SEARCH$.STARTUP)

* No mandatory written report is required under Section 2.5 of the 6028 Reporting Regulation.

RCRA Codes	NAME	DRQ
D001	Unlisted hazardous wastes characteristic of ignitability	100
D002	Unlisted hazardous wastes characteristic of corrosivity	100
D003	Unlisted hazardous wastes characteristic of reactivity	100
D004	Arsenic	1
D005	Barium	1000
D006	Cadmium	10
D007	Chromium	10
D008	Lead	10
D009	Mercury	1
D010	Selenium	10
D011	Silver	1
D012	Endrin	1
D013	Lindane	1
D014	Methoxychlor	1
D015	Toxaphene	1
D016	2,4-D	100
D017	2,4,5-TP	100
D018	Benzene	10
D019	Carbon tetrachloride	10
D020	Chlordane	1
D021	Chlorobenzene	100
D022	Chloroform	10
D023	o-Cresol	100
D024	m-Cresol	100
D025	p-Cresol	100
D026	Cresol	100
D027	1,4-Dichlorobenzene	100
D028	1,2-Dichloroethane	100
D029	1,1-Dichloroethylene	100
D030	2,4-Dinitrotoluene	10
D031	Heptachlor (and epoxide)	1
D032	Hexachlorobenzene	10
D033	Hexachlorobutadiene	1
D034	Hexachloroethane	100
D035	Methyl ethyl ketone	5000
D036	Nitrobenzene	1000
D037	Pentachlorophenol	10
D038	Pyridine	1000
D039	Tetrachloroethylene	100
D040	Trichloroethylene	100
D041	2,4,5-Trichlorophenol	10
D042	2,4,6-Trichlorophenol	10
D043	Vinyl chloride	1

PROPOSED REGULATIONS

F001	Spent halogenated solvents used in degreasing	10
F001a	(a) Tetrachloroethylene (CAS No. 127-18-4, RCRA Waste No. U210)	100
F001b	(b) Trichloroethylene (CAS No. 79-01-6, RCRA Waste No. U228)	100
F001c	(c) Methylene chloride (CAS No. 75-09-2, RCRA Waste No. U080)	1000
F001d	(d) 1,1,1-Trichloroethane (CAS No. 71-55-6, RCRA Waste No. U226)	1000
F001e	(e) Carbon tetrachloride (CAS No. 56-23-5, RCRA Waste No. U211)	10
F001f	(f) Chlorinated fluorocarbons	5000
F002	Spent halogenated solvents	10
F002a	(a) Tetrachloroethylene (CAS No. 127-18-4, RCRA Waste No. U210)	100
F002b	(b) Methylene chloride (CAS No. 75-09-2, RCRA Waste No. U080)	1000
F002c	(c) Trichloroethylene (CAS No. 79-01-6, RCRA Waste No. U228)	100
F002d	(d) 1,1,1-Trichloroethane (CAS No. 71-55-6, RCRA Waste No. U226)	1000
F002e	(e) Chlorobenzene (CAS No. 108-90-7, RCRA Waste No. U037)	100
F002f	(f) 1,1,2-Trichloro-1,2,2-trifluoroethane (CAS No. 76-13-1)	5000
F002g	(g) o-Dichlorobenzene (CAS No. 95-50-1, RCRA Waste No. U070)	100
F002h	(h) Trichlorofluoromethane (CAS No. 75-69-4, RCRA Waste No. U121)	5000
F002i	(i) 1,1,2-Trichloroethane (CAS No. 79-00-5, RCRA Waste No. U227)	100
F003	Spent non-halogenated solvents and still bottoms from recovery:	100
F003a	(a) Xylene (CAS No. 1330-20-7)	1000
F003b	(b) Acetone (CAS No. 67-64-12)	5000
F003c	(c) Ethyl acetate (CAS No. 141-78-6)	5000
F003d	(d) Ethylbenzene (CAS No. 100-41-4)	1000
F003e	(e) Ethyl ether (CAS No. 60-29-7)	100
F003f	(f) Methyl isobutyl ketone (CAS No. 108-10-1,)	5000
F003g	(g) n-Butyl alcohol (CAS No. 71-36-3)	5000
F003h	(h) Cyclohexanone (CAS No. 108-94-1)	5000
F003i	(i) Methanol (CAS No. 67-56-1, RCRA Waste No. U154)	5000
F004	Spent non-halogenated solvents and still bottoms from recovery:	100
F004a	(a) Cresols/cresylic acid (CAS No. 1319-77-3, RCRA Waste No. U052)	100
F004b	(b) Nitrobenzene (CAS No. 98-95-3, RCRA Waste No. U169)	1000
F005	Spent non-halogenated solvents and still bottoms from recovery:	100
F005a	(a) Toluene (CAS No. 108-88-3, RCRA Waste No. U220)	1000
F005b	(b) Methyl ethyl ketone (CAS No. 78-93-3, RCRA Waste No. U159)	5000
F005c	(c) Carbon disulfide (CAS No. 75-15-0, RCRA Waste No. P022)	100
F005d	(d) Isobutanol (CAS No. 78-83-1, RCRA Waste No. U140)	5000
F005e	(e) Pyridine (CAS No. 110-86-1, RCRA Waste No. U196)	1000
F006	Wastewater treatment sludges from electroplating operations (w/some exceptions)	10
F007	Spent cyanide plating bath solns. from electroplating	10
F008	Plating bath residues from electroplating where cyanides are used	10

F009	Spent stripping/cleaning bath solns. from electroplating where cyanides are used	10
F010	Quenching bath residues from metal heat treating where cyanides are used	10
F011	Spent cyanide soln. from salt bath pot cleaning from metal heat treating	10
F012	Quenching wastewater sludges from metal heat treating where cyanides are used	10
F019	Wastewater treatment sludges from chemical conversion aluminum coating	10
F020	Wastes from prod. or use of tri/tetrachlorophenol or derivative intermediates	1
F021	Wastes from prod. or use of pentachlorophenol or intermediates for derivatives	1
F022	Wastes from use of tetra/penta/hexachlorobenzenes under alkaline conditions	1
F023	Wastes from mat. prod. on equip. previously used for tri/tetrachlorophenol	1
F024	Wastes from production of chlorinated aliphatic hydrocarbons (C1-C5)	1
F025	Lights ends, filters from prod. of chlorinated aliphatic hydrocarbons (C1-C5)	1
F026	Waste from equipment previously used to prod. tetra/penta/hexachlorobenzenes	1
F027	Discarded formulations containing tri/tetra/pentachlorophenols or derivatives	1
F028	Residues from incineration of soil contaminated w/ F020,F021,F022,F023,F026,F027	1
F032	Wastewaters, process residuals from wood preserving using chlorophenolic solns.	1
F034	Wastewaters, process residuals from wood preserving using creosote formulations	1
F035	Wastewaters, process residuals from wood preserving using arsenic or chromium	1
F037	Petroleum refinery primary oil/water/solids separation sludge	1
F038	Petroleum refinery secondary (emulsified) oil/water/solids separation sludge	1
K001	Wastewater treatment sludge from creosote/pentachlorophenol wood preserving	1
K002	Wastewater treatment sludge from prod. of chrome yellow and orange pigments	10
K003	Wastewater treatment sludge from prod. of molybdate orange pigments	10
K004	Wastewater treatment sludge from prod. of zinc yellow pigments	10
K005	Wastewater treatment sludge from prod. of chrome green pigments	10
K006	Wastewater treatment sludge from prod. of chrome oxide green pigments	10
K007	Wastewater treatment sludge from prod. of iron blue pigments	10
K008	Oven residue from prod. of chrome oxide green pigments	10
K009	Dist. bottoms from prod. of acetaldehyde from ethylene	10
K010	Dist. side cuts from prod. of acetaldehyde from ethylene	10
K011	Bottom stream from wastewater stripper in acrylonitrile prod.	10
K013	Bottom stream from acetonitrile column in acrylonitrile prod.	10
K014	Bottoms from acetonitrile purification column in acrylonitrile prod.	5000
K015	Still bottoms from the dist. of benzyl chloride	10
K016	Heavy ends or dist. residues from prod. of carbon tetrachloride	1
K017	Heavy ends from the purification column in epichlorohydrin prod.	10

PROPOSED REGULATIONS

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K018	Heavy ends from the fractionation column in ethyl chloride prod.	1
K019	Heavy ends from the dist. of ethylene dichloride during its prod.	1
K020	Heavy ends from the dist. of vinyl chloride during prod. of the monomer	1
K021	Aqueous spent antimony catalyst waste from fluoromethanes prod.	10
K022	Dist. bottom tars from prod. of phenol/acetone from cumene	1
K023	Dist. light ends from prod. of phthalic anhydride from naphthalene	5000
K024	Dist. bottoms from prod. of phthalic anhydride from naphthalene	5000
K025	Dist. bottoms from prod. of nitrobenzene by nitration of benzene	10
K026	Stripping still tails from the prod. of methyl ethyl pyridines	1000
K027	Centrifuge/dist. residues from toluene diisocyanate prod.	10
K028	Spent catalyst from hydrochlorinator reactor in prod. of 1,1,1-trichloroethane	1
K029	Waste from product steam stripper in prod. of 1,1,1-trichloroethane	1
K030	Column bottoms/heavy ends from prod. of trichloroethylene and perchloroethylene	1
K031	By-product salts generated in the prod. of MSMA and cacodylic acid	1
K032	Wastewater treatment sludge from the prod. of chlordane	10
K033	Wastewater/scrubwater from chlorination of cyclopentadiene in chlordane prod.	10
K034	Filter solids from filtration of hexachlorocyclopentadiene in chlordane prod.	10
K035	Wastewater treatment sludges from the prod. of creosote	1
K036	Still bottoms from toluene reclamation distillation in disulfoton prod.	1
K037	Wastewater treatment sludges from the prod. of disulfoton	1
K038	Wastewater from the washing and stripping of phorate production	10
K039	Filter cake from filtration of diethylphosphorodithioic acid in phorate prod.	10
K040	Wastewater treatment sludge from the prod. of phorate	10
K041	Wastewater treatment sludge from the prod. of toxaphene	1
K042	Heavy ends/residues from dist. of tetrachlorobenzene in 2,4,5-T prod.	10
K043	2,6-Dichlorophenol waste from the prod. of 2,4-D	10
K044	Wastewater treatment sludge from manuf. and processing of explosives	10
K045	Spent carbon from treatment of wastewater containing explosives	10
K046	Wastewater sludge from manuf.,formulating,loading of lead-based initiating compd	10
K047	Pink/red water from TNT operations	10
K048	Dissolved air flotation (DAF) float from the petroleum refining industry	10
K049	Slop oil emulsion solids from the petroleum refining industry	10
K050	Heat exchanger bundle cleaning sludge from petroleum refining industry	10
K051	API separator sludge from the petroleum refining industry	10
K052	Tank bottoms (leaded) from the petroleum refining industry	10

K060	Ammonia still lime sludge from coking operations	1
K061	Emission control dust/sludge from primary prod. of steel in electric furnaces	10
K062	Spent pickle liquor generated by steel finishing (SIC codes 331 and 332)	10
K064	Acid plant blowdown slurry/sludge from blowdown slurry from primary copper prod.	10
K065	Surface impoundment solids at primary lead smelting facilities	10
K066	Sludge from treatment of wastewater/acid plant blowdown from primary zinc prod.	10
K069	Emission control dust/sludge from secondary lead smelting	10
K071	Brine purification muds from mercury cell process in chlorine production	1
K073	Chlorinated hydrocarbon waste from diaphragm cell process in chlorine production	10
K083	Distillation bottoms from aniline extraction	100
K084	Wastewater sludges from prod. of veterinary pharm. from arsenic compds.	1
K085	Distillation or fractionation column bottoms in prod. of chlorobenzenes	10
K086	Wastes/sludges from prod. of inks from chromium and lead-containing substances	10
K087	Decanter tank tar sludge from coking operations	100
K088	Spent potliners from primary aluminum reduction	10
K090	Emission control dust/sludge from ferrochromium/silicon prod.	10
K091	Emission control dust/sludge from ferrochromium prod.	10
K093	Dist. light ends from prod. of phthalic anhydride by ortho-xylene	5000
K094	Dist. bottoms in prod. of phthalic anhydride by ortho-xylene	5000
K095	Distillation bottoms in prod. of 1,1,1-trichloroethane	100
K096	Heavy ends from dist. column in prod. of 1,1,1-trichloroethane	100
K097	Vacuum stripper discharge from the chlordane chlorinator in prod. of chlordane	1
K098	Untreated process wastewater from the prod. of toxaphene	1
K099	Untreated wastewater from the prod. of 2,4-D	10
K100	Waste leaching soln from emission control dust/sludge in secondary lead smelting	10
K101	Dist. tar residue from aniline in prod. of veterinary pharm. from arsenic compd.	1
K102	Residue from activated carbon in prod. of veterinary pharm. from arsenic compds.	1
K103	Process residues from aniline extraction from the prod. of aniline	100
K104	Combined wastewater streams generated from prod. of nitrobenzene/aniline	10
K105	Aqueous stream from washing in prod. of chlorobenzenes	10
K106	Wastewater treatment sludge from mercury cell process in chlorine prod.	1
K107	Column bottoms from separation in prod. of UDMH from carboxylic acid hydrazides	10
K108	Condensed column overheads and vent gas from prod. of UDMH from -COOH hydrazides	10
K109	Spent filter cartridges from purif. of UDMH prod. from carboxylic acid hydrazides	10
K110	Condensed column overheads from separation in UDMH prod. from -COOH hydrazides	10
K111	Product washwaters from prod. of dinitrotoluene via nitration of toluene	10
K112	Reaction by-product water from drying in toluenediamine prod from dinitrotoluene	10

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K113	Condensed liquid light ends from purification of toluenediamine during its prod.	10
K114	Vicinals from purification of toluenediamine during its prod from dinitrotoluene	10
K115	Heavy ends from toluenediamine purification during prod. from dinitrotoluene	10
K116	Organic condensate from solvent recovery system in prod. of toluene diisocyanate	10
K117	Wastewater from vent gas scrubber in ethylene bromide prod by ethene bromination	1
K118	Spent absorbent solids in purification of ethylene dibromide in its prod.	1
K123	Process wastewater from the prod. of ethylenebisdithiocarbamic acid and salts	10
K124	Reactor vent scrubber water from prod of ethylenebisdithiocarbamic acid and salts	10
K125	Filtration/other solids from prod. of ethylenebisdithiocarbamic acid and salts	10
K126	Dust/sweepings from the prod. of ethylenebisdithiocarbamic acid and salts	10
K131	Wastewater and spent sulfuric acid from the prod. of methyl bromide	100
K132	Spent absorbent and wastewater solids from the prod. of methyl bromide	1000
K136	Still bottoms from ethylene dibromide purif. in prod. by ethene bromination	1
K141	Process residues from coal tar recovery in coking	1
K142	Tar storage tank residues from coke prod. from coal or recovery of coke by-prods	1
K143	Process residues from recovery of light oil in coking	1
K144	Wastewater residues from light oil refining in coking	1
K145	Residues from naphthalene collection and recovery from coke by-products	1
K147	Tar storage tank residues from coal tar refining in coking	1
K148	Residues from coal tar distillation, including still bottoms, in coking	1
K149	Distillation bottoms from the prod. of chlorinated toluenes/benzoyl chlorides	10
K150	Organic residuals from Cl gas and HCl recovery from chlorinated toluene prod.	10
K151	Wastewater treatment sludge from production of chlorotoluenes/benzoyl chlorides	10
K156	Organic waste from production of carbamates and carbamoyl oximes	1
K157	Wastewaters from production of carbamates and carbamoyl oximes (not sludges)	1
K158	Bag house dusts & filter/separation solids from prod of carbamates, carb oximes	1
K159	Organics from treatment of thiocarbamate waste	1
K160	Solids from production of thiocarbamates and treatment of thiocarbamate wastes	1
K161	Purif. solids/bag house dust/sweepings from prod of dithiocarbamate acids/salts	1
K169	Crude oil storage tank sediment from petroleum operations	10
K170	Clarified slurry oil tank sediment from petroleum refining operations	1
K171	Spent hydrotreating catalyst from petroleum refining operations.	1
K172	Spent hydrorefining catalyst from petroleum refining operations.	1
K174	Wastewater treatment sludges from the production of vinyl chloride or ethylene dichloride monomer	1
K175	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer	1

Note: Delaware reportable quantities (DRQs) are based upon EPA RCRA waste streams and unlisted hazardous wastes reportable quantities (RQs) as published in EPA List of Lists as EPA publication Number: EPA 550-B-01-003.

The term hazardous waste substance includes RCRA listed and characteristic hazardous wastes. The establishments of RQs for hazardous waste differs from the methodology applied to individual hazardous substances, as the RQ for hazardous waste is based on the results of an analysis of hazardous constituents in the waste stream. When the RQ of each hazardous constituent is established, the lowest RQ of each of these constituents then becomes the adjusted RQ for the waste stream. In the event there are constituents in the hazardous waste that are not considered hazardous substances, a reference RQ is developed for these constituents in order to assign an appropriate RQ.

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF STATE POLICE
Statutory Authority: 21 Delaware Code,
Section 6901(c) (21 Del.C. 6901(c))

PUBLIC NOTICE

Notice is hereby given that the Department of Public Safety, Division of State Police, in accordance with 21 Del.C. Section 6901(c) proposes to adopt Regulations. These Regulations will regulate nonconsensual towing of abandoned or disabled vehicles, or vehicles from the scene of an accident or arrest. These regulations do not apply if a vehicle owner or driver requests a specific towing service, unless, in the opinion of the Division of the State Police there may an unreasonable time delay or traffic safety hazard. A public hearing will be held on Tuesday, June 25, 2002 at 10:00 a.m., in the second floor main conference room (rm. 205) of the Public Safety Building, 303 Transportation Circle, Dover, DE. The Department of Public Safety will receive and consider input in writing from any person on the proposed towing regulations. Any written comments should be submitted to the Department of Public Safety, in care of William G. Bush, IV, at P.O Box 818, Dover, DE 19903-0818 on or before June 25, 2002. Anyone wishing to obtain a copy of the proposed Regulations may do so by sending a written request to the Department of Public Safety, P.O. Box 818, Dover, DE 19903-0818. This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

REGULATION "B" - NONCONSENSUAL TOWING

Pursuant to Section 6901(c) of Title 21 of the Delaware Code, the Department of Public Safety proposes to adopt regulations for nonconsensual towing of abandoned or disabled vehicles, or vehicles from the scene of an accident or arrest. These regulations do not apply if a vehicle owner or driver requests a specific towing service, unless, in the opinion of the Division of State Police, there may be an unreasonable time delay or traffic safety hazard.

Section 1. Statement of Purpose

The purpose of these regulations is to protect and promote the public safety and to maintain hazard-free streets and highways by: requiring tow vehicles and equipment to meet minimum specifications; requiring tow truck operators to be licensed and insured and to hire only competent and responsible drivers; and by creating a more equitable and uniform system of handling towing calls.

Section 2. Definitions

(A) **"The Department"** means the Department of Public Safety.

(B) **"The Division"** means the Division of State Police.

(C) **"The Troop"** means the State Police Troop or, where appropriate, the officers and troopers thereof.

(D) **"Tow vehicle"** means a motor vehicle altered or designed for, and used in the business of towing vehicles by means of a flat bed or other specially designed truck that is equipped with a tow sling, tow bar, tow plate or wheel lift apparatus, attached to the rear of the truck; or a crane or hoist that is attached to the bed or frame of the tow vehicle. Wrecker, garage tow truck, and slide back or roll back car carriers are synonymous with and included within the definition of "tow vehicle."

(E) **"Towing"** means the transportation on the streets and highways of the State of Delaware of damaged, disabled, unattended or abandoned vehicles together with personal effects and/or cargo by tow trucks. Wrecking or wrecker service, tow car service, and garage tow truck service are synonymous with and included within the definition of "towing."

(F) **"Approved Tower"** means a towing operator that has applied to the Division for certification and been approved by the Division after meeting all criteria for approval, including but not limited to the inspection of the operator's tow vehicle(s).

(G) **"Troop Area"** means the areas of the numbered State Police troops (1, 2, 3, 4, 5, 6, 7, and 9).

(H) **"Special Assigned Area"** means a geographical part of the Troop Area as determined by the Troop Commander for the purpose of designating one or more Approved Towers to service that area.

Section 3. Tow Vehicles and Equipment

(A) Tow vehicles shall not exceed the manufacturer's gross vehicle weight or the manufacturer's rated capacity for the towing assembly. All tow vehicle components (winches, booms, wire rope, clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, and hydraulic components) must be maintained in good condition at all times.

(B) The minimum standards for each class of tow vehicles shall be determined solely by the manufacturer's specifications for the capabilities and capacities of the tow vehicles and towing equipment.

1. Class "A" Tow Vehicles - Minimum Specifications

a. A gross vehicle weight of at least 10,000 pounds. A crane and a winch with a rating of at least four tons must be mounted on the chassis. A roll back bed may substitute for the crane.

b. A wire rope attached to each tow vehicle winch at least 100 feet long with a minimum thickness of 3/8 inches.

c. A tow sling or wheel lift manufactured to prevent damage to the vehicle.

d. At least two safety chains to be attached between the tow vehicle and the towed vehicle.

2. Class "B" Tow Vehicles - Minimum Specifications

a. A gross vehicle weight rating of at least 17,500 pounds. A complete crane and winch having a rating of at least ten tons must be mounted on the chassis. A roll back bed may substitute for the crane.

b. A wire rope attached to each winch at least 100 feet long with a minimum thickness of 5/8 inches.

c. A tow sling or wheel lift, or underreach manufactured to prevent damage to the vehicle.

d. A minimum of two safety chains to be attached between the tow vehicle and the towed vehicle.

e. At least two portable tail, stop and signal lamps with mounting brackets or mounting clips. The lens shall be red in color, and the lens' diameter shall be at least three inches.

3. Class "C" Tow Vehicles - Minimum Specifications

a. A gross vehicle rating of at least 30,000 pounds. A complete crane and winch having a rating of at least twenty-five (25) tons must be mounted on the chassis.

b. A wire rope attached to each winch at least 150 feet long with a minimum thickness of 5/8 inches.

c. Brakes constructed to comply with federal motor carrier safety regulations and the Delaware motor vehicle code where applicable.

d. A tow sling or wheel lift, or underreach manufactured to prevent damage to the vehicle.

e. At least two safety chains to be attached

between the tow vehicle and the towed vehicles, or combination of vehicles.

f. At least two portable tail, stop and signal lamps with mounting brackets or mounting clips. The lens shall be red in color, and the lens' diameter shall be at least three inches.

4. Accessories

a. Each tow vehicle shall be commercially lettered with the operator's business name, city, state, and telephone number visible from both sides of the vehicle, in permanent letters at least 2 ½ inches high. Each tow vehicle shall also bear a sticker, to be issued by the DSP, indicating which troop area(s)/specially designated area(s) the vehicle is authorized to serve.

b. Each tow vehicle shall be equipped at all times as required by the Delaware motor vehicle code and with the following accessories:

(i) An amber rotor beam or strobe light mounted on the top so as to be seen when in use from front, rear, and both sides. Such beam or light is to be used only when there is a hazardous condition.

(ii) Minimum of two work lights on the rear.

(iii) One snatch block for each winch with matching manufacturer's rating.

(iv) A set of scotch blocks for wheels, metal type with tail gate chains, or hydraulic rear extendable scotch blocks (Class B and C vehicles only).

(v) External air hookup and hoses (Class C vehicles only).

(vi) A set of nylon recovery straps or chains rated at 25,000 pounds(Class B and C vehicles only).

(vii) At least one broom, shovel, axe, crowbar or pry bar, set of jumper cables, flashlight, and fire extinguisher.

(viii) Box or container to carry debris.

(ix) Sand or commercial oil and grease absorber for a reasonably small cleanup that does not require the intervention of the Department of Natural Resources and Environmental Control.

Section 4. Approved Towers

(A) Applications for status as an Approved Tower shall be made in writing and under oath to the Division on forms provided by the Division. The application shall contain all information required therein and shall be sent to the Traffic Control Section, Delaware State Police, P.O. Box 430, Dover, Delaware 19903-0430.

(B) The Traffic Control Section shall review each application for form and completeness. The applicant must attach to the application: (i) business license; (ii) proof of insurance for all towing vehicles; (iii) the driving record for each driver; (iv) a criminal background record for each driver, and authorization for the Division to conduct future

criminal background checks; and (v) schedule of towing and storage rates. If the application is in good order, the Traffic Control Section will notify the applicant in writing that it has been conferred Approved Tower status, and send a copy of the application and approval to the Troop.

(C) No tower will be considered for approved status unless it has continuously been in the towing business for at least twelve (12) months prior to the date the application is received. No tower will be considered for approved status unless it has at least two vehicles meeting all of the specifications in these regulations.

(D) No later than January 31 of each year (but not earlier than January 2), each Approved Tower shall complete and return to the Troop a renewal form to be provided by the Division. The renewal form shall attest, under oath, that all of the information in the original application form is either correct and complete, and/or notify the Division of any changes in the information in the original application form or since the last renewal form. The renewal form shall attach the Approved Tower's business license, proof of insurance for each towing vehicle, driving record for each driver, and schedule of rates for towing and storage services. The renewal form does not need to attach criminal background records except for employees newly hired or re-hired since the date of the original application or last renewal form. The Division reserves the right, based on prior authorization, to conduct its own criminal background checks on employees of Approved Towers.

(E) An Approved Tower must notify the Troop in writing within ten days of the date of any change in the information supplied on the original application. For example, if the Approved Tower hires a new driver or buys a new towing vehicle, then that information must be provided to the Troop in writing.

1. Vehicles and Equipment

As soon as practicable after the filing of an application, the Traffic Control Section will inspect the applicant's tow vehicle(s) and equipment to determine if they are fit for operation and otherwise in compliance with these regulations and the motor vehicle and traffic laws and federal motor carrier safety regulations, including but not limited to U.S. Department of Transportation rules or regulations. Thereafter, the Troop may conduct periodic or random inspections to determine if a tow vehicle continues to meet all federal, state, and local standards. If, at any time, the Troop finds that a tow vehicle does not meet the minimum specifications for its class, or is not in compliance with any federal, state, or local standards, the Troop shall immediately stop using the services of that Approved Tower until such repairs are made and the tow vehicle is re-inspected by the Troop.

2. Drivers

a. All tow vehicle drivers must be at least eighteen (18) years of age and have the appropriate driver's

license for the Approved Tower's tow vehicle.

b. Every driver shall be competent by reason of experience or training to safely operate the type of tow vehicle(s) certified.

c. No driver shall have had within the last ten years: two or more convictions for driving under the influence of alcohol or drugs; any criminal conviction involving theft, dishonesty, or fraud; any felony conviction involving or related to the operation of a tow vehicle; or any judgment (civil or criminal) of having operated a tow vehicle in a grossly negligent manner or in a manner showing a reckless disregard for life or property.

3. Towing Service

a. All vehicles and equipment owned and operated by the Approved Tower must meet the minimum specifications set forth in these regulations.

b. All vehicles and equipment owned and operated by the Approved Tower must provide proof of insurance for each tow vehicle to the Division at the time of its application for certification, and each year that the Approved Tower renews its certification, or upon demand by the Division. The following minimum coverage is required:

<u>Comprehensive Vehicle Liability Insurance</u>	<u>Limits of Liability</u>
<u>Bodily Injury</u>	<u>\$300,000 each occurrence</u> <u>\$100,000 each person</u>
<u>Property Damage</u>	<u>\$50,000 each occurrence</u>
<u>Additional Umbrella</u>	<u>\$1,000,000</u>
 <u>Garage Liability Insurance</u>	
<u>Bodily Injury</u>	<u>\$100,00 each person</u>
 <u>Garage Keeper's Insurance (owned vehicles, hired vehicles, non-owned vehicles)</u>	
<u>Bodily Injury</u>	<u>\$300,000 each occurrence</u>
<u>Property Damage</u>	<u>\$50,000 each occurrence.</u>
<u>Worker's Compensation</u>	<u>as required by statute</u>
<u>Employer's Liability Insurance</u>	<u>as required by statute</u>

All insurance policies required shall be issued only by companies authorized to do business in Delaware. Coverage must provide for loss from any vehicle or contents such as radios and computers while being handled, towed or stored by the approved tower. Approved Towers must notify the Division of any modification, amendment, cancellation or substitution of any insurance policy required by these regulations within ten days the Approved Tower learns of the change in circumstances.

(F.). To be eligible to provide towing services in a Troop

Area or Special

Assigned Area, the Approved Tower must have a principal place of business located in that Troop Area or Special Assigned Area which is under the exclusive control of the Approved Tower, is not used by any other towing service, and is the premises listed on the Approved Tower's application. Each Approved Tower must maintain a telephone system at that location to answer calls from the Troop duty officer twenty-four hours a day, and must maintain at least one tow vehicle and one qualified driver for that place of business. The Approved Tower's place of business shall be open to the public from 8 a.m. to 6 p.m. Monday through Friday, and the business must be available to release stored vehicles on Saturdays from 8 a.m. to 12 noon, and on Sundays and holidays from 12 noon to 4:00 p.m.

(G.) The Approved Tower's storage facility must be located on the same premises or adjacent to its principal place of business in the Troop Area or Special Assigned Area it services. The Approved Tower shall maintain a secure outside storage facility for the control and safekeeping of motor vehicles, enclosed by a fence at least six feet high to deter trespass and vandalism. With the approval of the Troop Commander, an Approved Tower may use a satellite storage facility on a seasonal basis that is not located on or next to its principal place of business if the satellite facility will be more convenient for the public. The Approved Tower will operate that satellite facility in accordance with the conditions of operation in Section 4.D. above.

(H.) The Approved Tower must be able to provide emergency service, twenty-four hours a day, seven days a week, 365 days a year within the Troop Area or within a Special Assigned Area if such area is designated. An Approved Trooper can remove itself from the rotation list or Special Assigned Area for a specified time for vacation, sick, family leave or the like by notifying the Troop a reasonable time in advance.

Section 5. Denial of Approved Tower Status

The Division may refuse to approve an application for Approved Tower status for failure: (1) to provide complete, true, timely, and accurate information on the application, inspection, or renewal forms, or for omitting any material fact on the application, inspection, or renewal forms; (2) to satisfy or meet any of the requirements of these regulations; (3) to submit to a tow vehicle inspection; or (4) to have or maintain any federal, state, or local license required for the operation of a towing service or tow vehicle or for its drivers.

Section 6. Towing Service Allocation System

(A) Based on the needs of public safety, the Troop Commander may designate part of the Troop Area as a

Special Assigned Area to be served by one or more Approved Towers taking into account such criteria as, but not limited to, motor vehicle accident statistics; traffic patterns; and other relating to the response time of towing companies; the density of approved towing companies; and prior history of reliable and expeditious towing services.

(B) Each Troop Commander shall have the discretion, based on the needs of public safety, to designate one or more Approved Towers to provide all non-consensual towing services in either the Troop Area or a Special Assigned Area. The Troop Commander shall establish the number of Approved Towers based on the need to maintain adequate and timely public service to minimize management of a rotation system. The Troop Commander may revise the number of Approved Towers if he or she finds that the public is not being appropriately served by the existing number of towers.

(C) If there are more than one Approved Tower for the Troop Area or Special Assigned Area, they shall be placed on a rotating list and shall be called by the Troop duty officer to remove a wrecked, disabled, stolen or abandoned vehicle, or a vehicle following an arrest, according to the tower's placement on a Troop towing rotation list for that area and according to the tow vehicle classification for the size of the vehicle to be towed. Approved Towers will be called in succession from the top of the list. An Approved Tower shall promptly respond to a call with a tow vehicle classified to meet or exceed the size of the vehicle to be towed. If an Approved Tower truck does not respond to a request for service, that tower shall be rotated to the bottom of the list.

(D) Approved Towers will be listed only once on each list and only in the name under which they are certified under these regulations. It is prohibited for an Approved Tower to receive multiple listings or classifications using a different or fictitious name for tow vehicles operating out of the same location or out of different locations within the same Troop Area.

(E) Approved Towers shall be on-call twenty-four hours a day, seven days a week, and shall have no more than one day and one night telephone number. Answering services are not permitted for purposes of responding to calls under these regulations. The Approved Tower must acknowledge the rotation call by contacting the duty officer at the Troop within five minutes after the rotation call. If the Approved Tower does not acknowledge the call, or calls to say it will not or cannot respond, then the duty officer shall cancel the call, rotate the Approved Tower to the bottom of the list, and call the next Approved Tower on the list. When an Approved Tower responds to a call to remove an abandoned vehicle, the Approved Tower shall not be rotated to the bottom of the rotation list but shall remain at the top of the list for the next available call.

(F) Out-of-area towing requests are permitted in the event of an emergency or the absence of a tow vehicle of

proper classification, or the unavailability of any Approved Tower. In the event of specialized recovery requirements not otherwise met by Approved Towers, the Troop may call specialized recovery equipment on a nearest available basis.

Section 7. Recovery Procedures at Scene of Accident

(A) Approved Towers shall not use sirens, mechanical or electronic, but shall use rotating beacons or strobes when in the actual process of recovering a vehicle from the scene of an accident, or while towing that vehicle under conditions that present a potential hazard to the public.

(B) Approved Towers shall sweep all glass and remove all debris from the highway and the right-of-way promptly and prior to leaving the incident or collision scene. Approved Towers shall also spread sand or a commercial oil and grease absorber over small spills of oil, anti-freeze, or other fluids.

(C) Approved Towers shall follow instructions issued by any on-the-scene Trooper with respect to the preservation of physical evidence that may be lost or contaminated where towing, removing or storage of any wrecked, disabled, or abandoned vehicle is involved.

(D) When the owner or operator of a vehicle surrenders physical custody of a vehicle, the Trooper shall prepare in triplicate a vehicle storage form with an inventory of its contents and a description of any damage to the vehicle or its contents. The inventory shall be signed by the Trooper and the Approved Tower, and shall indicate whether the Trooper has instructed that the tower should withhold repossession or delivery of the vehicle to the rightful owner or his agent. The original will be for the Troop records, a copy for the towing service's record, and a copy to be given to the vehicle's owner or agent, to present to the towing service in order to release the vehicle.

Section 8. Prohibited Acts

(A) No Approved Tower shall stop at the scene of an accident or at or near a disabled vehicle for the purpose of soliciting an engagement for towing service, unless directed to do so by a Trooper.

(B) No Approved Tower shall, without authorization from the Troop, move any vehicle from any public highway, street, or other public area when such vehicle has been abandoned, stolen or damaged as the result of an accident, or following an arrest. Approved Towers may move a vehicle damaged as the result of an accident if the removal is for the purpose of extracting a person from the wreckage or to remove an immediate hazard to life, person, or property. In no event shall any such movement be more than is reasonable or necessary under the circumstances then existing. When movement is necessary, the Approved Tower shall be able to identify the original resting place of the vehicle.

Section 9. Rates

Approved Towers shall charge reasonable fees for towing and storage comparable to other towers providing similar services in the Troop Area. The Approved Tower's basic towing or service fees shall be furnished with the certification application and the annual renewal form. These fees should include: the base tow charges for day and night; storage charges per day; base charge for use of winch and dollies; and the base charge for road service for vehicles requiring fuel, battery jumps, belts, etc. If there is an interim change in any rate charged by the Approved Tower, it must be reported to the Traffic Control Section within ten days.

Section 10. Subcontracting and Assignment

(A) No Approved Tower shall subcontract, on a formal or informal basis, any request for nonconsensual towing service from the Division, or delegate or request assistance from another tower to respond to such a call, or refer a call to another tower or substitute for each other, unless approved in advance by the Troop for good cause.

(B) An Approved Tower's certification, place on the towing rotation system, or Special Assigned Area, cannot be sold, leased, assigned, transferred, pledged, surrendered or otherwise encumbered or disposed of to another towing operator, person, or entity. A successor towing service must make a new application for certification to the Division under these regulations. Upon the sale, lease, assignment, transfer, pledge, surrender, or other encumbrance or disposition of the Approved Tower, its business, name, or all or substantially all of its assets, the certification approval terminates immediately by operation of law and that Approved Tower will be dropped from the approved towing list.

(C) These regulations supersede all prior regulations, contracts, agreements, arrangements, or understandings, formal or informal, regarding nonconsensual towing at the request of the Division. These regulations constitute whatever written notice of termination may have been required by those prior regulations, contracts, agreements, arrangements, or understandings. These regulations will take effect one hundred and twenty (120) days after their final publication in the Delaware State Register to allow towing services that currently do business with the Division to make application to the Division for certification under these regulations.

Section 11. Loss of Approved Status

(A) The Division may revoke the approved status of any Approved Tower if the Approved Tower or, where applicable, one of its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has: (1) violated any of these regulations; (2) made a false or misleading statement of fact or omission of a material fact to the

Division in connection with the application, inspection, or renewal; (3) subcontracted any towing work; (4) been found bankrupt, insolvent, or in receivership; (5) been the subject of two or more substantiated complaints within any twelve-month period from citizens about the Approved Tower's nonconsensual towing services, including but not limited to complaints about charging unreasonable rates for towing or storage, or the refusal to release a vehicle after presentation of sufficient proof of ownership and payment of authorized charges; (6) the cancellation or non-renewal of the required insurance on any of the Approved Tower's tow trucks or for the operation of the tower's business, or the loss of any required federal, state or local license required for the operation and driving of a tow vehicle; or (7) was unavailable to respond to a Division dispatch or failed to respond to a Division dispatch on at least three occasions within any six month period, or did not have at least a seventy-five (75) percent response rate for calls within any twelve month period. The Division may also revoke the approved status of any Approved Tower which employs or uses any driver who has, during the period of certification: (8) been convicted of driving under the influence of alcohol, narcotics, or dangerous drugs during the period of certification; (9) has had his or her driver's license suspended or revoked; (10) been convicted of any crime involving theft, fraud or dishonesty, or any felony involving the operation of a tow vehicle, or been adjudged (civilly criminally) to have operated a tow vehicle in a grossly negligent manner or in a manner showing a reckless disregard for life or property; or (11) has imperiled the safety of the public.

(B) If there is an imminent threat to public safety, the Superintendent or his designee may summarily suspend Approved Tower status in writing with a written statement of reasons. If there is no imminent threat to public safety, the Division shall give notice to the Approved Tower in writing of its intent to revoke its approved status and the reasons therefor. If, within ten days of the date of such notice to suspend or revoke, the tower requests a hearing in writing, then the Division will schedule a hearing within thirty days of the tower's request before the Superintendent or his designee. The decision of the Superintendent or his designee shall be in writing and shall be final.

DEPARTMENT OF TRANSPORTATION

Statutory Authority: 30 Delaware Code,
Section 2034 (30 Del.C. 3024)

REGULATION PROMULGATING TRAVELINK TRAFFIC MITIGATION ACT

The State of Delaware Code provides a tax credit via the Travelink Traffic Mitigation Act (67 DE Law, c 160, S 1.) to employers who develop and implement traffic mitigation plans submitted to and monitored by the Dept. of Transportation (DelDOT) to reduce commuter trip traffic congestion during peak travel periods and non-peak travel periods for Welfare to Work by supporting the use of alternate modes of employees commuting from their homes or within the proximity of their homes to their places of employment. Additionally, the DE Code requires all State Agencies to develop Traffic Mitigation Plans to also be submitted to the Dept. of Transportation, DelDOT. The State Department of Transportation, DelDOT, is the responsible agency to develop rules and reviews all private employer and state agency traffic mitigation plans. DelDOT's rules include a list of required, recommended and additional transportation demand management strategies employers or state agencies may implement in their traffic mitigation plan. DelDOT's rules requires agencies to implement the required strategies (i.e., new employee orientation information on alternate and commute options; transportation fair held annually by the TMA of Delaware; posting and distribution of marketing materials from DART and TMA; preferential parking via signage and self-enforcing for vanpoolers and/or carpoolers); contact and meet with the RideShare Coordinator of the TMA to create a Commuter Corner on-site with marketing materials; and lastly, assign a Rideshare Coordinator or contact person within their agency to help administer the program and day to day operations of the program) within 6 months of plan approval; and provide a semi-annual program progress report for the first two years, annually thereafter. Private Employers and State Agencies may contact the Transportation Management Association of DE (TMA Delaware) organization to assist them with the development of their traffic mitigation plans. The TMA also provides other services in the development of their plans by surveying the employees; hosting Transportation Fairs; distributing marketing materials of alternative modes of commuting to/from worksites; and information on their "RideShare Delaware" and "HomeFree" programs.

The public comment period will end June 30, 2002. Comments may be sent to:

Catherine Dennis, Planning Manager,
Delaware Transit Corporation,
400 South Madison Street
Wilmington, DE 19801

In accordance with section 2034 of the TRAVELINK Traffic Mitigation Act, the Secretary of the Department of Transportation promulgates the following rules and regulation for effectuation of the aforesaid Act. The implementing rules and regulation shall be set forth as follows:

Sections:

- 1.0 Definitions
- 2.0 Approval Process
- 3.0 Tax Credit Calculation
- 4.0 Construction
- 5.0 Effective Date

1.0 Definitions

"Calculation of Tax Credit" shall mean determining the tax credit dollar amount using a straight 10% of allowed direct costs, **or** using the Participation Calculations method, as described in Section III of this regulation. The employer may select the calculation method to be used.

"Department" shall mean the Department of Transportation and its several divisions, agencies, authorities, and administrations as appropriate.

"Department Approved TRAVELINK Program", referred to hereafter as the Employer's Approved Plan, shall mean an employer's or group of employers' plan approved by the Department to reduce commute trip traffic congestion during peak travel periods and non-peak travel periods for Welfare to Work by supporting the use of alternate modes of employees commuting from their homes or within the proximity of their homes to their places of employment.

"Direct Cost" for the purpose of calculating the tax shall mean those un-reimbursed costs incurred by employers as part of the Employer's Approved Plan, limited to the following:

Any employer- provided vehicles acquired or leased and used as part of the Travelink Program

Maintenance of an employer-provided vehicle used in the plan

Subsidization of employee commuting costs or incentives in the form of direct payments to employees or third party providers of transportation, including public transit, in accordance with the Employer's Approved Plan

Administrative costs, such as personnel costs (salary, benefits, training, but not overhead) and payments to third parties, other than the Department, for Administration of the Employer's Approved Plan. Administrative costs are limited to levels specified in Section 2032 (c) (4) of the Act

Capital costs incurred as part of a Department-approved TraveLink program.

“Employee” shall mean an individual employed by an employer and shall also mean an individual participating in programs offered under the auspices of the Job Training Partnership Act.

“Employer” shall mean any person, partnership, association, bank, trust company, national bank, corporation, company, mutual company, joint-stock company, society, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, or other natural or artificial legal entity authorized to do business in this state, or any group, cooperative or association thereof, employing a minimum of one hundred (100) full-time employees or their equivalent reporting to a specific worksite during the peak periods. Employer plans which specifically target Welfare to Work employees are exempt from the peak period. In calculating equivalents an employer shall add up all the hours intended to be worked or actually worked by part time employees in the employer’s tax year, whichever is less, and divide the sum by 2000. The resulting number is the equivalent of full-time employees.

“Employer Provided Vehicles” shall mean any automobile, van, or bus, either owned, leased, chartered or subsidized by an employer, used in a ridesharing arrangement during peak travel periods and also non-peak travel periods for Welfare to Work programs provided, however, that a minimum of three employees commute in the vehicle during the specified periods in accordance with the Employer’s Approved Plan.

“Peak Travel Periods” shall mean between the hours of 6:30 a.m. and 9:30 a.m. and between the hours of 3:30 p.m. and 6:30 p.m.

“Ridesharing Arrangement” shall mean any voluntary association of employees who with the assistance, contribution, and/or promotion of their employers participate in an Employer’s Approved plan.

“Secretary” shall mean the Secretary of the Department of Transportation , or the Secretary’s duly appointed delegate.

2.0 Approval Process

In accordance with Section 2034 of the Act, procedures for the approval of an Employer’s plan are herein set forth.

2.1 Criteria for Approval Determination

2.1.1 Any Employer, as defined in this regulation, may submit a proposed traffic mitigation plan for consideration of approval by the Department. Proposed plans are to be submitted to the Department or designated agent.

2.1.2 For an Employer’s Plan to be considered for approval, it must contain at the minimum:

2.1.2.1 The number of employees arriving and departing during peak hours; and,

2.1.2.2 Traffic mitigation strategies to be implemented; and,

2.1.2.3 Identification of a marketing plan; and,

2.1.2.4 If an employer chooses to use the Participation Calculations, a description of a process capable of monitoring participation; and,

2.1.2.5 Identification of a contact person(s) who shall represent the employer and be the liaison between the Department and the employer; and,

2.1.2.6 The employer’s first tax year.

2.1.3 Information provided by employers, either in their TraveLink Program Application for approval or in the course of reporting on the participation in an Employer’s Approved plan, shall be treated as confidential and used only for the purpose of the Act and shall not be considered as a public record under the provisions of Chapter 100 of Title 29.If an employer has multiple employment sites in Delaware, the employer has the discretion of submitting to the Department for approval:

2.1.3.1 Site specific Employer’s Plans which shall be considered independently of one another; or,

2.1.3.2 The employer may submit a single Plan encompassing all participating facilities in Delaware; or,

2.1.3.3 The employer may request approval for clusters of participating facilities in a well-defined transportation corridor.

2.2 Department Approval Process

2.2.1 The Department, or designated agent, shall review all requests for approval in a timely manner. These regulatory provisions are in no way intended, nor shall they be used to exclude any employer from participating in the plan and the benefits available through the Act who may otherwise qualify. The following hierarchy shall be followed in determining the order for reviewing proposed Employer Plans, when the volume of requests for approval exceeds the Department’s ability to perform the reviews in a timely manner, approval priority will be given to those employers who (whose):

2.2.1.1 Develop a mitigation plan targeted to Welfare to Work clients; or,

2.2.1.2 Place of employment is adjacent to, or for which the predominant commuting routes of employment, are those roads and highways at Level of Service(LOS) D or lower during peak travel periods, as identified by the Department; or,

2.2.1.3 Current or existing approved Plan is about to expire; or,

2.2.1.4 Develop an ongoing marketing plan directed towards and capable of increasing and sustaining employee participation over time; or,

2.2.1.5 Develop a mitigation plan which delineates goals and congestion relief techniques, extending

beyond any plans or programs of the employer, existing prior to February 6, 1990

2.2.2 The Department shall review each request for approval on the basis of:

2.2.2.1 A monitoring plan capable of providing reliable annual data on employee participation only where an employer chooses to use the Participation Calculations.

2.2.2.2 A process of implementation which demonstrates the employer's commitment to traffic reduction and includes a well-defined Plan to promote and market participation among employees.

2.2.3 Upon completing review of an Employer's Travelink Program Application, the Department shall:

2.2.3.1 Grant the requested approval for not less than one, but no more than five years and inform the employer of same in a Notice of Approval.

2.2.3.2 Deny approval if minimum requirements of this regulation are not met.

2.2.3.3 Provide a copy of each Notice of Approval to the Division of Revenue.

3.0 Tax Credit Calculation

Calculation of the tax credit shall be performed in accordance with section 2033 of the Act as detailed in this regulation.

3.1 Calculation of the tax credit shall be based upon the unreimbursed direct costs as defined in the Act and this regulation. Employers shall maintain records of direct costs associated with their Approved Plan in a manner and form consistent with generally accepted accounting principles. Said records shall be maintained and available for audit by the Division of Revenue in a manner consistent with prescribed procedures for tax records as set forth by the Division of Revenue.

3.2 When an employer has more than one Employer Approved Plan, the employer may calculate a credit for each Approved Plan, based upon unique rates of participation and associated direct costs and claim the aggregate of these calculations as its credit, or the employer may combine all direct costs and apply a combined rate of participation in calculating the credit.

3.3 The tax credit to be taken by an employer can be calculated using one of the following options:

3.3.1 Ten percent (10%) credit calculation which allows employers to claim a tax credit for ten percent (10%) of the allowable direct cost (DC) of developing, implementing, and maintaining the plan; or,

3.3.2 Participation Calculations for employers who anticipate a greater than ten percent (10%) employee participation rate. Selection of the Participation Calculations requires both calculations to be performed. The tax credit will be the lesser of the two products derived from the following equations:

3.3.2.1 $TC = CTR/CTG \times DC$; or

3.3.2.2 $TC = CTR \times \$250$, where

TC represents the amount of the Tax Credit

CTR represents the number of employees participating in the traffic reduction plan for at least 100 days of the applicable tax year

CTG represents the number of employees eligible to participate in the traffic reduction plan

DC represents the unreimbursed direct costs the Employer incurs through the traffic reduction plan.

3.4 Employers eligible for tax credits under the Act shall claim a credit, as calculated in Section C above, against the taxes and/or fees imposed by the following statutory provisions and such credit shall be taken annually at the conclusion of the tax year:

3.4.1 Chapter 11 of Title 5;

3.4.2 Sections 702 and 703 of Title 18;

3.4.3 Chapter 19 of Title 30;

3.4.4 Section 2702 (b) of Title 30;

3.4.5 Chapter 33 of Title 30;

3.4.6 Section 2301(d) of Title 30;

3.4.7 Section 2902 (c) of Title 30;

3.4.8 Section 2903 (c) of Title 30;

3.4.9 Section 2904 (c) of Title 30;

3.4.10 Section 2905(b)(1) of Title 30;

3.4.11 Section 2906 (c) of Title 30; or

3.4.12 Section 2907 (c) of Title 30.

Credits shall be taken by the employer against taxes in the order specified above.

3.5 The amount of the credit allowable under this Act for any taxable year shall not exceed 100 percent of the amount of taxes and/or fees imposed upon the employer by the statutes referred to in Section D above, for such taxable year (computed without regard to this section).

3.6 The amount of the credit for any taxable year that is not allowable for such taxable year solely as a result of the limitation contained in Section E above, shall be a credit carryover for up to three subsequent taxable years, as provided in Section 2033 (d) of the Act.

3.7 Total amount of funding available for eligible credits allowed for the Travelink Program is limited to the amount established by the General Assembly. (72 Del. Laws, c 188 § 17).

3.8 If the total of Travelink tax credits for which all employers apply in any State of Delaware fiscal year, exceeds the amount set forth in subsection §2037 (a) of the Travelink Traffic Mitigation Act, then the Travelink tax credit to be received by cash applicant for that year shall be the product of the amount set forth in subsection §2037 (a) of the Act multiplied by a fraction, the numerator of which is

the eligible Travelink credits applied for by the applicant and the denominator of which is the total of all eligible Travelink credits applied for by the applicants.

4.0 Construction

4.1 To effectuate the purpose and intent of the Act this regulation shall be liberally construed and broadly interpreted.

4.2 If any provisions of this regulation shall be held invalid, the remainder of the Regulation shall not be affected thereby.

5.0 Effective Date

This Regulation shall be effective immediately upon signature of the Secretary of the Department of Transportation, or the Secretary's duly appointed delegate.

SO ORDERED THIS _____ DAY OF _____, 2002

Signature

**EXECUTIVE DEPARTMENT
DELAWARE ECONOMIC DEVELOPMENT OFFICE
DELAWARE TOURISM OFFICE
TOURISM ADVISORY BOARD**

Statutory Authority: Laws of Delaware
Volume 73, Chapter 74, Section 67

REGISTER NOTICE

Title of Regulation:

Co-Op Advertising Program

Nature of Proceedings: Synopsis of the Subject and Substance of the Proposed Regulation:

In accordance with the procedures set forth in 29 Del. C. Ch. 11, Subch. III, 29 Del. C. Ch 101 and 73 Delaware Laws Ch. 74, Section 67 (June 28, 2001), the Director of the Delaware Economic Development Office ("DEDO") (of which the Delaware Tourism Office ("DTO") is a subdivision), in cooperation with the Tourism Advisory Board (the "Board"), is proposing to adopt a regulation for the administration of the Co-Op Advertising program as part of the matching grants program authorized by 73 Delaware Laws Ch. 74, Section 67 (the "Co-Op Advertising Program") and for the application and award procedure of the Co-Op Advertising Program. The regulation describes the Co-Op Advertising Program, the eligibility criteria and application procedure for awards under the Co-Op Advertising Program.

Statutory Basis and Legal Authority to Act:

29 Delaware Code §5005(11); 73 Delaware Laws Ch.

74, Section 67 (June 28, 2001).

Other Regulations Affected:

None.

Notice of Public Hearing; How to Comment on the Proposed Regulation:

Members of the public may receive a copy of the proposed amendments to the regulation at no charge by United States Mail by writing or calling Ms. Julie Miro Wenger, Delaware Tourism Office of the Delaware Economic Development Office, 99 Kings Highway, Dover, DE, 19901-7305, phone (302) 672-6826. The Director of the Delaware Economic Development Office, or an employee of the Delaware Economic Development Office designated by the Director, and the Board will hold a public hearing at which members of the public may present comments on the proposed regulation on July 10, 2002 in the conference room of the offices of the Delaware Economic Development Office at 99 Kings Highway, Dover, DE, 19901 at 9:00 a.m. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Julie Miro Wenger at the address of the Delaware Economic Development Office set forth above. Written comments must be received on or before July 10, 2002 at 9:00 a.m.

Co-Op Advertising Program

1.0 Co-Op Advertising Program Description

1.1 The purpose of the program is to attract overnight visitors to Delaware through increased visibility of Delaware's tourism product and the creation of a Delaware image.

1.2 The goal of the program is to allow tourism industry partners to participate in the Delaware Tourism Office's advertising campaign.

1.3 The definition of the program is advertising placed with any media that represents more than one organization and the cost of which is funded by all participants.

2.0 Participation

2.1 The Delaware Tourism Office will participate in co-op advertising and will fund a portion of the cost of the placement not to exceed fifty percent (50%) of such cost, as set forth in Section 2.3.

2.2 Equal shares will be made available to Delaware tourism industry partners.

2.3 For-profit organizations may participate in co-op advertising. For-profit organizations will be responsible for all the funds for any share of co-op advertising purchased.

2.4 Not-for-profit organizations may participate in co-op advertising. Not-for-profit organizations will be eligible to receive one half of the funds for any share of co-op

advertising purchased from Matching Grant Funds and will be responsible for one half of the funds.

3.0 Co-Op Advertising Matching Grant Funds

3.1 Co-Op Advertising Matching Grant Funds Description

3.1.1 The total amount available for matching grants is designated by the general assembly in the operating budget. It is expected that there will be a number of sub-programs available using the matching grant funds, one of which will be co-op advertising. The Delaware Tourism Office in cooperation with the Governor's Tourism Advisory Board will determine the amount of funds allocated for each matching grant funds sub-program.

3.1.2 The grants are to be used to place advertising outside of the state of Delaware to attract overnight visitors to Delaware.

3.1.3 Subject to the availability of funds, up to one half of the cost of participation in the co-op advertisement will be paid from matching grant funds for not-for-profit organizations.

3.1.4 The same organization may apply to participate in more than one co-op advertisement.

3.2 Eligibility for Matching Grants for Co-Op Advertising

3.2.1 Not-for-profit tourism related businesses and organizations.

3.2.2 Only in-state tourism entities may apply.

3.2.3 The organization's main product or program must be intended to attract new visitors and overnight business.

3.3 Matching Grant Awards

3.3.1 There will be no attempt to balance the awards geographically, politically, or categorically.

4.0 Source of Matching Funds

4.1 Matching funds are required for not-for-profit tourism related business. The organization's matching fund commitment is part of the application.

4.2 No other state grant funds may be used for the organization's match.

5.0 Application Requirements

5.1 Applicants shall fill out the Co-Op Advertising Program application as prescribed by the Delaware Tourism Office. The application is available at 99 Kings Highway, Dover, DE 19901.

5.2 Incomplete applications will not be considered.

5.3 More than one application may be submitted per organization.

5.4 All completed applications must be received at the Delaware Tourism Office at 99 Kings Highway, Dover, DE 19901. Applications will not be accepted after the deadline or at any other location. The application deadline will be

designated in the program announcement. Applications may be submitted via fax at 302-739-5749.

5.5 It is the responsibility of the applicant to ensure that the application is complete and received prior to the announced deadline.

6.0 Determination of Participation in Co-Op Advertising

6.1 DTO personnel will select the organizations for each co-op advertisement placed from the eligible applications.

7.0 Process

7.1 All completed applications that are received by the deadline will be reviewed, and selections will be announced one week later.

7.2 Payments

7.2.1 Participating organizations will pay DTO their share within 60 days of their selection. There will be no funds paid from DTO to the applicant. DTO will combine the funds from all sources into a single payment to the advertiser.

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 EDUCATION

14 DE Admin. Code 804

Statutory Authority: 14 Delaware Code,
Section 122(d) (14 **Del.C.** §122(d))**REGULATORY IMPLEMENTING ORDER****804 IMMUNIZATIONS****I. SUMMARY OF THE EVIDENCE AND
INFORMATION SUBMITTED**

The Secretary of Education seeks to amend regulation 804 Immunizations in order to add the requirements for the Varicella vaccine to the schedule of immunizations for students. The addition of the Varicella Vaccine was recommended by the Division of Health and Social Services, Department of Public Health.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on March 23, 2002, in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements.

II. FINDINGS OF FACTS

The Secretary finds that it is necessary to amend this regulation in order to add the Varicella vaccine as

recommended by the Division of Health and Social Services, Department of Public Health.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is necessary 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 fourth in Section V. below.

IV. 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 in the *Regulations of the Department of Education*.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122, on May 1, 2002. 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 1st day of May 2002.

Department Of Education
Valerie A. Woodruff, Secretary of Education

804 Immunizations

1.0 Definition of School Enterer: A school enterer is any child between the ages of two months and 21 years entering or being admitted to a Delaware school district for the first time, including but not limited to, foreign exchange students, immigrants, students from other states and territories and children entering from nonpublic schools.

2.0 The following minimum immunizations will be required for all school enterers. Children who enter school prior to age 4 shall follow current Division of Public Health recommendations. Disease histories for measles, rubella and mumps will not be accepted unless serologically confirmed. Immunizations given up to four days prior to the minimum interval or age will be accepted.

2.1 Four or more doses of diphtheria, tetanus, pertussis (DTaP, DTP, or other approved vaccine) or diphtheria, tetanus (DT) vaccine or a combination of these vaccines with the following exceptions: (1) a child who received a fourth dose prior to the fourth birthday must have a fifth dose; (2) a child who received the first dose of Td (adult) at or after age seven may meet this requirement with only three doses of Td (adult).

2.1.1 A booster dose of Td (adult) is recommended for all students, at age 11 or 12, or five years after the last DTaP, DTP or DT dose was administered.

2.2 Three or more doses of inactivated polio virus (IPV), oral polio vaccine (OPV), or a combination of these vaccines with the following exception: A child who received a third dose prior to the fourth birthday must have a fourth dose.

2.3 Two doses of measles, mumps and rubella (MMR) vaccine. The first dose should be administered on or after the age of 12 months. The second dose should be administered after the fourth birthday. ~~The Individual~~ or combination vaccines of measles, mumps, rubella (MMR) can be used to meet this requirement.

2.4 Three doses of Hepatitis B vaccine beginning in the 1999-2000 school year with kindergarten and grade seven. (By adding a grade at each of the levels, by the year 2004-2005 all students will be required to have the vaccine.) Two doses of CDC approved vaccine for children ages 11-15 may be used.

~~2.5 One dose of rubella vaccine administered after the age of 12 months.~~

~~2.6 One dose of mumps vaccine administered after the age of 12 months.~~

~~2.7 2.5 One dose of varicella is recommended. Varicella vaccine is required beginning in the 2003-2004 school year with kindergarten and adding a grade each subsequent year.~~

One dose is required for children through age 12. Two doses are required for children age 13 and older.

2.5.1 A written disease history, provided by the health care provider, parent, legal guardian, caregiver or school enterer who has reached the statutory age of majority (18) Del. C. §131(a)(9), will be accepted in lieu of vaccination.

See 4 DE Reg. 1515 (3/1/01)

3.0 Certification of Immunization

3.1 The parent, legal guardian, caregiver or a school enterer who has reached the statutory age of majority (18), 14 *Del.C.* §131(a)(9), shall present a certificate specifying the month, day, and year that the immunizations were administered by the state licensed health care practitioner.

See 4 DE Reg. 1515 (3/1/01)

3.2 According to 14 *Del.C.* § 131, a principal or person in charge of a school shall not permit a child to enter into school without acceptable evidence of immunization. The parent, legal guardian, caregiver or a school enterer who has reached the statutory age of majority (18), 14 *Del.C.* §131(a)(9), shall be notified of this requirement in writing. Within 14 calendar days after notification, evidence must be presented to the school that the basic series of immunizations has been initiated or has been completed.

See 4 DE Reg. 1515 (3/1/01)

3.3 A school enterer may be conditionally admitted to a Delaware school district by presenting a statement from a state licensed health care practitioner who specifies that the school enterer:

3.3.1 ~~h~~ H Has received at least one dose of DTaP, DTP, or DT and

3.3.2 ~~h~~ H Has received at least one dose of IPV or OPV and

3.3.3 ~~h~~ H Has received at least one dose of measles, mumps and rubella (MMR) vaccine.

3.3.4 ~~h~~ H Has received the first dose of the Hepatitis B series as per 2.4. ~~See Regulation 901 Education of Homeless Children and Youth 6.0 School districts shall ensure that policies concerning immunization, guardianship and birth certificates do not create barriers to the school enrollment of homeless children and youth. To that end, school districts shall: 6.1 assist homeless children and youth in meeting the immunization requirements.~~

3.3.5 ~~Has received at least one dose of Varicella vaccine as per 2.5.~~

3.4 Regulation 901 Education of Homeless Children and Youth 6.0 states that "School districts shall ensure that policies concerning immunization, guardianship and birth certificates do not create barriers to the school enrollment of homeless children and youth". To that end, school districts shall as in 6.1 "assist homeless children and youth in meeting the immunization requirements".

See 4 DE. Reg. 1515 (3/1/01)

~~3.4~~ 3.5 If the school enterer fails to complete the series of required immunizations ~~according to the Division of Public Health's recommended schedule~~, the parent, legal guardian, caregiver or a school enterer who has reached the statutory age of majority (18), 14 *Del. C.* §131(a)(9), will be notified the child will be excluded according to 14 *Del. C.* §131.

See 4 DE Reg. 1515 (3/1/01)

4.0 Lost or Destroyed Medical Records: When an immunization record has been lost or destroyed by the medical provider who administered the vaccine, the parent, legal guardian, caregiver or a school enterer who has reached the statutory age of majority (18), 14 *Del. C.* §131(a)(9), shall sign a written statement to this effect and must obtain at least one dose of DTaP, DTP or DT, one dose of IPV or OPV, one dose of Hepatitis B (as per 2.4) ~~and~~ immunization against measles, mumps and rubella and one dose of varicella (as per 2.5). Evidence that the vaccines were administered shall be presented to the superintendent or designated person. An exemption to this requirement would be a statement from a state licensed health care practitioner demonstrating serological evidence of immunity to measles, mumps or rubella.

See 4 DE Reg. 1515 (3/1/01)

5.0 Exemption from Immunization:

5.1 Exemption from this requirement may be granted in accordance with 14 *Del. C.* §131.

5.2 Alternative dosages or immunization schedules may be accepted with the written approval of the Division of Public Health.

See 4 DE Reg. 1515 (3/1/01)

6.0 Verification of School Records: The Division of Public Health shall have the right to audit and verify school immunization records to determine compliance with the law.

See 1 DE Reg. 1808 (5/1/98)

REGULATORY IMPLEMENTING ORDER

REGULATION 1501 KNOWLEDGE, SKILLS AND RESPONSIBILITY BASED SUPPLEMENTS FOR EDUCATORS

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to adopt this regulation. This regulation includes the requirements for, and

payment of salary supplements established by 14 *Del. C.* § 1305. Regulation 1501 Knowledge, Skills and Responsibility Based Supplements for Educators shall apply to the awarding of salary supplements as a percentage of the state portion of an educator's annual salary for gaining knowledge and skills that lead to more effective instruction, for achieving certification from the National Board for Professional Teaching Standards, or from an equivalent program, and/or for accepting additional responsibility supplements that impact student achievement.

Notice of the proposed adoption of the regulation was published in the News Journal and the Delaware State News on March 25, 2002, in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements. Comment was received from the Governor's Advisory Council for Exceptional Citizens and the recommendation made was incorporated into the regulation. This change does not constitute a substantive change in the regulation.

II. FINDINGS OF FACTS

The Professional Standards Board and the State Board of Education find that it is necessary to adopt this regulation because 14 *Del. C.* § 1305 (l), (m), (n), (o), and (p) direct the development by the Professional Standards Board, in consultation and collaboration with the Department of Education, and with the approval of the State Board of Education, of regulation of specific professional development activities and specific areas of skills and knowledge that an employee can undertake and/or obtain in order to receive a skills and knowledge salary supplement and extra responsibility supplements that impact student achievement, and of the authorization of stipends for certification received from the national Board for Professional Teaching Standards or from an equivalent program. Adoption of this regulation will permit implementation of the provisions of 14 *Del. C.* § 1305 (l), (m), (n), (o), and (p).

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is necessary to adopt the regulation. Therefore, pursuant to 14 *Del. C.* § 1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted.

IV. TEXT AND CITATION

The text of regulation 1501 shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited in the Regulations of the Department of Education.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware Register of Regulations.

APPROVED BY THE PROFESSIONAL STANDARDS BOARD the 9th Day Of May, 2002.

Charles Michels, Chair	Mary Ellen Kotz, Vice Chair
Patricia Clements	Barbara Grogg
Michele Hazeur-Porter	Sherie Hudson
Tony Marchio	Mary Mirabeau
John Pallace	Joanne Reihm
Harold Roberts	Karen Schilling Ross
Teresa Schooley	Carol Vukelich
Jacquelyn Wilson	

FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED this 16th Day Of May, 2002

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President	Jean W. Allen, Vice President
Robert Gilsdorf	Mary B. Graham, Esquire
Valerie Pepper	Dennis J. Savage
Dr. Claibourne D. Smith	

1501 KNOWLEDGE, SKILLS, AND RESPONSIBILITY BASED SALARY SUPPLEMENTS FOR EDUCATORS

1.0 Content:

The following requirements shall be met in order to receive the salary supplements established by 14 **Del.C.** §1305. This regulation shall apply to the awarding of salary supplements as a percentage of the state portion of an educator's annual salary for gaining knowledge and skills that lead to more effective instruction, for achieving certification from the National Board for Professional Teaching Standards, or from an equivalent program, and for accepting additional responsibility supplements that impact student achievement. Supplements are available subject to an annual appropriation from the Legislature.

2.0 Definitions:

The following words and terms, when used in this regulation, should have the following meaning unless the context clearly indicates otherwise:

"Approved cluster" means a professional development cluster that meets the criteria specified in 3.1 of this

Regulation and that has been designated by the Standards Board and the State Board as the basis for awarding a specific salary supplement.

"Delaware Administrator Standards" means standards for education administrators approved by the Secretary of Education and the State Board of Education, as per 14 **Del. Admin. Code** 394, Delaware Administrator Standards.

"Delaware Content Standards" means K-12 student content standards approved by the Secretary of Education and the State Board of Education, as per 14 **Del. Admin. Code** 501, State Content Standards.

"Delaware Professional Teaching Standards" means standards of teaching approved by the Secretary of Education and the State Board of Education, as per 14 **Del. Admin. Code** 393, Delaware Professional Teaching Standards.

"Department" means the Delaware Department of Education.

"Educator" means an employee paid under 14 **Del.C.** § 1305.

"Hours of Engagement" means time spent in classes, seminars, workshops, collaborative work groups, learning communities, cohort, school, or district teams, and time engaged in research-based activities which result in the acquisition of knowledge and skills which lead to more effective instruction.

"Knowledge and Skills" means understandings and abilities that, when acquired by educators, lead to more effective instruction.

"NSDC Standards for Staff Development" means standards adopted by the National Staff Development Council for high quality staff and professional development.

"Professional Development Cluster" or "Cluster" means a focused group of professional development activities that leads to measurable and observable knowledge and skills.

"Provider" means a local school district, charter school, college, educationally related organization, or professional organization that delivers professional development clusters approved by the Standards Board and the State Board to educators.

"Responsibilities" means educators' additional responsibility assignments that are academic in nature and that impact student achievement. Extra curricular or non-instructional supervisory activities are specifically excluded from this definition under this regulation.

"Salary Supplement", when referring to knowledge, skills, and responsibility based supplements, means additional state salary, as described in 14 **Del.C.** § 1305.

"Standards Board" means the Professional Standards Board of the State of Delaware established in response to 14 **Del.C.** § 1205.

"State Board" means the State Board of Education of

the State of Delaware established in response to 14 Del.C. § 104.

3.0 Knowledge and Skills:

The Standards Board shall, on no less than an annual basis, submit to the State Board for approval, lists of proposed new professional development clusters in specific areas of knowledge and skills which shall serve as the basis for awarding salary supplements.

3.1 The criteria for evaluating professional development clusters designed to promote acquisition of knowledge and skills are based upon:

3.1.1 Delaware Professional Teaching Standards or Delaware Administrator Standards or their equivalent (i.e., national standards from educators' specialty-area organizations that complement the Delaware standards).

3.1.2 Delaware content standards or their equivalent (i.e., national standards from content-specialty groups, if there are no Delaware standards for the content area).

3.1.3 National Staff Development Council Standards for Staff Development (NSDC, 2001).

3.2 Clusters may include a combination of formal courses at graduate or undergraduate levels, and other research-based activities which conform to the NSDC Standards for Staff Development.

3.3 Clusters may be comprised of related segments which may be completed separately over a specified period of time, not to exceed 5 years, as included in the cluster design and approved by the Standards Board and the State Board.

3.4 Voluntary performance or assessment-based specialty certifications awarded for meeting standards established by national professional organizations shall be evaluated as proposed clusters in accordance with this regulation.

3.5 The specific percentage of salary assigned to each knowledge and skills supplement, provided that no supplement may be less than 2% nor more than 6% of an educator's base state salary, shall be submitted with the list of professional development clusters and specific areas of knowledge and skills.

3.5.1 A cluster qualifying an educator for a supplement of 2% shall consist of no less than 90 hours of engagement by the educator.

3.5.2 A cluster qualifying an educator for a supplement of 4% shall consist of no less than 180 hours of engagement by the educator.

3.5.3 A cluster qualifying an educator for a supplement of 6% shall consist of no less than 270 hours of engagement by the educator.

3.6 Knowledge and skills which, once acquired, are expected to lead to more effective instruction for the duration of an educator's career are designated as permanent

supplements.

3.7 Knowledge and skills related to new technologies, curriculum adoptions, and short-term strategies shall have a duration of 5 years, and may be renewed by successfully completing renewal activities in accordance with cluster approval procedures established by the Standards Board.

3.8 The provider will present an educator who satisfactorily completes an approved cluster with a certificate of completion to verify eligibility for a salary supplement. The certificate shall certify the knowledge and skills acquired and demonstrated by the educator.

3.9 Annually, the Standards Board shall submit to the State Board for approval a list of all clusters proposed for continued approval, renewal, and non-renewal.

4.0 Responsibilities:

The Standards Board shall, on no less than an annual basis, submit to the State Board a list of specific responsibility assignments for approval as the basis for awarding responsibility salary supplements.

4.1 Responsibility assignments shall be:

4.1.1 Focused on school improvement issues that impact student achievement;

4.1.2 Supported by high quality, targeted professional development, and

4.1.3 Academic in nature.

4.2 In order to qualify for a responsibility assignment salary supplement, an educator shall have completed the state approved training program for the position, or, in the absence of a training program, shall meet the criteria set forth for the position, and shall provide state and district approved levels of service, participate in designated activities throughout the period of responsibility, and document the satisfactory fulfillment of the specified responsibility assignment.

5.0 Approval of Professional Development Clusters and Responsibilities:

5.1 The Standards Board's standing committee on professional development and associated compensation shall provide the Standards Board with recommended lists of professional development clusters and responsibility assignments in accordance with this regulation.

5.2 The Standards Board shall examine the proposed lists and previously approved lists of clusters to evaluate the system of professional development to determine its overall balance and accessibility.

5.3 The lists of professional development clusters and responsibilities shall be forwarded to the State Board with a recommendation for approval.

6.0 Confirmation of Educators' Eligibility for Salary Supplements:

6.1 Knowledge and Skills: The district or charter school shall notify educators annually, in writing, of the clusters it approves from the State Board approved list for knowledge and skills salary supplements.

6.2 Those clusters approved by districts or charter schools shall not require any additional prior approval. After completing the entire cluster, an educator shall submit documentation to the local district of fulfilling the requirements of the cluster's design.

6.3 Responsibility Assignments: An educator shall provide the local district or charter school or state agency with such information as may be required to enable the local district or charter school or state agency to verify that the educator has fulfilled the requirements of 4.2 of this regulation.

7.0 Payment of Salary Supplements:

[RESERVED]

[8.0 Salary supplements paid to an educator shall not exceed 15% of the state share of the educator's salary.]

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code,
Section 3103 (16 Del.C. §3103)

ORDER

**Regulations Governing Care And Transportation
Of The Dead**

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt State of Delaware Rules and Regulations Governing Care and Transportation of the Dead. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Chapter 97 and Chapter 98.

On March 1, 2002 (Volume 5, Issue 9), DHSS published in the Delaware Register of Regulations its notice of proposed regulations, pursuant to 29 Delaware Code Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by April 1, 2002, or be presented at a

public hearing on March 26, 2002, after which time DHSS would review information, factual evidence and public comment to the said proposed regulations.

Verbal comments were given and evaluated. The results of that evaluation are summarized in the accompanying "Summary of Evidence."

FINDINGS OF FACT:

The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware. The proposed regulations include modifications from those published in the March 1, 2002, Register of Regulations, based on comments received during the public notice period. These modifications are deemed not to be substantive in nature.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Rules and Regulations Governing Care and Transportation of the Dead are adopted and shall become effective June 10, 2002, after publication of the final regulation in the Delaware Register of Regulations.

Vincent P. Meconi, Secretary, 5/14/02

SUMMARY OF EVIDENCE

A public hearing was held on March 26, 2002, at 1:00 PM, in the third floor conference room of the Jesse Cooper Building, Federal and Water Streets, Dover, Delaware, before David P. Walton, Hearing Officer, to discuss the proposed Department of Health and Social Services (DHSS) Rules and Regulations Governing Care and Transportation of the Dead. The announcement regarding the public hearing was advertised in the Delaware State News, the News Journal and the Delaware Register of Regulations in accordance with Delaware Law. Ms. Brenda Conner from the Office of Vital Statistics, Support Services Section, Division of Public Health (DPH) made the agency's presentation. Mr. David Eames, President of the Delaware Funeral Director Association attended the public hearing and offered comments. Mr. Paul Mulvehill offered written comments via email through the Board of Professional Regulations. Comments and the DHSS (Agency) responses are indicated below:

- **Section 4 & 6 In regards to depth of graves, the regulation goes from English measurement to a metric measurement. Recommend that one system of measurement be used for clarity purposes.**

Agency Response: After a careful review of section 4 and 6 of the regulation, the metric measurement referred to in these

sections was converted to an English measurement for clarification purposes. Additionally, metric measurements were included in parenthesis after the corresponding English measurement.

- **Section 4** In regards to burying a body at a depth of 2 meters, in some locations in Sussex County, if you went that deep you would inevitably hit water. In that case the consensus of the funeral directors was to cremate bodies dead of a designated high-risk disease.

Agency Response: In accordance with Section 6 of the regulation, cremation is the disposal method of choice for any body dead from a designated high-risk, disease. Additionally, to bury a body infected with a designated high-risk disease section 6 of the regulation requires a waiver from the Director of Public Health or their designee. Not being able to bury a body dead of a designated high-risk disease at a safe depth (79 inches/2 meters), would be grounds to disapprove said waiver request.

- **Section 6.** There was a suggestion that Creutzfeldt-Jakob (CJD) syndrome be listed in the regulation as one of the designated high-risk diseases where cremation is the disposal method of choice.

Agency Response: The diseases specifically mentioned in the proposed regulations (anthrax, plague, small pox, hemorrhagic fevers) are included in because of their high degree of infectivity, potential to cause mass casualties such as during a bioterroristic event, and/or because of concerns about the environmental pathways for their transmission. There are many other diseases, such as CJD, which can potentially be transmitted in the care of the deceased. Persons engaging in the care of the deceased must use standard precautions as a matter of routine in order to lesson risks from these diseases generally. In our opinion, what is currently known about CJD does not raise it to the designated high-risk disease level.

The changes recommended in this Summary of Evidence are not substantive in nature.

The public comment period was open from March 1, 2002 to April 1, 2002.

Verifying documents are attached to the Hearing Officer's record. The regulation has been approved by the Delaware Attorney General's office and the Cabinet Secretary of DHSS.

Regulations Governing Care And Transportation Of The Dead

Originally adopted May 23, 1953

Amended: January 25, 1968; [June 10,] 2002.

~~Adopted as amended by the Delaware State Board of Health in official session on January 25, 1968, under authority of Title 16, Chapter 31 Section 3168 Delaware Code of 1953. Originally adopted May 23, 1953.~~

Section 1. Definitions

~~a. State Board of Health shall mean Delaware State Board of Health, its Executive Secretary, or Registrar of Vital Statistics, or any authorized agent thereof.~~

a. **"Department"** means the Department of Health and Social Services.

b. **State Registrar** shall mean Director, Division of Public Health.

c. **Funeral Director** shall mean an Undertaker or Mortician licensed in the State of Delaware.

d. **A Dead Body** shall mean any human dead body, including any products of human conception expelled weighing 350 grams or more, or after twenty (20) weeks of gestation, whether born dead or dying thereafter.

e. **Premises In which Interments Are Made** shall mean burying grounds, cemeteries, tombs or vaults, or any other places where disposal of bodies may be made.

Section 2. Burial Permit Required

No manager, superintendent, caretaker, sexton or other person in charge of any premises in which interments, entombment, cremations or other dispositions of any dead body are made, shall permit the interment, entombment, cremation or other disposition of such body unless it is accompanied by a burial or cremation permit or a temporary certificate authorizing burial signed by a licensed funeral director. Upon receipt of the burial permit, the person in charge of the premises or by the funeral director, if there is no person in charge, shall sign the permit and retain same as a permanent record of authorization for burial. In the event that the person in charge of the premises receives a temporary certificate authorizing burial, said certificate shall be retained until the burial permit is received. Upon receipt of the burial permit, both the temporary certificate and the burial permit shall be retained by the person in charge of the premises as a permanent record of authorization for burial. If the person in charge of the premises does not receive the burial permit from the funeral director within a period of ten (10) days after burial takes place, he shall notify the State Registrar of Vital Statistics, Dover, Delaware.

Section 3. Burial Of The Dead

Except as hereinafter provided, all human bodies dead within the State of Delaware shall be cremated or buried, or

placed within a receiving vault within five (5) days after death. Any dead human body to be kept longer than twenty-four (24) hours shall be embalmed or placed in a hermetically sealed casket which will not be opened at any time after this twenty-four (24) hour period, except when medical or legal investigation necessitates a longer period. The ~~State Board of Health~~ Department shall issue a special permit in such cases. Application for such a permit shall be made to the State Registrar of Vital Statistics, Dover. Bodies to be kept more than twenty-four (24) hours under this exception must be stored in suitable, approved refrigeration facilities.

Section 4. Depth Of Graves

No interment of any human body shall be made in any public or private burial ground unless the distance from all parts of the top of the outer case containing the coffin or casket be not less than eighteen (18) inches [.5 meter] from the natural surface of the ground. EXCEPTION: Per Section 6, subsection c., of this regulation, bodies dead of designated high-risk diseases (Anthrax, Small Pox, Plague and the various Hemorrhagic Fevers) must be buried at a depth of at least [79 inches/ 2 meters.

The superintendent, sexton, caretaker, or other person in charge of a cemetery or burial ground shall be responsible that graves are of the depth required by this regulation. In the event that there be no such person in charge, it shall become the responsibility of the person burying the body.

Section 5. Permanent Entombment Facilities And Receiving Vaults

Permanent Entombment Facilities:

When a body is placed in a permanent entombment facility, all exterior facings of the facility must be firmly and securely closed.

Receiving vaults may be used for a period not exceeding fifteen (15) days for the reception of bodies provided the bodies are properly embalmed by a licensed funeral director. Beyond this period, special permission from the ~~State Board of Health~~ Department is required. In every case, the death certificate must be filed immediately after death.

The responsible person in charge of the receiving vault shall make written application to the State Registrar of Vital Statistics, Dover, for special permission at least one week prior to the expiration of the fifteen (15) day period.

This section shall not apply to bodies turned over to ~~bonifide~~ bona fide medical and surgical groups for anatomical or study purposes.

~~Section 6. Preparation Of Bodies Dead Of Certain Diseases~~

~~In the preparation for burial of the body of any person who has died of smallpox, plague, anthrax, or other disease which the State Board of Health may specify, it shall be the~~

~~duty of the funeral director or person acting as such to accomplish the following:~~

~~a. To wash the surface of the body with an approved germicidal solution.~~

~~b. To effectively plug all body orifices immediately.~~

~~c. To embalm by arterial and cavity injection with an approved disinfectant fluid. No preparation containing arsenic shall be used for this purpose.~~

~~It shall be the duty of every funeral director engaged for or in charge of the preparation and burial of the body of a person who died of smallpox, plague, anthrax, or other disease which the State Board of Health may specify, or of the bringing of the dead body of any such person to Delaware, to give immediate notice thereof to the State Board of Health. No burial, cremation or transit permit for the body of any person who had died of these diseases shall be granted by telephone, but must be obtained in accordance with those regulations. Such body shall be immediately placed in a metal lined coffin or casket and the same shall be immediately and permanently sealed by the funeral director. If metal linings coffins or caskets are unobtainable, the casket is to be constructed so as to not allow any seepage whatsoever therefrom and it is to be sealed as hereinbefore directed.~~

~~If it is desired to cremate the body of a person who has died of smallpox, plague, anthrax, or other diseases which the State Board of Health may specify, the casket need not be metal lined, but must be sealed as herein provided and removed tot he crematory for immediate cremation. It shall be unlawful to invite or permit any person or persons other than the members of the immediate family on the premises where such deceased person has died of said diseases of where the body of such person has been held or prepared for burial. In the case of a person who has died of smallpox, plague, anthrax, or other diseases which the State Board of Health may specify, no public funeral shall be permitted.~~

Section 6. Preparation, Transport, And Disposal Of Bodies Dead Of Designated High-risk Diseases.

The Director of the Division of Public Health or Designee shall designate communicable diseases determined to be high-risk from the point of view of handling after death. Currently designated diseases include Anthrax, Smallpox, Plague, and the various Hemorrhagic Fevers.

Should death occur before a definitive diagnosis can be made and when there is even the remote suspicion of one of these illnesses, the physician or hospital should consult with the Chief Medical Examiner or the Director of Public Health. Should it be necessary to hold a body for longer than six hours pending completion of definitive diagnostic work, the body should be sealed immediately following the taking of such specimens as may be needed. The sealing should be completed as described in *Preparation a.* (below) and held in isolation (refrigerated when possible) pending removal.

Otherwise, removal, transport, and cremation should proceed as prescribed by these regulations.

Whenever death occurs from a designated high-risk disease, immediate notification shall be provided by the reporting physician, other provider, or the hospital to the Division of Public Health, next of kin, and the funeral director who will have responsibility to handle, transport, or dispose of said body. These reports may be made by fax, telephone, or electronic mail. After business hours, the Division of Public Health emergency line is (302) 739-4700.

The Chief Medical Examiner, hospital or funeral director shall ensure that anyone handling a body so designated shall follow strict universal precautions in a manner that minimizes contact between the body, other persons, and the environment. For information concerning universal precautions contact the Office of Vital Statistics.

Preparation:

a. The body shall be wrapped in a sheet saturated with a suitable disinfectant. This may be concentrated commercial disinfectant approved for such purpose or it may be embalming powder or high index cavity fluid. This shall be followed by enclosure in a heavy-duty impervious bag designed for such purpose to assure against leakage.

b. For transport, the body prepared as in subsection "a." shall be placed in a suitable firm container such as a "cremation container" in which case it shall be cremated therein, or it may be transported in a temporary firm protective container from which it may be removed for cremation.

c. For burial or other exempted disposition, the body shall be enclosed in a metal casket liner or a casket that is constructed so as to not allow any seepage whatsoever therefrom and is to be sealed. Burial of bodies dead of designated high-risk disease must be at a depth of at least [79 inches/] 2 meters.

Labeling:

It will be the responsibility of the funeral director to ensure that there are attached to the body and its containers in several visible places labels bearing in prominent legible letters the words, "This body is infected with a designated high-risk disease specified by the Division of Public Health and must be handled and transported in accordance with the precautions required by these regulations".

Handling:

Neither embalming nor autopsy shall be performed on such bodies unless specifically authorized by the Chief Medical Examiner or designee.

Transport:

Transport of a body so designated must be under the conditions described above with the addition that the body

must be protected in such a way as to assure that it shall not become uncovered in any reasonably foreseeable accident. Transport out of state shall be prohibited unless approved by the Director of Public Health or designee and the receiving jurisdiction.

Removal:

A body may be removed from the firm protective container in which it was transported once it has reached the funeral home or crematory where the body shall be prepared for cremation or other disposition if authorized. Such container used exclusively for transport may be re-used following suitable disinfection.

Services:

No viewing of the body or public services in the presence of the body shall be permitted.

Cremation is the disposal method of choice for any designated high-risk communicable disease. If burial is permitted as an exception, it must be promptly performed and the body must remain sealed as described above throughout the burial process.

The Director of Public Health or designee upon request may waive any requirement of these regulations in order to accommodate religious or traditional practices if he or she is satisfied that the proposed practices present no substantial additional risk to any person or the environment.

Section 7. Acts Tending To Promote Spread Of Disease Prohibited

No funeral director shall needlessly expose himself or any other persons who may come into contact with a dead body of communicable disease which is transmissible by direct contact.

Any physician or hospital caring for an individual who dies of smallpox, plague, anthrax or other diseases which the State Board of Health may specify must notify the funeral director on the death certificate or by other written notice of the danger involved before the funeral director takes possession of such a body.

Section 8 7. Shipment Of Bodies Dead Of Non-contagious Diseases

The body of any person dead of a non-contagious disease shall not be removed by common carrier from the registration district in which death occurred except under the following conditions:

a. When the remains have been thoroughly embalmed and disinfected or when shipped to such a point as can be reached within twenty-four (24) hours after death, the dead body shall be placed in a substantially constructed casket or coffin and the said box made of good sound lumber not less than seven eighths (7/8) of an inch thick — a; every outside case holding any dead body offered for transportation by common carrier shall be an approved

shipping case.

b. When the bodies are not embalmed or the destination cannot be reached within twenty-four (24) hours after death, either the casket or outside case must be metal or metal lined and permanently sealed.

c. When body is removed by common carrier, the State law requires a transit permit, which will be secured from the ~~local or deputy registrars~~ Office of Vital Statistics.

Section ~~9~~ **8. Burial-transit Permit**

A burial-transit permit will be issued by ~~local or deputy registrars~~ the Office of Vital Statistics upon the compliance of the funeral director with the provisions of Section ~~8~~ 7 and the presentation of the death certificate.

Section ~~10~~ **2. Disinterments**

~~No dead body shall be removed from its place of original interment:~~

1. ~~No dead body shall be removed from its place of original interment~~ Unless a permit from the State Registrar marked "Disinterment Permit" is secured by a licensed funeral director in charge of the disinterment (EXCEPTION— Title 16, ~~3159~~ 3154 of the Delaware Code). The qualified person making the application shall present to the State Registrar the correct name, age, date of death and cause of death of the body to be disinterred, place of disinterment (hundred and county), together with written consent of next of kin. The State Registrar may require legal proof of such kinship.

2. All disinterment permits shall be void after the expiration of thirty (30) days from the date of issue.

3. Procedures:

a. The disinterment and removal must be under the direction of a licensed funeral director and in accordance with the rules governing the transportation of the dead.

b. The casket in which disinterred bodies are contained shall not be opened at any time.

c. The funeral director authorized to conduct a disinterment shall be held personally responsible for the enforcement of these requirements.

4. Special Provision:

A separate permit shall be secured in respect to each body to be disinterred, except that under special conditions the ~~Board of Health of the State of Delaware Department~~ may make special provisions for the mass removal of a number of bodies from a cemetery or burial ground.

Section ~~11~~ **10. Disposition Of Amputated Parts Of Human Bodies**

An amputated part of a human body recovered at an operation or accident may be kept for anatomical purposes and/or disposed of by burial in a cemetery or by cremation in a licensed crematory. If the hospital or institution has

facilities for incinerating, the amputated part or parts may be incinerated in such hospital or institution upon the written approval of the patient or next of kin. Where a patient or his next of kin desires such amputated part to be buried in a cemetery or cremated in a licensed crematory, a permit shall be secured by the funeral director from the ~~proper local or deputy registrar~~ Office of Vital Statistics upon presentation of a duly executed "Certificate of Amputation".

The director of the hospital or institution wherein the amputation was performed shall have completed a "Certificate of Amputation" on a form furnished by the State ~~Board of Health Department~~ for immediate delivery to the funeral director, who shall file said "Certificate of Amputation" within forty-eight (48) hours with the Office of Vital Statistics. Such "Certificate of Amputation" may be signed by the operating surgeon or by the intern who assisted in the case. No regular death certificate shall be filed for amputated parts.

Section ~~12~~ **11. Date Of Effect**

These regulations shall be in full force and effect immediately upon their approval and adoption by the ~~State Board of Health Department.~~

~~State Of Delaware
Department Of Health And Social Services
Division Of Public Health
Robbins Building
802 Silver Lake Boulevard And Walker Road
Dover, De 19901~~

MEMORANDUM

~~TO: Mike Richards
THRU: Dr. Donald R. Cowan
FROM: Paul Silverman
DATE: September 25, 1986~~

~~SUBJECT: Paragraph 2, Section 7 of the Regulations Governing Care and Transportation of the Dead.~~

~~On September 19, 1986, the Board of Health approved the following rewritten version of the above paragraph:~~

~~Any physician or hospital caring for an individual who dies, and at the time of death was infected, or suspected of being infected with a notifiable disease as declared by the State Board of Health or any other potentially dangerous communicable disease, must notify the funeral directors by written notice of the danger involved before the funeral director or his agent takes possession of such a body.~~

~~This will be effective October 15, 1986.~~

~~Correspondence from Dr. Olsen will inform acute and long-term health care facilities and associations representing funeral directors. This note is for your information and so you can update any relevant documents.~~

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. §505)

ORDER

NATURE OF THE PROCEEDINGS:

The Delaware Department of Health and Social Services ("Department") / Division of Social Services// Medicaid/Medical Assistance Program initiated proceedings to amend policies related to the following sections of Title XIX Medicaid State Plan: Attachment 4.19-B, Pages 3, 6, 6a, 6b, 10, 19 and 20.

SUMMARY OF CHANGES - REIMBURSEMENT METHODOLOGY

1. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services:

- dental treatment and specialized dental services - change reimbursement from fee-for-service to a percentage of charges
- add to the list of EPSDT services, Private Duty Nursing in excess of eight (8) hours with prior authorization.

2. Extended Services to Pregnant Women:

- change reimbursement language from the locally specific "hourly" rate to the generic "unit" rate; unit rates are based on fifteen (15) minute increments.

3. Home Health Services

- simplify the reimbursement methodology language and change reimbursement language from the locally specific per "visit" and "hour" rates to the generic "unit" rate; unit rates are based on fifteen (15) minute increments.

4. Private Duty Nursing

- change reimbursement language from the locally specific "hourly" rate to the generic "unit" rate; unit rates are based on fifteen (15) minute increments.

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 April, 2002 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2002 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 Governor's Council For Exceptional Citizens (GACEC) and the State Council for Persons With Disabilities (SCPD) provided similar observations and concerns:

- Some payments were previously based on somewhat generic "visits" while the new schedule bases payments on more specific 15-minute units of services. The amendment does not appear to be objectionable.
- SCPDs and GACECs primary concern is that Delaware has a shortage of home health aides and private duty nurses. The reimbursement methodology does not appear to enhance reimbursement rates to make such work attractive and promote the availability of aides and nurses. For example, the private duty nursing rate is based on a survey of agencies providing such nursing and capping the rate at the lowest level available of these prevailing rates. Thus, if five agencies have rates of \$30, \$50, \$60, and \$65, Medicaid would cap the rate at \$30. The \$30 rate may be subsidized by another agency (e.g. United Way, federal grant) and not be reflective of actual cost.

Home health aides and private duty nurses play a significant role in implementing the Olmstead decision and preventing institutionalization for persons with disabilities. In this context, the Councils are concerned that reimbursement methodologies (such as described

above) exacerbate the shortage by offering insufficient reimbursement for services.

In addition, the reimbursement methodologies could negatively impact the State's implementation of the Medicaid Buy-In Option of the Ticket to Work and Work Incentives Act.

DSS Response: The health care worker shortage is multi-faceted and will require short and long term solutions and strategies, including, consideration of those issues outlined in your letter and the accompanying issues brief.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the April, 2002 Register of Regulations should be adopted as written.

THEREFORE, IT IS ORDERED, that the proposed regulations related to the Title XIX Medicaid State Plan are adopted and shall be final effective June 10, 2002.

Vincent P. Meconi, Secretary, DHSS, 5/14/02

REVISIONS:

TITLE XIX MEDICAID STATE PLAN

STATE PLAN ATTACHMENT 4.19-B Page 3

Extended Services to Pregnant Women will be reimbursed at a negotiated hourly unit rate for individual services.

STATE PLAN ATTACHMENT 4.19-B Page 6

I. GENERAL PROVISIONS

A. Purpose

This plan establishes a reimbursement system for Home Health services, including skilled nursing, therapies, and home health aide services. This system complies with federal requirements, including the requirement that Medicaid payments in the aggregate do not exceed what would have been paid by Medicare based on allowable cost principles.

B. Reimbursement Principles Home Health Services

1. Providers of Home Health services shall be reimbursed prospectively determined rates, based on costs reported by each agency according to standard HCPCS definitions.

2. Skilled Nursing and Therapy services shall be reimbursed per visit. Home Health Aide services shall be

~~reimbursed per hour.~~

3.2. Providers will be reimbursed prospectively reimbursed the lower of their Usual and Customary charge or the Medicaid rate.

H. ~~RATE DETERMINATION~~

A. ~~Cost Determination~~

1. ~~Prospective rates for skilled nursing, therapies, and home health aide services will be computed from annual provider certified cost report data. Reimbursable costs are those allowable costs based on Medicare principles in accordance with HIM15, and subject to caps and ceilings determined by Delaware Medicaid.~~

2. ~~Prospective rates will not exceed the Medicare rate limitation for the same services. Costs applicable to Home Health services shall not exceed the lowest cost of comparable services purchased elsewhere. The cost report used in the rate calculation will represent the most recent State audited provider fiscal year.~~

STATE PLAN ATTACHMENT 4.19-B

Page 6a

B. ~~Rate Calculation~~

~~Skilled nursing, therapies, and home health aide services shall be reimbursed according to the cost of care determined prospectively up to a calculated ceiling. The total costs reported by each agency for each discipline will be divided by the number of visits to determine the average cost per visit. The inflated average cost per visit of each agency will be arrayed by discipline, and the ceiling set at the 75th percentile of this array.~~

C. ~~Supply Costs~~

~~Supply costs will be reimbursed as part of the skilled nursing and home health aide prospective rates. The total cost of supplies as reported by each agency is divided by the sum of the skilled nursing visits and aide visits to determine the average supply cost per visit. The average supply costs per visit for each agency is arrayed, and a ceiling set at the 75th percentile of this array. The average supply cost of each agency, up to the ceiling, is added to the prospective rate for skilled nursing services. The average supply cost of each agency is multiplied by that agency's home health aide hours per visit ratio to determine the average supply cost per hour, and added to the prospective rate for home health aides.~~

D. ~~Administrative and General Costs~~

~~Delaware Medicaid will not consider in the rate calculation administrative and general costs, which exceed 40% of the total reported costs in each discipline. Total costs for each discipline will be capped before the costs are arrayed to determine the 75th percentile ceiling. The rate~~

year from July 1, 1993 to June 30, 1994 will be considered a "hold harmless" period for the Administrative and General cost cap only.

**STATE PLAN ATTACHMENT 4.19-B
Page 6b**

III. RATE REVIEW

A. Rebase of Cost Data

The prospective rates will be calculated and ceilings will be rebased every three years using the most recent audited provider cost reports. The rates and the ceilings will be inflated in interim years.

B. New Agencies

1. "New agencies" are home health providers, which newly enroll in Medicaid after the last rate calculation. They may be newly operational and unable to document 12 months of operational costs, or be existing agencies, which newly enroll with Medicaid.

2. New agencies with a year or more experience are required to submit an audited cost report at the time of enrollment. If the initial report representing a full year of operational costs is submitted in an interim year, the agency will be reimbursed their inflated reported costs, up to the inflated ceiling.

3. If the agency has not been operational for a full year, they must submit a report of estimated costs. These agencies will be reimbursed the lower of their estimated costs or the ceiling for each discipline for the first year until they submit a cost report representing a full year of operation. An average cost per visit, or average cost per hour for home health aide, will be calculated from the initial cost report.

**STATE PLAN ATTACHMENT 4.19-B
Page 10**

DELAWARE RATES FOR PRIVATE DUTY NURSING

Private Duty Nursing Services, whether performed by a provider located in Delaware or a provider with an out-of-state location are reimbursed at a capped hourly unit rate with weekly maximum dollar limit per client, as set by the Delaware Medicaid Program. The hourly unit rates are reviewed whenever a rate increase is requested by a provider, but no more frequently than annually, by conducting a survey of agencies that provide private duty nursing services and capping the rate at the lowest level available of these prevailing rates. The weekly maximum dollar limit is derived by multiplying the capped hourly unit rate by the minimum number of hours units necessary to maintain the client in the home as an alternative to institutionalization, but not to exceed eight (8) hours daily.

**STATE PLAN ATTACHMENT 4.19-B
Page 19**

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services are reimbursed as follows:

1. Screening services - fee-for-service.
2. Treatment services - fee-for-service.
3. Dental Treatment - flat fee per year per child to Division of Public Health or a percentage of charges for routine dental services provided in a private dentist's office.
4. Specialized Dental Services - fee-for-service approved through DPH or a percentage of charges for specialized dental services if provided directly by a private dentist.
5. Non-State Plan Other EPSDT Services

Reimbursement for services not otherwise covered under the State Plan is determined by the Medicaid agency through review of a rate setting committee. Non-institutional services are paid on a fee-for-service basis. Institutional services are per diem rates based on reasonable costs. These services include:

- a.) Prescribed Pediatric Extended Care - see ATT. 4.19-B, Page 7
- b. Inpatient and Partial Hospital Psychiatric Services - reimbursed on a per diem basis
- c. Outpatient Psychiatric Facility Services - fee-for-service
- d. School-based Health Services - fee-for-service
- e. Mental Health and Drug/Alcohol Rehabilitation Services:

Institutional - per diem

Non-Institutional - fee-for-service or, if managed by the Department of Services for Children, Youth and Their Families' Division of Child Mental Health, bundled rates (see ATTACHMENT 4.19-B, Page 19 Addendum)

**STATE PLAN ATTACHMENT 4.19-B
Page 20**

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Service-

5. Non-State Plan Other EPSDT Services-(cont)
 - f. Assistive Technology - fee-for-service
 - g. Orthotics and Prosthetics - fee-for-service
 - h. Private Duty Nursing in excess of 8 hours per day with prior approval - fee-for-service
 - i. Any other medical or remedial care provided by licensed medical providers - fee-for-service
 - j. Any other services as required by §6403 of OBRA '89 as it amended §1902(a)(43), 1905(a)(4)(b) and added a new §1905(r) to the Act will be reimbursed as determined by the rate setting committee.

DIVISION OF SOCIAL SERVICES

ORDER

NATURE OF THE PROCEEDINGS:

The Delaware Department of Health and Social Services ("Department") / Division of Social Services / [Medicaid/Medical] [Cash] Assistance Program initiated proceedings to implement new policy in the Division of Social Services Manual (DSSM): DSSM 6011 - 6111. The proposed new policy establishes the Relative Caregivers' (Non-Parent) Transitional Resource Program. 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 April, 2002 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2002 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF INFORMATION SUBMITTED/
with AGENCY RESPONSE

The Governor's Council For Exceptional Citizens (GACEC) and the State Council for Persons With Disabilities (SCPD) provided similar comments:

- Section 6109 would benefit from an amendment, i.e., inserting "recreational" before "electronic equipment. Otherwise, a caregiver could be precluded from purchasing a calculator for school. There would be a conflict between Section 6108(4) [authorizing purchase of school supplies] and Section 6109 [disallowing purchase of electronic equipment]. There may also be some assistive technology or equipment that could safety related within the purview of Section 6108(5). For example, a caregiver should be authorized to purchase a strobe-light smoke detector for a Deaf child.

DSS Response: Section 6108(4) is amended to include calculators.

- Section 6108(5) would benefit from an amendment. It is somewhat redundant to refer to "items" twice. Moreover, it would be preferable to address child "health" as well as "safety". Finally, the reference to "home" is narrow and could preclude purchase of

a car seat. The following substitute could be considered: "5. Items which directly foster child health or safety such as car seat or infant monitor."

DSS Response: It is agreed and Section 6108(5) is amended as recommended.

- Section 6101 is narrower than Section 6108. SCPD recommends inserting "health, safety" after the word "shelter".

DSS Response: It is agreed and Section 6101 is amended as recommended.

- It is unclear if there could be more than one relative caregiver. For example, if a couple is caring for a qualifying child, could they both qualify as caregivers? Alternatively, if the same couple cares for two qualifying children, could one adult apply for one child and the other adult apply for the second child? Since the benefit cap is per child (Section 6107), there may be no monetary incentive to split the children. However, it would be helpful for administrative purposes to clarify whether a couple could file an application and qualify as "joint caretakers".

DSS Response: Policy is amended to add "(s)" to caregiver, where applicable.

- Section 6110 identifies discrete DHSS programs for which caregiver assistance does not count as income. GACEC: We would recommend the inclusion of the DSAAPD CARE Delaware caregiver support program on this list of agencies and programs. SCPD: DSS may wish to include language similar to the following to clarify this issue: "DHSS is encouraged, when it has discretion, not to count benefits under the Relative Caregivers' (Non-Parent) Transitional Resource Program when determining eligibility for other programs."

DSS Response: Policy is amended to include similar clarifying language as recommended by SCPD.

FINDINGS OF FACT

The Department finds that the proposed changes as set forth in the April, 2002 Register of Regulations should be adopted, as herein revised.

THEREFORE, IT IS ORDERED, that the proposed regulation of the Cash Assistance Program regarding the Relative Caregivers' (Non-Parent) Transitional Resource Program is adopted, as herein revised, and shall be final

effective June 10, 2002.

Vincent P. Meconi, Secretary, DHSS, 5/14/02

6100 Relative Caregivers' (Non-Parent) Transitional Resource Program.

6101 Purpose

The Relative Caregivers' (Non-Parent) Transitional Resource Program is established to assist non-parent caregivers during the transition period when a child initially moves into the non-parent caregiver's home. The child(ren)'s parent cannot reside with the caregiver. This program assists caregivers in meeting the child's immediate need for clothing, shelter, [health, safety] and educational supplies.

6102 Funding Limitations

Funding for the Relative Caregivers' (Non-Parent) Transitional Resource Program is limited to funds appropriated by the General Assembly. Though caregivers may meet the eligibility requirements and have a need for the service, this does not guarantee that DHSS will provide the service. DHSS reserves the right to limit, where appropriate, services based on available resources and funding.

6103 Eligibility

Applicants must meet the following eight criteria to receive assistance from the Relative Caregivers' (Non-Parent) Transitional Resource Program:

1. Relationship-The child is living with a relative within the 5th degree of relationship (DSSM 3004).

2. Age-The child is less than 18 years of age.

3. Residence-Applicants must reside in Delaware to be eligible for benefits. Persons including the homeless (those with no fixed address or not living in a permanent dwelling) who currently live in Delaware and plan to stay, regardless of the length of time they have been here, meet the residency requirement.

4. Time Limitation-The child has been living in caregiver[s] (s)'] home less than or equal to 90 days.

5. Income-

a. The income cannot exceed 200% of the Federal Poverty Level based on the household size. The household size used in the income determination is the child and the child's siblings or half siblings who ~~recently~~ [within 90 days] into the caregiver[s] (s)'] home. Children who are not a sibling or half sibling will be considered a separate household.

b. he income of the caregiver[s] is always excluded. The income of siblings or half siblings of the child living with the caregiver[s] for more than 90 days will not be considered.

6. Resources-Eligibility will be determined without regard to the child or caregiver[s] (s)'] resources.

7. Citizenship-The child is a citizen or lawfully admitted alien.

8. Need-The child's need is for one or more of the covered services.

6104 Verification requirements

1. The following items will be verified:

a. The identity of the caregiver[s]'] making application for the Relative Caregivers' (Non-Parent) Transitional Resource Program.

b. Alien status

c. The child's income.

d. Caregivers have the option of presenting estimates from a vendor for the needed services or receipts itemizing the expenditures for the needed service. See 6106 listing conditions for caregiver reimbursements.

2. The following items will be accepted by declaration, the caregiver[s] is not required to provide verification:

a. The date of birth of the child(ren).

b. The relationship of family members.

c. Delaware residency.

d. Time limitation.

e. Citizenship.

6105 Vendor Payments

When the caregiver[s] elect[s] to verify the cost of needs services by presenting estimates, payments are made by check payable to the vendor of the needed items/services.

6106 Reimbursements to Caregivers

Reimbursement will be made to the caregiver[s] when the following three conditions are met:

a. The purchase(s) are made after the application for the Relative Caregivers' (Non-Parent) Transitional Resource Program.

b. The purchases received prior approved by DHSS staff.

c. The caregiver[s] presents verification of the purchase(s).

6107 Benefit Limitations

The maximum benefit is \$500 per child per transition period per year. The year starts with the date benefits were provided by Relative Caregivers' (Non-Parent) Transitional Resource Program.

6108 Items/Service Covered

The Relative Caregivers' (Non-Parent) Transitional Resource Program payment is made to meet the needs arising from the child's moving into the caregiver[s] (s)'] residence. Payments may be used for items and/or services such as but not limited to:

1. Clothing for the child.

2. Furniture such as beds, chairs, dressers.
3. Bed linens, blankets, towels.
4. School supplies such as notebooks, pencils,

[calculators,] etc.

5. Items [which directly foster child health or safety,] such as ~~items required to make the home 'child safe'~~ a car seat or infant monitor].

6. Supplies

6109 Items/Service Not Covered

Payments will not be made for electronic equipment such as personal computers, televisions, or stereos.

6110 Relationship to Other Programs

1. Emergency Assistance and other programs administered by DHSS

The Relative Caregivers' (Non-Parent) Transitional Resource Program exists in addition to the Emergency Assistance Program and other programs administered by DHSS. Payments made from the Relative Caregivers' (Non-Parent) Transitional Resource Program will not limit Emergency Assistance Program payments or payments made by other programs administered by DHSS. Payment made by the Emergency Assistance Program or payments made by other programs administered by DHSS will not limit Relative Caregivers' (Non-Parent) Transitional Resource Program payments.

2. Child Care Programs

Relative Caregivers' (Non-Parent) Transitional Resource Program payments do not count as income in the child care programs.

3. Food Stamp Program

Relative Caregivers' (Non-Parent) Transitional Resource Program payments do not count as income in the Food Stamp Program.

- [4. **Cash Assistance Program**

Relative Caregivers' (Non-Parent) Transitional Resource Program payments do not count as income in the cash assistance programs (DABC, GA).

When determining eligibility for other programs, DSS has discretion not to count benefits under the Relative Caregivers' (Non-Parent) Transitional Resource Program.]

6111 Client Notices and Fair Hearing Practice and Procedures

See Division of Social Services Manual Section 5000.

DIVISION OF SOCIAL SERVICES FOOD STAMP PROGRAM

ORDER

NATURE OF THE PROCEEDINGS

The Delaware Department of Health and Social Services ("Department") / Division of Social Services / Food Stamp Program initiated proceedings to amend policies to implement policy changes to the following sections of the Division of Social Services Manual: Sections 9079.1 and 9079.7.

SUMMARY OF CHANGES

DSSM 9079.1 - Providing Replacement Issuances

- Benefits sent by registered or certified mail are not replaced when anyone in the household, anyone living with the household, or anyone visiting the household signed for the original benefit.

DSSM 9079.7 - Delivery of Coupons

- Households who are given a replacement benefit because they did not get the original benefit in the mail will have to go to an issuance site to pick up the replacement and all future benefits.

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, 2002 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 31, 2002 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

The Final Order shows grammatical clarifications reflecting comments received from Roger Waters, State Fair Hearing Officer.

FINDINGS OF FACT

The Department finds that the proposed changes as set forth in the March, 2002 Register of Regulations, as amended, should be adopted as written.

THEREFORE, IT IS ORDERED, that the revised regulations related to the Food Stamp Program are adopted and shall be final effective June 10, 2002.

Vincent P. Meconi, Secretary, DHSS, 5/14/02

REVISION**9079.1 ~~[Providing Replacement Issuances~~ Replacing Coupons]**

~~[Subject to the restrictions in DSSM 9079.2, DSS must We will]~~ replace an issuance to a household when the household reports that:

- Its coupons were not received in the mail or were stolen from the mail, were destroyed in a household misfortune, or were improperly manufactured or mutilated; or
- Food purchased with food stamps was destroyed in a household misfortune.
- ~~Do not provide replacement issuances to households when:~~

[We will not provide a replacement issuance to a household when:]

- ~~[The €]~~coupons are lost, stolen, or misplaced after receipt;
- ~~[The €]~~coupons are totally destroyed after receipt in other than a disaster or misfortune; ~~or~~
- Coupons sent by registered or certified mail are signed for by anyone residing with or visiting the household; or
- The household or its authorized representative has not signed the Affidavit Form 324. Whenever an affidavit is signed by an authorized representative, use this format:
_____ " for " _____"
(authorized representative) (household head)

Where FNS has issued a disaster declaration and the household is eligible for disaster food stamp benefits, the household cannot receive both the disaster allotment and a replacement allotment for a misfortune.

In order for a replacement to be considered non-countable, the replacement must not result in a loss to the Program.

9079.7 ~~Hand-Delivery of Coupons~~

After the first report of non-receipt of a mailed benefit, or when circumstances exist that indicate that the household may not receive its coupons through the mail, benefits must be sent to the over-the-counter issuance sites. ~~offer to arrange for the household to pick up its coupons at a specified issuance site. After two (2) requests for replacement of original or replacement coupons reported as non-delivered in a six-month period, require the household to pick up its future benefits at a specified issuance site. The two (2) requests may be for either an original or replacement benefit.~~

~~Require the household to pick up its coupons for the~~

~~length of time considered to be necessary. Return the household to mail delivery when circumstances leading to the loss have changed and the risk of loss has lessened. The requirement for a household to pick up its coupons and the length of time for which we require the household to pick up its benefits are not ~~subject~~ **adverse actions under §5304 and there is no jurisdiction for a ~~to the~~ fair hearing ~~process over these requirements~~.**~~

**DIVISION OF SOCIAL SERVICES
FOOD STAMP PROGRAM****ORDER****NATURE OF THE PROCEEDINGS**

The Delaware Department of Health and Social Services ("Department") / Division of Social Services / Food Stamp Program initiated proceedings to amend policies to implement policy changes to the following section of the Division of Social Services Manual: Section 9085. This change is based on the option and waiver of 7 CFR 273.12(a)(1)(i) through (vi).

SUMMARY OF CHANGE

- The option allows DSS to require households with earned income to only report a change of income when the total monthly gross income exceeds 130% of the Federal Poverty Level (FPL) during a six-month certification period.
- The waiver allows DSS to make changes on all reported changes, not just those that increase the benefits.
- The six-month reporting option is strongly being encouraged by Food and Nutrition Service (FNS). The waiver approval will allow DSS to take the option.

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 January, 2002 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 31, 2002 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

No written or verbal comments were received relating to

this proposed rule.

FINDINGS OF FACT

The Department finds that the proposed changes as set forth in the January, 2002 Register of Regulations should be adopted as written.

THEREFORE, IT IS ORDERED, that the proposed regulations related to the Food Stamp Program Six-Month Reporting Option and Waiver are adopted and shall be final effective June 10, 2002

Vincent P. Meconi, Secretary, DHSS, 5/14/02

REVISION:

DSSM 9085 Reporting Changes

Certified households are required to report the following changes in circumstances:

Reporting requirements for households with countable earned income and six-month certification periods:

Households are required to **only** report income changes **when the monthly income exceeds 130 percent of the poverty income guideline for the household size that existed at the time of certification or recertification.**

When a household's monthly income exceeds the 130 percent of the poverty income guideline, the household is required to report that change within **ten days after the end of the month** that the household determines the income is over the 130 percent amount.

Households **will not** have to report any changes in household composition, residence and resulting changes in shelter costs, acquisition of non-excluded licensed vehicles, when liquid resources exceed \$2,000, and changes in the legal child support obligation.

Additional reporting requirement for ABAWD individuals:

Adults living in a home without any minor children, who are getting food stamps because they are working over 20 hours a week, must report when they start working less than 20 hours per week.

Reporting requirements for households without countable earned income:

- Changes in the sources of or in the amount of gross unearned income of more than \$25, except changes in the public assistance grants. Since DSS has prior knowledge of all changes in the public assistance grants, action shall be taken on the DSS information. Changes reported in person or by telephone

are to be acted upon in the same manner as those reported on the change report form.

~~Changes in the amount of gross earned income will be reported as follows:~~

- ~~a) New source of employment, or~~
- ~~b) Changes in the hourly rate or salary of current employment, or~~
- ~~e) Changes in employment status from part-time to full-time or full-time to part-time.~~

- All changes in household composition, such as the addition or loss of a household member;
- Changes in residence and the resulting changes in shelter costs;
- The acquisition of a licensed vehicle not fully excludable under DSSM 9051 ;
- When cash on hand, stocks, bonds, and money in a bank account or savings institution reach or exceed a total of \$2,000;
- Changes in the legal obligation to pay child support; and
- Changes in work hours that bring an ABAWD individual below 20 hours per week, averaged monthly.

Certified households must report changes within ten (10) days of the date the change becomes known to the household.

An applying household must report all changes related to its food stamp eligibility and benefits at the certification interview. Changes, as provided in this Section, which occur after the interview but before the date of the notice of eligibility, must be reported by the household within ten (10) days of the date of the notice.

Only the reporting requirements in this Section and no other reporting requirements can be imposed by the Division.

DIVISION OF SOCIAL SERVICES MEDICAID/MEDICAL ASSISTANCE PROGRAM

ORDER

NATURE OF THE PROCEEDINGS

The Delaware Department of Health and Social Services ("Department") / Division of Social Services / Medicaid/Medical Assistance Program initiated proceedings to amend policies to implement a policy change to Section 15400.6.1 of the Division of Social Services Manual. This change clarifies the Medicaid eligibility termination date for

Foster Children who move out-of-state. 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 April, 2002 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2002 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

Comments were received from the following organizations: Adoption Center of Delaware Valley (ACDV), Adoptive Families with Information and Support (AFIS) and, North American Council on Adoptable Children's (NACAC) Adoption Subsidy Resource Center.

- The Adoption Center expresses the following concern for the proposed regulation: If a family accepting placement of a Delaware child cannot be assured of continuous medical coverage for the child, the child's placement could be jeopardized. There should be no gaps in medical coverage for title IV-E eligible children.
- AFIS strongly opposes the proposed revisions. The Board of Directors write that families with Title IV-E eligible children moving out of state will be required to seek out a new team of professionals to work with their children who have special needs. This will be difficult without proof of Medicaid coverage from either Delaware or the new state of residence.

Currently, Delaware is protecting these children with special needs by verifying that their Medicaid coverage is uninterrupted as they move out of state. Transitions (such as moving) are particularly traumatic for foster and adopted children because in the past they have so often experienced them without the support of a loving family; their behavior may regress as they struggle to regain their equilibrium in a new situation. Gaps in care prolong this struggle at a critical time when children most need a feeling of security and impede the child's development long term.

The federal government has recognized the importance of undisrupted Title IV-B and IV-E benefits in the Social Security Act (revised 06/2001). "Definitions" SEC.475 [42 U.S.C. 675] section 3 part B states, "The [adoption assistance] agreement shall contain provisions for the protection of the interests of the child in cases where the

adoptive parents and child move to another State while the agreement is effective."

- NACAC's Project Manager, Adoption Subsidy Resource Center writes that while not completely sure, the change may be in violation with the Interstate Compact on Adoption and Medical Assistance. If a child is IV-E eligible and moves to another state, children must be guaranteed Medicaid. Removing the requirement for Delaware to verify whether the receiving state offers Medicaid to former Delaware children may put some children at risk of losing coverage by not being picked up by the receiving state.

The federal statute at 473 of the Social Security Act calls for adoption assistance agreements to protect the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect. It seems that Delaware's proposed change does not fully protect the interest of special needs children. The original language of "Delaware Medicaid coverage should not be terminated without verification the state of residence will be starting coverage" seems to be a vital statement that should not be eliminated.

DSS Response: DSS agrees that these children should receive uninterrupted coverage as they move out of state. The federal regulation at 42 CFR 435.115(e)(1) mandates this coverage. In addition, the federal regulation at 42 CFR 435.403(g) states, "For individuals of any age who are receiving Federal payments for foster care and adoption assistance under title IV-E of the Social Security Act, the State of residence is the State where the child lives."

Once the child moves to another state, he or she is not longer a Delaware resident and eligibility must be terminated. DSS cannot wait for verification from the new state of residence that the Medicaid case there has been opened because the child is no longer a Delaware resident. The new state of residence is mandated to provide Medicaid coverage effective with the date of residency in that state.

FINDINGS OF FACT

The Department finds that the proposed changes as set forth in the April, 2002 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation of the Medicaid/Medical Assistance Program regarding Foster Children is adopted and shall be final effective June 10, 2002.

Vincent P. Meconi, Secretary, DHSS, 5/14/02

REVISION:

15400.6.1 Out-of-State Residence

The DSCYF worker will send all documentation to the state of residence to indicate the child is IV-E eligible, his/her vital statistics, location, and a request the child be covered under the Interstate Compact on the Placement of Children (ICPC). The DSCYF worker will notify the state of residence of the date Delaware Medicaid will terminate.

~~Once the state of residence has notified Delaware of the date they will start Medicaid coverage for the foster child, a copy of this verification will be sent to the Delaware Medicaid office so Delaware Medicaid coverage can be terminated.~~

~~Delaware Medicaid coverage should not be terminated without verification the state of residence will be starting coverage.~~

~~The Delaware Medicaid social worker will follow up regarding the Medicaid termination date if not notified by the DSCYF worker within 15 days of the proposed termination date.~~

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL**

DIVISION OF AIR AND WASTE MANAGEMENT

Waste Management Section
Statutory Authority: 7 Delaware Code,
Chapters 60 and 63 (7 **Del.C.** Ch. 60 and 63)

Secretary's Order No.: 2002-A-0030

Reg. Amendments to List New Hazardous Wastes

Date of Issuance: April 25, 2002

Effective Date of the Amendment: July 1, 2002

I. Background

DNREC proposed adding three new wastes generated from inorganic chemical manufacturing processes. These wastes are coded as K176, K177 and K178. A hearing was held on March 12, 2002 to receive comment. Proper notice of the hearing was provided as required by law. Thereafter, the Hearing Officer prepared his report and recommendation in the form of a memorandum to the Secretary dated April 25, 2002, and that memorandum is expressly incorporated herein by reference.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated April 25, 2002, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

III. Order

In view of the above, I hereby order that the proposed new listings be promulgated and implemented in the manner and form provided for by law, as recommended in the Hearing Officer's memorandum.

IV. Reasons

Listing these new wastes will be beneficial to the Department, in that it will enable the State of Delaware to further manage these materials and protect the environment, while also enabling this agency to maintain full authorization of its Hazardous Waste Program. Additionally, these new listings will help to improve and/or enhance the overall performance of the State of Delaware's hazardous waste management program, in furtherance of the policies and purposes of 7 Del. C. Ch. 63.

Nicholas A. DiPasquale, Secretary

**Amendments To Delaware Regulations Governing
Hazardous Waste**

Synopsis

This synopsis presents a brief description of the amendments to *Delaware Regulations Governing Hazardous Waste* (DRGHW) and a list of those sections generally affected by the amendments. This summary is provided solely for the convenience of the reader.

This change incorporates three new hazardous waste streams promulgated by EPA into Delaware's hazardous waste management program. The State is required to maintain equivalency with the Federal hazardous waste program in order to maintain its RCRA program delegation.

A summary of the proposed regulatory amendment is listed below and references EPA's promulgating Federal Register notice. For additional information, please contact the Solid and Hazardous Waste Management Branch at (302) 739-3689.

1. Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities

Federal Register Reference: 65 FR 58258-58300

Federal Promulgation Date: November 20, 2001

Federal Effective Date: May 20, 2002

SUMMARY: On November 20, 2001 the Environmental Protection Agency (EPA) promulgated a listing as hazardous three wastes generated from inorganic chemical manufacturing processes to be identified with the waste codes K176, K177, and K178. EPA promulgated these regulations under the Resource Conservation and Recovery Act (RCRA), which directed EPA to determine whether certain wastes generated by inorganic chemical manufacturing industries presented a substantial hazard to human health or the environment. The effects of listing these three wastes as hazardous are to subject them to: comprehensive management and treatment standards under Subtitle C of RCRA; and emergency notification requirements for releases to the environment under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The final rule also added the toxic constituents found in the wastes being listed as hazardous to the list of constituents that serves as the basis for classifying wastes as hazardous and establishing treatment standards for the wastes.

Finally, EPA applied universal treatment standards (UTS) under the Land Disposal Restrictions program to the inorganic chemical manufacturing wastes listed in that rulemaking. The listed wastes must be treated to meet these treatment standards for specific constituents prior to land disposal.

Sections amended by these changes: DRGHW §§261.4(b)(15), 261.32, Appendix VII to Part 261; adds new §268.36, and amends §268.40/Table.

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

**EXECUTIVE ORDER
NUMBER THIRTY-ONE**

**RE: CREATION OF DELAWARE ENERGY TASK
FORCE**

WHEREAS, reliable and affordable energy is of great importance to all sectors of Delaware's economy; and

WHEREAS, long-term sustainability of energy supply and efficient and effective distribution of energy is becoming increasingly important as the State continues to grow; and

WHEREAS, the State faces challenges in meeting the electricity and heating needs of a rapidly growing population, particularly south of the Chesapeake & Delaware Canal; and

WHEREAS, the existing transmission and distribution systems for electricity and natural gas need to be sufficient to meet long-term needs; and

WHEREAS, environmental constraints impact the State's ability to site new fossil fuel power plants and sole reliance on petroleum-based transportation fuels further impairs Delaware's air quality; and

WHEREAS, these constraints also present opportunities to diversify the State's energy supply and provide new opportunities for agriculturally based products and Delaware-based clean energy technologies;

NOW, THEREFORE, I, RUTH ANN MINNER, by virtue of the authority vested in me as Governor of the State of Delaware do hereby declare and order as follows, this ZG1,~CIay of April 2002:

1. The Delaware Energy Task Force is hereby created for the purpose of developing the Delaware Energy Plan to recommend to the Governor courses of action to address the State's long-term and short-term energy challenges.

2. The Task Force shall consist of seventeen members, who shall be selected as follows:

- a. A Chair of the Task Force, to be selected by the Governor;
- b. One representative of the Delaware State Senate, to be appointed by the President Pro Tempore;
- c. One representative of the Delaware House of Representatives, to be appointed by the Speaker of the House;
- d. A representative of the Governor's Office, to be

appointed by the Governor;

- e. The Chair of the Public Service Commission;
- f. A representative from an electricity generation company, to be appointed by the Governor;
- g. A representative from an electricity distribution company, to be appointed by the Governor;
- h. A representative from an electricity transmission company, to be appointed by the Governor;
- i. A representative from a natural gas and/or propane distribution company, to be appointed by the Governor;
- j. A representative from a company involved in renewable and/or alternative energy generation or development, to be appointed by the Governor;
- k. A representative from the transportation fuels industry, to be appointed by the Governor;
- l. A representative from agriculture, representing the bio-fuels industry, to be appointed by the Governor;
- m. A representative from an environmental organization, to be appointed by the Governor; and
- n. Representatives from each of the following government agencies, who shall be appointed by the Governor: Department of Natural Resources and Environmental Control, Department of Agriculture, Delaware Economic Development Office, and the Department of Administrative Services.

Members of the Task Force shall serve at the pleasure of the persons appointing them.

3. The Chair of the Task Force shall form working groups that shall include members from the Task Force as well as members of the public with interest and/or expertise in the objectives of the Task Force. Each working group shall be chaired by a member of the Task Force.

4. The Task Force shall provide the Delaware Energy Plan to the Governor no later than July 31, 2003.

5. The Delaware Energy Plan shall address the following goals and objectives:

- a. The expansion of the diversity of fuels used to meet Delaware's current and future energy needs, through:
 - i. Encouraging the development of clean, base load electric supply on the Delmarva Peninsula;
 - ii. Encouraging a diverse fuel mix among electricity supply generation to avoid reliability impacts due to shortages;
 - iii. Promoting production and use of bioenergy and clean alternative energy;
 - iv. Broadening the existing diversity and decreasing the environmental impact of fuels that meet Delaware's transportation needs; and
 - v. Expanding electric generation infrastructure utilizing clean distributed energy resources (e.g., natural gas, photovoltaics, fuel cells, micro turbines, combined heat and power and wind energy).
- b. The development of conservation programs to

reduce the need to build more electricity generation facilities, through:

i. Identification and promotion of business and residential energy use reduction opportunities;

ii. Increasing the usage of energy efficient products and clean energy sources through the State procurement process; and

iii. Incorporating energy efficiency and conservation into the design and operation of State buildings.

c. Ensuring that energy infrastructure will meet Delaware's future needs for efficiently transporting energy resources, through:

i. Increasing transmission capacity in existing rights-of-way;

ii. Developing new transmission lines to provide natural gas to western and eastern Sussex County; and

iii. Upgrading transmission lines below the Chesapeake & Delaware Canal to increase the capacity to transport additional electricity supply from other parts of the PJM transmission grid and eliminate congestion on the Delmarva Peninsula.

d. Encouraging producers of clean energy technologies and producers of energy efficient products to locate their business operations in Delaware, through:

i. Expansion of the market for renewable energy technologies in Delaware; and

ii. Increasing the number of producers/developers of clean energy technologies located in Delaware.

6. The Delaware Energy Plan shall include for each goal:

a. An identification of actions already in process;

b. A prioritized list of recommended non-legislative action items, including estimated costs;

c. Recommended legislative proposals, if necessary, including estimated costs; and

d. An identification of areas on which further evaluation or research is recommended.

Ruth Ann Minner
Governor

Attest:
Harriet Smith Windsor
Secretary of State

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Board of Architects	Ms. Susan J. Frederck	04/22/05
Board of Professional Counselors of Mental Health	Ms. Jean B. Gunnells Ms. Joan T. McDonough Ms. Carmetah L. Murray Mr. James D. Wilson, Jr.	04/22/05 04/22/05 04/22/05 04/22/05
Board of Veterinary Medicine	John T. Gooss, V.M.D.	04/22/05
Child Death Review Commission	Col. John L. Cunningham, Jr.	04/22/05
Examining Board of Physical Therapists	Mr. Gary T. Nowell	04/22/05

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PILOT COMMISSIONERS**

The **Board of Pilot Commissioners** will hold a public hearing on the following draft regulations at its regularly scheduled meeting on June 25, 2002 at 9:30 a.m. on the Conference Room, 2d Floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. In addition, written comments will be accepted up to the date of the hearing, if received by the Board by that date and time.

The Board recognizes that new, larger ships are using the Bay & River Delaware, and that their maneuvering and other characteristics require additional experience for pilots seeking a first class pilot license. The Board believes it would be in the public interest to have its licensed pilots be capable of service as offshore advisors for such vessels.

The Board recognizes that on occasion, pilot availability could affect the intent of 23 **Del.C.** Section 113 that a pilot serve for at least a year in each pilot class before being eligible for an upgrade in pilot class to the next level. The Board believes it would be in the public interest to define how the one-year service requirement shall operate if there are problems with pilot availability.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF PROFESSIONAL LAND SURVEYORS**

PLEASE TAKE NOTICE, pursuant to 29 **Del.C.** Chapter 101 and 24 **Del.C.** Chapter 27, Section 2706(a)(1), the Delaware Board of Professional Land Surveyors proposes to revise its Rules and Regulations. The proposed Rules and Regulations are being updated to take into account the recent amendments to the the law change in 2001, as well as address certain other issues.

A Public Hearing will be held on the proposed Rules and Regulations on Thursday, June 20, 2002 at 10:00 a.m. in Conference Room A, second floor, 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 Gayle Melvin 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 make comments at the Public Hearing should notify Gayle Melvin at the above address or by calling (302) 744-4518.

STATE BOARD OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, May 16, 2002 at 9:00 a.m. in the Townsend Building, Dover, Delaware.

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES**

PUBLIC NOTICE

Medicaid/Medical Assistance Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, Delaware Health and Social Services (DHSS) / Division of Social Services / Medicaid/Medical Assistance Program is proposing to amend Title XIX Medicaid State Plan to cover non-emergency transportation as an administrative expense, as permitted by federal regulations, except for emergency ambulance coverage, which will remain unchanged.

Title of Proposed Regulation:

Transportation as an Administrative Expense

Basis:

42 CFR 431.53 states that the Medicaid State Plan must ensure necessary transportation for clients to and from providers of medical services. The State Plan must also describe the state's methods that meet this requirement.

42 CFR 440.170(a) states that if other arrangements are made to assure transportation, under Section 431.53, then federal financial participation (FFP) is available as an administrative cost.

Purpose:

This regulatory change will permit the Division of Social Services (DSS) to contract with a qualified transportation broker to authorize, arrange and reimburse necessary transportation statewide. This regulatory action is essential to protect the safety and welfare of clients because it will ensure that clients are able to reach their doctors' and other health care providers' offices for appointments in the most expedient manner possible.

These services are for eligible clients to receive transportation services to and from medical services under the Medicaid Program and the Chronic Renal Disease Program. The Division of Social Services (DSS) administers the Chronic Renal Disease Program (CRDP). This program assists residents of Delaware, diagnosed with End Stage Renal Disease (ESRD), who are either on dialysis or have received a kidney transplant. Services include, but are not limited to reimbursement of transportation to and from a dialysis unit or transplant hospital. This program is 100% State-funded.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Director, Medical Assistance Programs, Division of Social Services, P.O. Box 906, New Castle, DE 19720 by June 30, 2002.

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.

DIVISION OF SOCIAL SERVICES**PUBLIC NOTICE****Delaware's A Better Chance Welfare Reform Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, Delaware Health and Social Services (DHSS) / Division of Social Services / Delaware's A Better Chance Welfare Reform Program is proposing to implement policy changes to the following sections of the Division of Social Services Manual: 3008 and 3012. DSS is initiating proceedings to amend policies regarding children over 16 years of age, including teen parents who are dependent children. These changes are necessitated by the loss of the Division's contract for teen programs. The "Stay In School" contract ends June 30, 2002 and the proposed changes indicate what teen parents are expected to do now that service is no longer available.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware by June 30, 2002.

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.

DIVISION OF SOCIAL SERVICES**PUBLIC NOTICE****Food Stamp Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Food Stamp Program is proposing to implement policy changes to the following sections of the Division of Social Services Manual related to resources: 9046, 9048, 9049, and 9051. These changes are based on the Federal Final Rules of Food Stamp Program: Noncitizen Eligibility and Certification Provisions of Public Law 104-193, as Amended by Public Laws 104-208, 105-33, 105-185.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware by June 30, 2002.

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.

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION****SAN # 1999-01****TITLE OF THE REGULATION:**

Regulation No. 24, Section 10, "Aerospace Coatings"

**BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE
AND ISSUES:**

Delaware is not in compliance with the EPA ground-level ozone standard, and must make reductions in volatile

organic compound (VOC) emissions, which are a factor in the formation of ground-level ozone. The Department is proposing to revise Regulation No. 24, Section 10, to achieve VOC emission reductions at Aerospace Manufacturing and Rework facilities within the State. The Department is proposing to add an exemption from the current topcoat limit of 3.5 lb/gal, which will allow a maximum of 200 gallons of coating per year to be applied with a VOC limit of 6.0 lb/gal. The amended regulation also establishes the following: (1) new VOC limits for specialty coatings; (2) requirements for using high transfer efficiency coating application equipment; and (3) minimum standards in the proper use and handling of equipment and materials. These amendments are based on EPA's Control Technique Guideline (CTG) document "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations."

NOTICE OF PUBLIC COMMENT:

The public comment period for this proposed regulation will extend through July 1, 2002. Interested parties may submit comments in writing during this period to: Deanna Morozowich, Air Quality Management Section, 156 South State Street, Dover, DE 19901, and/or statements and testimony may be presented either orally or in writing at the public hearing to be held Tuesday, June 25, 2002 beginning at 6pm in the Priscilla Building Conference Room, 156 S. State Street, Dover, Delaware.

PREPARED BY:

Deanna Morozowich, (302)739-4791, April 30, 2002

DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION
SAN # 2000-12

TITLE OF THE REGULATIONS:

"Reporting of a Discharge of a Pollutant or an Air Contaminant"

BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Department is proposing to amend the Reporting of a Discharge of a Pollutant or an Air Contaminant regulation to replace the current regulation that describe the requirements for reporting the environmental release or discharge of a pollutant or air contaminant with new requirements. Senate Bill 33 modified the definition of an environmental release to mean substances and their reportable quantities under the Comprehensive Environmental Response, Compensation and Liability Act

of 1980 or regulations enacted under Title 7 §6028. The amendment to the regulation include wording changes required by Senate Bill 33, updates and changes to the Delaware list of substances and their reportable quantities, and the inclusion of a mandatory follow-up written report.

NOTICE OF PUBLIC COMMENT:

The original public hearing date of May 30 has been rescheduled for June 27. The public comment period for this proposed amendment will extend through June 28, 2002. Interested parties may submit comments in writing during this time frame to: Jay Brabson, Air Quality Management Section, 715 Grantham Lane, New Castle, DE 19720, and/or statements and testimony may be presented either orally or in writing at the public hearing to be held on Thursday, June 27, 2002 beginning at 6:00 PM in the DNREC auditorium at the Richardson and Robbins Building, 89 Kings Highway, Dover, DE.

PREPARED BY:

Jay Brabson (302) 323-4542, May 8, 2002

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF STATE POLICE
PUBLIC NOTICE

Notice is hereby given that the Department of Public Safety, Division of State Police, in accordance with 21 **DeL.C.** Section 6901(c) proposes to adopt Regulations. These Regulations will regulate nonconsensual towing of abandoned or disabled vehicles, or vehicles from the scene of an accident or arrest. These regulations do not apply if a vehicle owner or driver requests a specific towing service, unless, in the opinion of the Division of the State Police there may an unreasonable time delay or traffic safety hazard. A public hearing will be held on Tuesday, June 25, 2002 at 10:00 a.m., in the second floor main conference room (rm. 205) of the Public Safety Building, 303 Transportation Circle, Dover, DE. The Department of Public Safety will receive and consider input in writing from any person on the proposed towing regulations. Any written comments should be submitted to the Department of Public Safety, in care of William G. Bush, IV, at P.O. Box 818, Dover, DE 19903-0818 on or before June 25, 2002. Anyone wishing to obtain a copy of the proposed Regulations may do so by sending a written request to the Department of Public Safety, P.O. Box 818, Dover, DE 19903-0818. This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

**DEPARTMENT OF
TRANSPORTATION****TRAVELINK TRAFFIC MITIGATION ACT**

The State of Delaware Code provides a tax credit via the Travelink Traffic Mitigation Act (67 DE Law, c 160, S 1.) to employers who develop and implement traffic mitigation plans submitted to and monitored by the Dept. of Transportation (DelDOT) to reduce commuter trip traffic congestion during peak travel periods and non-peak travel periods for Welfare to Work by supporting the use of alternate modes of employees commuting from their homes or within the proximity of their homes to their places of employment. Additionally, the DE Code requires all State Agencies to develop Traffic Mitigation Plans to also be submitted to the Dept. of Transportation, DelDOT. The State Department of Transportation, DelDOT, is the responsible agency to develop rules and reviews all private employer and state agency traffic mitigation plans. DelDOT's rules include a list of required, recommended and additional transportation demand management strategies employers or state agencies may implement in their traffic mitigation plan. DelDOT's rules requires agencies to implement the required strategies (i.e., new employee orientation information on alternate and commute options; transportation fair held annually by the TMA of Delaware; posting and distribution of marketing materials from DART and TMA; preferential parking via signage and self-enforcing for vanpoolers and/or carpoolers); contact and meet with the RideShare Coordinator of the TMA to create a Commuter Corner on-site with marketing materials; and lastly, assign a Rideshare Coordinator or contact person within their agency to help administer the program and day to day operations of the program) within 6 months of plan approval; and provide a semi-annual program progress report for the first two years, annually thereafter. Private Employers and State Agencies may contact the Transportation Management Association of DE (TMA Delaware) organization to assist them with the development of their traffic mitigation plans. The TMA also provides other services in the development of their plans by surveying the employees; hosting Transportation Fairs; distributing marketing materials of alternative modes of commuting to/from worksites; and information on their "RideShare Delaware" and "HomeFree" programs.

The public comment period will end June 30, 2002. Comments may be sent to:

Catherine Dennis, Planning Manager,
Delaware Transit Corporation,
400 South Madison Street
Wilmington, DE 19801

**EXECUTIVE DEPARTMENT
DELAWARE ECONOMIC DEVELOPMENT OFFICE
DELAWARE TOURISM OFFICE
TOURISM ADVISORY BOARD****REGISTER NOTICE****Title of Regulation:**

Co-Op Advertising Program

Nature of Proceedings: Synopsis of the Subject and Substance of the Proposed Regulation:

In accordance with the procedures set forth in 29 Del. C. Ch. 11, Subch. III, 29 Del. C. Ch 101 and 73 Delaware Laws Ch. 74, Section 67 (June 28, 2001), the Director of the Delaware Economic Development Office ("DEDO") (of which the Delaware Tourism Office ("DTO") is a subdivision), in cooperation with the Tourism Advisory Board (the "Board"), is proposing to adopt a regulation for the administration of the Co-Op Advertising program as part of the matching grants program authorized by 73 Delaware Laws Ch. 74, Section 67 (the "Co-Op Advertising Program") and for the application and award procedure of the Co-Op Advertising Program. The regulation describes the Co-Op Advertising Program, the eligibility criteria and application procedure for awards under the Co-Op Advertising Program.

Notice of Public Hearing; How to Comment on the Proposed Regulation:

Members of the public may receive a copy of the proposed amendments to the regulation at no charge by United States Mail by writing or calling Ms. Julie Miro Wenger, Delaware Tourism Office of the Delaware Economic Development Office, 99 Kings Highway, Dover, DE, 19901-7305, phone (302) 672-6826. The Director of the Delaware Economic Development Office, or an employee of the Delaware Economic Development Office designated by the Director, and the Board will hold a public hearing at which members of the public may present comments on the proposed regulation on July 10, 2002 in the conference room of the offices of the Delaware Economic Development Office at 99 Kings Highway, Dover, DE, 19901 at 9:00 a.m. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Julie Miro Wenger at the address of the Delaware Economic Development Office set forth above. Written comments must be received on or before July 10, 2002 at 9:00 a.m.

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Delaware became the first state on December 7, 1787 by being the first state to ratify the new United States Constitution.

Delaware's first constitution was adopted on September 20, 1776, with subsequent versions adopted in 1792, 1831 and the current version in 1897.



Delaware's lawmaking body, is comprised of a State House of Representatives, whose 41 members are elected for two-year terms, and a State Senate, whose 21 members are elected for four-year terms. Half of the Senate seats are contested in each general election.

The General Assembly Website features:

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